

Purchasing Goods and Services

# A Guide for Government Buyers

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Contact:

Department of Treasury and Finance

Procurement and Property Branch

GPO Box 147

Hobart Tasmania 7001 Australia

Telephone: (03) 6166 4229

Email: [purchasing@treasury.tas.gov.au](mailto:purchasing@treasury.tas.gov.au)

Website: [www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au)



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## Disclaimer

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This document is intended to be a brief guide to the requirements of the Treasurer's Instructions in relation to procurement, contracting and disposal activity. It does not cover international procurement requirements and reference should be made to the [International Procurement Obligations](#) publication where a procurement is impacted by a free trade or procurement agreement.

The Guide is current at the date of publication, but may not reflect subsequent changes to policy.

Reference should be made to the Treasurer's Instructions (1100 series, 1300 series and 1400 series) in relation to mandatory procurement requirements, and to the 'Buying for Government' section of the [Purchasing website](#) ([www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au)) for more detailed information about goods and services procurement processes.

## About this Guide

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This Guide provides an overview of the policies and procedures that agencies must follow when purchasing goods and services (including leases or rentals of equipment).

The Guide should be read in conjunction with the [Treasurer's Instructions](#) relating to procurement of goods and services, disposals and the Crown Contracts Confidentiality Policy as well as the more detailed information contained in the 'Buying for Government' section of the [Purchasing website](#). Relevant Treasurer's Instructions are:

- Good and services procurement 1100 series
- Disposals 1300 series
- Crown Contracts Confidentiality Policy 1124 and 1400 series

The Treasurer's Instructions (available from the [Treasury website](#).) outline the minimum mandatory requirements to be complied with when purchasing goods and services. Individual agencies may impose additional agency specific requirements and buyers should check with appropriate officers within their own organisation prior to proceeding with any procurement to identify those requirements.

This Guide does not cover building and construction/roads and bridges procurement or grants. The following table lists documents providing information on those matters. Documents marked with an asterisk\* are available from the 'Buying for Government' section of the [Purchasing website](#). Documents marked with a double asterisk \*\* are available on the [Treasury and Finance \(Treasury\) website](#).

### For information on ...

### See ...

Building and construction/roads and bridges procurement

- ▶ [Purchasing website > Buying for Government](#)
- ▶ [Treasurer's Instructions \(1200 series and 1400 series\)\\*\\*](#)
- ▶ [Procurement Practices Manuals\\*](#)

Grants

- ▶ [Best Practice Guide for the Administration of Grants\\*\\*](#)

Crown Contracts Confidentiality  
Policy (in relation to non-procurement  
contracts)

- ▶ [Purchasing website > Buying for Government](#)
- ▶ [Treasurer's Instructions I400 series\\*\\*](#)



## Scope of this Guide

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### The purchasing procedures and policies outlined in this Guide apply to:

#### Government entities -

- Department of Communities Tasmania
- Department of Education (including schools)
- Department of Health
- Department of Justice
- Department of Police, Fire and Emergency Management
- Department of Premier and Cabinet
- Department of Primary Industries, Parks, Water and Environment
- Department of State Growth
- Department of Treasury and Finance
- House of Assembly
- Legislative Council
- Legislature-General
- Office of the Governor
- Tasmanian Audit Office
- Office of the Ombudsman
- Office of the Director of Public Prosecutions
- Integrity Commission
- Macquarie Point Development Corporation
- TasTAFE
- Tasmanian Museum and Art Gallery
- Tourism Tasmania

### These purchasing policies and procedures do not apply to:

#### Commonwealth Government agencies

- eg Centrelink
- Department of Defence

#### Government Business Enterprises (GBEs)\*

- eg Forestry Tasmania
- Hydro Tasmania

#### State-owned Companies (SOCs)\*

- eg Aurora Energy Pty Ltd
- Metro Tasmania Pty Ltd

#### Statutory Authorities\*

- eg Tasmania Fire Service

\* Note: Some GBEs, SOCs and Statutory Authorities may choose to voluntarily comply with the purchasing procedures and policies of the Tasmanian Government.

## Purchasing principles

Tasmanian Government purchasing is conducted by encouraging fair and open competition between suppliers with the objective of achieving best value for money. Agencies must behave ethically and comply with the Code of Conduct contained in the **Treasurer's Instruction 1101**. Agencies must also enhance opportunities for local businesses to bid for government business.

Note: Purchases paid for by the Tasmanian Government Corporate Card are subject to the same requirements as any other purchase.

The following table defines and provides practical examples of the principles upon which Tasmanian Government purchasing is based:

Principle	...	In practice this means ...
<p><b>Value for money:</b> agencies must pursue value for money purchasing outcomes in accordance with the guidance information contained in the publication, <a href="#">How to Assess Value for Money</a>.</p>	<p>Achieving the desired outcome at the best possible price.</p>	<p>... weighing up the benefits of the purchase against the cost of the purchase. Value for money factors need to be specifically included in evaluation criteria and may include:</p> <ul style="list-style-type: none"> <li>• the contribution to the achievement of government policy objectives such as those that support local and regional business, for example, industry development and employment creation;</li> <li>• fitness for purpose;</li> <li>• maintenance and running costs over the lifetime of the product;</li> <li>• the advantages of buying from/engaging local and regional suppliers eg               <ul style="list-style-type: none"> <li>– shorter delivery times;</li> <li>– local backup and servicing;</li> <li>– the availability of spare parts; and</li> <li>– the potential for creating strategic partnerships and cooperative product development;</li> </ul> </li> <li>• quality assurance;</li> <li>• risks;</li> <li>• the capacity of the supplier (eg managerial and technical abilities);</li> <li>• climate change and environmental considerations (including energy conservation); and</li> <li>• disposal value.</li> </ul>

## Purchasing principles (continued)

Principle	...	In practice this means ...
<b>Open and effective competition</b>	Ensuring that the purchasing process is impartial, open and encourages competitive offers.	<ul style="list-style-type: none"> <li>... using transparent, open, purchasing processes so that potential contractors and the public can have confidence in the outcomes;</li> <li>... adequately testing the market, whether by open tender or by seeking quotations, (whichever process is applicable);</li> <li>... avoiding biased specifications; and</li> <li>... treating all suppliers consistently and equitably so that potential contractors and the public can have confidence in the outcomes.</li> </ul>
<b>Conducting purchasing activities ethically and in accordance with the Procurement Code of Conduct</b>	Ensuring that all purchasing is undertaken in a fair and unbiased way and also requiring suppliers to act ethically and in accordance with appropriate legislation and the Procurement Code of Conduct.	<ul style="list-style-type: none"> <li>... being fully accountable for the purchasing practices used and the decisions made. Detailed records should be kept for every purchase throughout the purchasing process. For a low value purchase this may simply mean recording quotations and indicating which offer was successful. For more complex purchases, records should include information on:               <ul style="list-style-type: none"> <li>• tenders/quotations called and received;</li> <li>• evaluation criteria and weightings;</li> <li>• decision-making processes; and</li> <li>• decisions made and the reasoning behind the decisions;</li> </ul> </li> <li>... ensuring that decisions are not influenced by self-interest or personal gain (eg government buyers must not accept gifts or any other benefits from suppliers);</li> <li>... identifying, dealing with and documenting issues relating to real or perceived conflicts of interest;</li> <li>... protecting confidential information;</li> <li>... ensuring that all purchasing is undertaken in accordance with government policies; and</li> <li>... requiring suppliers to act ethically and in accordance with relevant legislation such as industrial relations and occupational health and safety.</li> </ul> <p>Information on the Procurement Code of Conduct and Procurement Ethical Standards and on dealing with conflicts of interest is contained in the <b>Treasurer's Instruction 1101</b>.</p>

## Purchasing principles (continued)

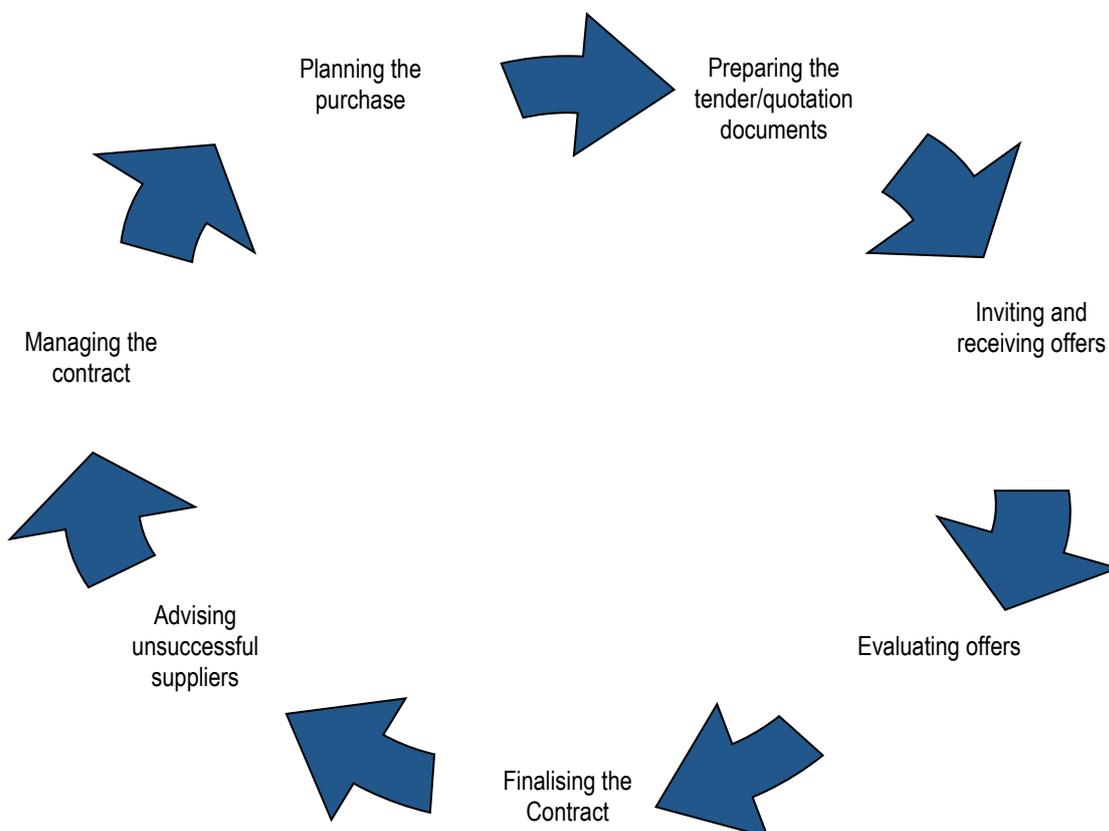
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Principle	...	In practice this means ...
<b>Enhancing opportunities for local business</b>	Ensuring that local businesses that wish to do business with Government are given the opportunity to do so and that the Government's Buy Local Policy requirements are met.	<ul style="list-style-type: none"><li>... taking into consideration the impact on local suppliers when planning procurements;</li><li>... actively seeking bids from local businesses; and</li><li>... ensuring that agency requirements do not unnecessarily preclude local businesses from bidding or disadvantage local suppliers.</li></ul> <p>Further information for agencies on the Government's Buy Local Policy is contained in the publication, <i>Buy Local Policy – A Guide for Government Agencies</i>.</p>

## Purchasing process

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The following diagram summarises the process for purchasing goods and services. Detailed information is provided in the following pages.



## Purchasing process checklists

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Procurement checklists for goods and services are available under 'Checklists' in the 'Resources' area of the 'Buying for Government' section of the [Purchasing website](#). These checklists set out all mandatory requirements together with good practice steps in relation to procuring.

Note: There are a number of differences between the mandatory requirements for different processes. Therefore, reference should be made to the most appropriate checklist.

## Planning the purchase

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Having identified the need to make a purchase there are a number of things to consider prior to developing tender/quotation documentation. Pro forma templates for a *Pre-procurement Local Impact Assessment*, a *Procurement Plan* and *Evaluation and Probity Plans* are available under 'Forms' in the 'Resource Library' on the 'Buying for Government' section of the **Purchasing website**.

### Have you ...

### Further information

... <b>completed a local impact assessment?</b>	<ul style="list-style-type: none"><li>▶ Agencies are required to prepare a pre-procurement local impact assessment to ensure local suppliers are given every opportunity to participate and be successful in relation to Government contracts. For procurements with a value of \$250 000 or more, the assessment is to be approved by the Head of Agency prior to commencement of the procurement process. For procurements with a value of less than \$250 000, the approval may be given by a duly authorised delegate (refer the <b>Treasurer's Instruction 1119</b>).</li></ul>
... <b>obtained approval to purchase?</b>	<ul style="list-style-type: none"><li>▶ The <i>authority to purchase</i> is delegated by Heads of Agency (who in turn have been authorised by the relevant Minister), who can specify monetary limits and other conditions. Authorisations and Delegations are contained in your Agency's Accounting Manual.</li><li>▶ Dependent on the value of the procurement, there may be a requirement to prepare a pre-procurement industry consultation report for approval (refer the <b>Treasurer's Instruction 1116</b>).</li><li>▶ Head of Agency or Deputy Secretary approval is required prior to <i>engaging a consultant</i> (refer the <b>Treasurer's Instruction 1113</b>).</li><li>▶ Head of Agency approval is required if procurement opportunities with a combined value of \$250 000 or more are not to be disaggregated in accordance with the requirements of the <b>Treasurer's Instruction 1119</b>.</li></ul>
... <b>considered whether a probity adviser should be employed?</b>	<ul style="list-style-type: none"><li>▶ You should consider engaging a <i>probity adviser</i> prior to commencing the procurement process if a purchase is of high value or is likely to be contentious or where a long standing relationship with an existing supplier is in place. Information on engaging a probity adviser is provided on the <b>Purchasing website</b>.</li></ul>

... defined the specification?

- ▶ It is very important that the *essential requirements* of a purchase are clearly understood and conveyed to suppliers. The specification should be clear, accurate and complete.
- ▶ The specification must not restrict competition or be biased towards a particular brand.

See the 'Preparing tender/quotation documents' section of this Guide for further information on defining the specification.

... identified the purchasing method?

- ▶ The **purchasing method** required to be followed will depend on a number of factors including:
  - whether there is an existing contract;
  - the value of the proposed purchase;
  - how well defined the requirement is; and
  - the complexity of the project.

A summary of the various purchasing methods and when they should be used is provided in the next section 'Tender or quotation?'

Information on streamlined purchasing procedures when purchasing from a business that employs persons with a disability is located in the **Treasurer's Instruction 1127**.

A direct or limited submission sourcing procurement process may be approved in accordance with the **Treasurer's Instruction 1114** in specified circumstances. These may include:

- where, following extensive research, there is only one supplier of the product or service required and there is no appropriate substitute; and
- urgent purchases required in an emergency that is beyond the agency's control.

Guidelines for obtaining approval for a direct or limited submission sourcing procurement process can be found on the **Purchasing website** and information on the circumstances in which a direct or limited submission sourcing procurement process may be approved is located in the **Treasurer's Instruction 1114**.

For procurement impacted by **free trade agreement** obligations, refer to the publication, International Procurement Obligations for the circumstances in which limited tendering may be approved.

## Planning the purchase (continued)

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### ... established an evaluation committee?

- ▶ The composition and number of *evaluation committee* members will depend on the complexity and value of the purchase.
- ▶ All members should be made aware of their responsibilities and are required to sign non-disclosure and conflict of interest forms. Two pro forma (one for State Service employees and another for non-State Service employees) are available under 'Forms' in the 'Resources' area of the 'Buying for Government' section of the **Purchasing website**. Any potential, real or perceived conflicts of interest must be documented including the action taken to appropriately address the conflict.

### ... determined the conditions for participation and defined the evaluation criteria?

- ▶ *Conditions for participation* are the minimum mandatory conditions that potential suppliers must meet in order for their offer to be considered. Non-conformity with the conditions for participation will eliminate a supplier from consideration therefore it is important to consider what, if any, conditions should be mandatory.
- ▶ Appropriate, well-defined *evaluation criteria* enable suppliers to focus their submissions and agencies to assess the relative strengths and weaknesses of each tender/quotation.
- ▶ The evaluation methodology, conditions for participation, evaluation criteria and weightings should be *agreed* by the evaluation committee prior to finalising tender/quotation documentation.
- ▶ The Treasurer's Instructions mandate the use of specific conditions for participation and/or require certain matters to be included in the evaluation criteria in some circumstances. For example refer to the **Treasurer's Instruction 1119 Buy Local Policy**. For free trade impacted procurements the additional mandatory requirements for documentation are contained in the International Procurement Obligations publication.
- ▶ Pro forma Quotation and Tender Evaluation and Probity Plans are available under 'Forms' in the 'Resources' area of the 'Buying for Government' section of the **Purchasing website**.

## Tender or quotation?

The following table summarises the procedures that government buyers must follow when purchasing goods and services.

When the purchase value is ..*	and ...	Use this purchasing method ...	and remember that ...
All purchases	... a whole-of-government common use contract has been established	Common Use Contract	... government agencies must use certain whole-of-government common use contracts where they exist. Refer to the <b>Treasurer's Instruction 1112</b> .
All purchases	... a whole-of-agency contract has been established	Agency Contract	... further information, including conditions of use, will be available from within your agency.
\$50 000 or less	... all purchases of this value (and there is no whole-of-government contract)	Requests for Quotation (RFQ)	... processes are at the discretion of the Head of Agency. Refer to the <b>Treasurer's Instruction 1105</b> .
Greater than \$50 000 and less than \$250 000	... the requirement is straight forward (and there is no whole-of-government contract)	Written Requests for Quotation (RFQ)	... a minimum of three written quotations must be sought;** and ... at least two of the quotations must be sought from Tasmanian businesses where local capability exists.** Refer to the <b>Treasurer's Instruction 1106</b> . Note, however, the streamlined processes available under the <b>Treasurer's Instruction 1127</b> when purchasing from a business that employs persons with a disability.

\* All limits exclude GST

\*\* This is only the *minimum requirement*. Agencies are required to adequately test the market and enhance opportunities for local businesses. Requests for Tender/Quotation should be sent to all businesses that have requested the opportunity to bid or which have previously expressed an interest in supplying the item/service being purchased in order to fulfil the requirements of the **Treasurer's Instruction 1101**.

## Tender or quotation? (continued)

When the purchase value is ...*	and ...	Use this purchasing method ...	and remember that ...
Greater than \$50 000 and less than \$250 000	... the requirement is complex and/or you are not sure of the market (and there is no whole-of-government contract)	Written Requests for Quotation (RFQ) or Request for Tender (RFT)	<p>... the same mandatory requirements apply as specified above, but;</p> <p>... where an agency wishes to ensure that it has adequately tested the market or is receiving value for money, it may choose to use a public tender process.</p> <p>Refer to the <b>Treasurer's Instruction 1107 for information about the public tender process.</b></p>
\$250 000 or more	... the specification can be clearly defined (and there is no whole-of-government contract)	Request for Tender (RFT)	<p>... at least two tenders <u>must</u> be sought from Tasmanian businesses, where local capability exists;** and</p> <p>... the Request for Tender <u>must</u> be advertised on the <b>Tenders website</b> and, if determined appropriate, in the tenders section of newspaper(s) and/or journal(s).</p> <p>Refer to the <b>Treasurer's Instruction 1107</b>. Note, however, the streamlined processes available under the <b>Treasurer's Instruction 1127</b> when purchasing from a business that employs persons with a disability.</p> <p>Additional requirements may apply if the procurement is subject to a binding <b>free trade agreement</b>.</p>

\* All limits exclude GST

\*\* This is only the *minimum requirement*. Agencies are required to adequately test the market and enhance opportunities for local businesses. Requests for Tender/Quotation should be sent to all businesses that have requested the opportunity to bid or which have previously expressed an interest in supplying the item/service being purchased in order to fulfil the requirements of the [Treasurer's Instruction 1101](#).

## Tender or quotation? (continued)

When the purchase value is ...*	and ...	Use this purchasing method ...	and remember that ...
\$250 000 or more	... the requirement is complex and/or you are not sure of the market (and there is no whole-of-government contract)	<b>Request for Tender (RFT)</b>	<p>... the same mandatory requirements apply as specified above;</p> <p>... as a variety of solutions may be offered, the choice of effective evaluation criteria is of particular importance to ensure that a comparison between offers can be made.</p> <p>Refer to the <b>Treasurer's Instruction 1107</b>.</p>

### Multi-stage purchasing

For major or complex purchases, a multi-stage purchasing process may be preferable. However, a multi-stage purchasing process may be more costly and time-consuming for both suppliers and agencies and it should only be used where:

- the best way to meet the requirement is unclear;
- it reduces the cost to the industry and the agency;
- there are benefits which cannot be obtained by researching the market through conventional means; and
- maximum flexibility is required throughout the contracting process.

The available multi-stage purchasing processes are detailed in the **Treasurer's Instruction 1108** and are:

- expression of interest;
- licence or specific legal requirement;
- multi-use list (prequalification);
- request for information; and
- request for proposal.

Mandatory requirements specific to multi-stage purchasing processes are detailed in the **Treasurer's Instruction 1108**. Agencies must also comply with the mandatory requirements applicable to standard procurement processes such as those regarding advertising, seeking at least two bids from local businesses where local capability exists and reporting etc.

For procurement impacted by **free trade agreement** obligations, refer to the publication, International Procurement Obligations for the requirements relating to multi-use lists and selective tendering.

\* All thresholds exclude GST

## Tender or quotation? (continued)

The process most often used is the Expression of Interest -

### Multi-stage purchasing method

	If ...	then ...
Expression of Interest (EOI)	... the specification <u>is</u> well-defined	<ul style="list-style-type: none"> <li>... the EOI may be selected as a means of prequalifying or short-listing suppliers based on their technical, managerial or financial capacity, in order to reduce the cost of tendering by restricting the issue of formal tenders to those suppliers with demonstrated capacity;</li> <li>... provided that suppliers are informed in advance that only those short-listed will be requested to tender, approval for direct/limited submission sourcing is not required to use a restricted tender process; and</li> <li>... potential suppliers <u>must</u> be provided, at the call for Expressions of Interest stage, with the <i>evaluation criteria</i> that will be used to make a decision at both stages of the process.</li> </ul>
“	... the specification <u>is not</u> well-defined	<ul style="list-style-type: none"> <li>... the EOI may be selected as a means of exploring the market, including identifying options, alternatives, new or advanced technology, likely suppliers, indicative costs etc;</li> <li>... issues relating to intellectual property and copyright must be clarified before using information provided in response to the EOI to prepare the Request for Tender;</li> <li>... potential suppliers <u>must</u> be provided, at the call for Expressions of Interest stage, with the <i>evaluation criteria</i> that will be used to make a decision at both stages of the process; and</li> <li>... the Request for Tender must either be advertised and open to all, <b>or</b> restricted to a shortlist of respondents, provided that: <ul style="list-style-type: none"> <li>• suppliers have been informed in advance that only those short-listed will be requested to tender; or</li> <li>• approval for direct/limited submission sourcing is granted in accordance with the <b>Treasurer’s Instruction 1114</b>.</li> </ul> </li> </ul>

## Common use contracts

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All government agencies must use the whole-of-government common use contracts and Master Ordering Arrangements established by Treasury.

Note: the following list is accurate at the time of publication. Reference should be made to the information in the 'Contracts' section of the [Purchasing website](#) and/or the [Treasurer's Instruction 1112](#) to ensure that the contracts available have not changed since the date of publication of this Guide.

Contract No	Title
A001	Advertising – Television (Master Ordering Arrangement)
A003	Advertising – Print Media Services for Vacancy Notices, Tenders and Public Notices (including Print Media Master Ordering Arrangement)
A004	Advertising – Radio (Master Ordering Arrangement)
BK03	Government Banking Services
CI06	Cartage and Interstate Air Freight
CI41	Computer Software - Microsoft
CI50	Computer Hardware and Related Services
F200	Fleet Management Agreement
L300	Leasing Finance Facility <i>Note: Even though a common use contract has been established to provide a leasing finance facility, government buyers are still required to invite offers (either tenders or quotations, whichever is appropriate) for the item being purchased.</i>
P450	Petroleum Products
V672	Vehicles <i>:Unless otherwise approved by the Secretary of the Department of Treasury and Finance, agencies must lease all their light passenger vehicles through the Government's Fleet Manager.</i>
V675	Vehicles Hire and Drive

A link to a current list of common use contracts is maintained on the 'Contracts' section of the [Purchasing website](#).

Agencies must also use the Networking Tasmania II contract for data communications, internet and related services established by the Department of Premier and Cabinet. In addition, agencies are required to use the integrated communications services and arrangements provided by TMD, Department of Premier and Cabinet, including fixed and mobile voice and data carriage, interconnecting service gateways, telephony, desktop videoconferencing, instant messaging and related end user devices.

Information in relation to relevant arrangements established by TMD can be obtained from the TMD website ([www.tmd.tas.gov.au](http://www.tmd.tas.gov.au)).

## Preparing tender/quotation documents

Tender/quotation documents are generally divided into four components:

- Conditions of Tender/Quotation
- Specification
- Conditions of Contract
- Response Schedules

Templates for each type of tender/quotation are supplied on the **Purchasing website**. The four components of each template supplied on the Purchasing website are interdependent and cannot be used in isolation or exchanged with other components.

Document	Content
<p><b>Conditions of Tender/Quotation</b></p>	<p>The Conditions of Tender/Quotation set out the terms under which an offer will be accepted for evaluation including:</p> <ul style="list-style-type: none"> <li>• closing date, time and place, and treatment of late offers;</li> <li>• nominated contact;</li> <li>• other matters relating to the procurement process, including <i>pre-tender/pre-quotation briefing sessions</i>;</li> <li>• pricing requirements and payment terms; and</li> <li>• the <i>conditions for participation</i> and the <i>evaluation criteria</i> that will be used and the <i>weightings</i> (if any) that will be applied. Generally, these will address:               <ul style="list-style-type: none"> <li>– compliance with the contractual terms and conditions;</li> <li>– the technical merit of the goods or services offered;</li> <li>– the capability of the supplier to fulfil the requirement, including technical and managerial competence, financial viability, relevant skills, experience and availability of key personnel;</li> <li>– whole of life costs;</li> <li>– an assessment of the risks or constraints associated with the offer; and</li> <li>– any wider benefits to the State (eg local employment opportunities, industry development etc).</li> </ul> </li> </ul> <p>Local SME industry impact must be included in the evaluation criteria for purchases valued at \$50 000 or more. Where a Tasmanian Industry Participation Plan is required, appropriate clauses to require completion of the Plan and to enable publication of the Plan in its entirety or, where determined more appropriate by the agency, an Executive Summary must also be included. Further information can be found in the <b>Treasurer’s Instruction 1119</b>.</p> <p>In relation to Tenders processes, agencies <u>must</u> only use Conditions of Tender that have been approved by the Crown Solicitor. Where a tender is being run and the Crown Solicitor’s RFT template is not used, or the RFT template is substantially modified, Crown Solicitor approval <u>must</u> be sought.</p> <p>The inclusion of certain clauses in the Conditions of Tender/Quotation is <u>mandatory</u>. Further information on the requirements is available in the <b>Treasurer’s Instruction 1109</b>.</p> <p>Crown Solicitor template documentation is available in the ‘Resource Library’ on the ‘Buying for Government’ section of the <b>Purchasing website</b>.</p>

**Preparing tender/quotation documents (continued)**

Document	Content
<p><b>Specification</b></p>	<p>The specification is defined and documented during the planning phase of the purchase. The specification is the basis of all offers and is the foundation for the contract. It is very important that the specification is clear, accurate and complete. The specification:</p> <ul style="list-style-type: none"> <li>• should be developed after the agency has conducted market research and at the same time as the evaluation criteria are developed;</li> <li>• should focus on what is required (including performance measures and targets, quality requirements and functionality) rather than on how it is to be done;</li> <li>• should indicate which requirements are <i>mandatory</i>;</li> <li>• should allow suppliers to offer <i>alternative solutions</i>; but</li> <li>• <u>must not</u> restrict competition, do not unnecessarily preclude local businesses from bidding or be biased towards a particular brand.</li> </ul> <p>Where <i>external assistance</i> is used to assist with the preparation of the specification, at a minimum, the agency should ensure that:</p> <ul style="list-style-type: none"> <li>• the specification is not biased towards that company;</li> <li>• other businesses have sufficient time to gain an equal understanding of the requirement; and</li> <li>• the involvement of the company in preparing the specification is disclosed.</li> </ul>
<p><b>Conditions of Contract</b></p>	<p>The Conditions of Contract are contractual terms that define the obligations and rights of the parties concerned.</p> <p>Generally, contracts should be used for all purchases over \$50 000. An official purchase order, exchange of letters or payment of the price quoted may be sufficient for lower value purchases.</p> <p>In relation to any Request for Tender, agencies <u>must</u> only use Conditions of Contract that have been approved by the Crown Solicitor (the <b>Treasurer’s Instruction I 109</b>).</p> <p>Where a tender is being run and the Crown Solicitor’s RFT template is not used, or the RFT template is substantially modified, Crown Solicitor approval <u>must</u> be sought.</p> <p>The inclusion of certain clauses in the Conditions of Contract is <u>mandatory</u> (<b>Treasurer’s Instruction I 109</b>).</p> <p>Crown Solicitor pro forma documentation is available in the ‘Resource Library’ on the ‘Buying for Government’ section of the <b>Purchasing website</b>. A link to the <i>Government Information Technology Conditions (GITC) Head Agreement</i> and associated <i>purchase order pro forma</i>, which must be used for most IT purchases, is located in the main menu on the ‘Contracts’ section of the <b>Purchasing website</b>.</p> <p>The Crown Solicitor should be consulted for any ‘special’ conditions.</p>

## Preparing tender/quotation documents (continued)

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Document	Content
<b>Response Schedules</b>	<p>The Response Schedules state the information to be provided by suppliers and often consist of forms to be completed by the supplier. The Schedules should provide each supplier with the opportunity to indicate its compliance with contract terms and the specification.</p> <p>There must be a clear link between the information requested in the Response Schedules and the evaluation criteria, specification, and tender/quotation and contract requirements.</p> <p>Response Schedules are recommended as they assist:</p> <ul style="list-style-type: none"><li>• suppliers to address all evaluation criteria, specification, tender/quotation and contract requirements; and</li><li>• buyers to evaluate submissions because they have been presented in a uniform format.</li></ul> <p>For procurements with a value of \$50 000 or more, a template Local SME Industry Impact Statement should be included as part of the Request documentation.</p>

## Inviting and receiving offers

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### Inviting offers

See the previous section of this Guide titled 'Tender or quotation?' for mandatory requirements for inviting offers, including advertising requirements and seeking offers from local businesses. Additional information is provided below:

Process	Further Information
<b>Advertising tenders</b>	<p>Generally, advertisements should contain a description of the tender, details of available documentation, a contact point for further information, the closing date, time and place of lodgement, and details of any pre-tender briefings and conditions of participation.</p> <p>Advertising of tenders must be done via the <b>Tenders website</b>, which can automatically send the required information to the nominated newspaper(s) if necessary. Most agencies have their own eTendering administrators who manage the publication of their tenders. A pro forma (the <i>Open Tender Advertisement Pro forma</i>) for advertising tenders on the Tasmanian Government <b>Tenders website</b> is located under 'Forms' in the 'Resources' area of the 'Buying for Government' section of the <b>Purchasing website</b>. <u>Mandatory</u> requirements relating to advertising are contained in the <b>Treasurer's Instruction I 107</b>. For free trade impacted procurements the additional mandatory requirements for advertising (Notice of Intended Procurement) are contained in the International Procurement Obligations publication.</p>
<b>Pre-procurement briefings</b>	<p>Briefings are useful for facilitating and promoting industry involvement and for expanding upon complex, unusual or sensitive requirements.</p>
<b>Responding to questions</b>	<p>It is recommended that a written record be made of all questions and answers arising at a briefing or during the procurement process and, where appropriate, this should be sent to <u>all</u> potential suppliers and, where appropriate, an addendum issued and placed on the <b>Tenders website</b>.</p>
<b>Amending the procurement documents</b>	<p>Any amendments (addendum) to procurement documentation must be provided in writing to <u>all</u> potential suppliers. Where the <b>Tenders website</b> has been used, a copy of the addendum must be placed on the website. Where appropriate, it may be necessary to extend the time for lodgement.</p>
<b>Closing time</b>	<p>The procurement should be open for a sufficient period to give the market adequate time to respond effectively. The period will vary depending on the complexity of the requirements. In general, government buyers should allow three weeks for procurements that are relatively straightforward, and at least six weeks for major or complex requirements. If a purchase is impacted by a binding <b>free trade agreement</b>, minimum time periods apply.</p>

### Receiving offers

The following requirements are mandatory:

- ▶ A *secure facility* must be provided at each designated lodgement location. The facility must not be opened until the designated closing time (the **Treasurer's Instruction I 109**).
- ▶ Agencies must provide suppliers with at least one electronic option for the lodging of their submission (the **Treasurer's Instructions I 106 and I 107**).
- ▶ During the evaluation phase, information provided by suppliers is *confidential* and must not be provided to unauthorised persons. Confidentiality after a contract has been awarded is governed by the **Crown Contracts Confidentiality Policy** (the **Treasurer's Instructions I 124, I 401 and I 402**).

## Inviting and receiving offers (continued)

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The following requirements are good practice:

- ▶ Where the electronic option/s provided to suppliers for the lodging of their submission includes a secure email or facsimile facility:
  - the facility should be secure;
  - access to the submissions should be controllable to prevent compromising security of responses/confidentiality; and
  - access should be auditable and/or documented (the **Treasurer's Instructions 1106 and 1107**).
- ▶ Three officers, including at least two senior officers, should be present when the facility is opened (the **Treasurer's Instruction 1109**).
- ▶ All offers should be clearly *identified and recorded* (the **Treasurer's Instruction 1109**).
- ▶ Records should be kept for every purchase, including information on tenders/quotations called and received, evaluation criteria and weightings, decision-making processes and the reasoning behind the decision (the **Treasurer's Instruction 1101**).

## Evaluating offers

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Offers must be fairly and equitably evaluated in a manner that is consistent with the Government's procurement principles and the final decision must be able to withstand public scrutiny (the **Treasurer's Instructions I 106 and I 107**).

Offers should be assessed, in the first instance, to ensure that they are complete and comply with all mandatory conditions for participation and compliance requirements. Offers which do not meet the conditions for participation and mandatory compliance requirements must be eliminated. If and only if the offers are compliant, the offers can be evaluated against the evaluation criteria specified in the procurement documentation using the scores and weightings that were determined during the planning phase.

An evaluation matrix, in which scores are allocated against each of the *non-cost evaluation criteria* for each compliant offer, is useful for comparison purposes.

### Public sector suppliers

Offers from public sector suppliers must be supported by written confirmation that the price has been calculated on a full cost attribution basis. Offers from public sector suppliers that do not meet this condition must be declined (refer to the **Treasurer's Instruction I 120**).

### The recommendation report, Procurement Review Committee

On completion of the evaluation process, the selection should be documented in a recommendation report which is to be submitted to the relevant approval authority.

An established Procurement Review Committee must review all evaluations for procurements valued at \$100 000 and more prior to advice being provided to suppliers on the outcome of the process and before negotiations with the preferred supplier or the contract is awarded (**Treasurer's Instruction I 116**). All members of the evaluation committee should sign the recommendation report. The report should include a record of the evaluation method and the rationale for the selection made. Reasons must be clearly documented.

The report should include:

- a brief background to the requirement;
- the composition of the evaluation committee, their respective roles and responsibilities;
- an explanation of the evaluation process;
- evaluation criteria and weightings (if any);
- an evaluation matrix (where appropriate);
- a brief description of each phase of the evaluation process, eg
  - compliance assessment;
  - assessment of non-cost criteria;
  - cost analysis;
  - short-list;
  - presentations;
  - value for money assessment; and
  - selection.
- the probity adviser's report, if appropriate; and

- a summary of the outcomes of each of the evaluation stages, including a brief narrative summary of the relative merits and shortcomings of all tenders received.

An *Evaluation Report pro forma* is available under 'Forms' in the 'Resource Library' on the 'Buying for Government' section of the [Purchasing website](#).



## Finalising a contract

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### Negotiations

For complex or high value purchases, it may be necessary to enter into negotiations with the preferred supplier, prior to finalising a contract. Suppliers should have been advised in the tender/quotation documentation of this possibility.

The primary objectives of the negotiations are to:

- test the understandings and assumptions made by suppliers in determining their costs;
- clarify and rectify any false assumptions; and
- achieve operational refinements and enhancements that may in turn result in cost reductions.

The outcome of the negotiations will be reflected in the final contract.

### Tasmanian Industry Participation Plan

Where a Tasmanian Industry Participation Plan is required the Plan must be approved by the Head of Agency before the contract is finalised with the supplier and before the supplier enters into sub-contracting arrangements (refer [Treasurer's Instruction 1119](#) and the publications, *Buy Local Policy: A Guide for Government Agencies* and *Tasmanian Industry Impact and Participation Policy and Guides* – available under 'Publications' in the 'Resource Library' on the 'Buying for Government' section of the [Purchasing website](#)).

### Finalising the contract

Once agreement has been reached between the agency and the preferred supplier, the offer can be accepted by:

- the execution of a formal contract; or
- issuing a letter of acceptance.

Crown Law should be consulted for all high value, high risk or complex procurements.

### Crown Contracts Confidentiality Policy

When preparing contracts, reference should be made to the [Crown Contracts Confidentiality Policy](#) (the [Treasurer's Instructions 1124, 1401 and 1402](#)). A copy of this policy can be found under 'Publications' in the 'Resource Library' on the 'Buying for Government' section of the [Purchasing website](#).

The Crown Contracts Confidentiality Policy provides that in any contract between the Crown and any other party, confidentiality requirements in relation to the provisions of the contract are not to be included unless approved by the Head of Agency, in accordance with Instruction 1401, as being in the public interest.

Further information is available on the 'Buying for Government' section of the [Purchasing website](#) or by referring to the [Treasurer's Instructions 1124, 1401 and 1402](#).

## Advising unsuccessful suppliers

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After the completion of the evaluation process, and once a contract has been awarded to the successful supplier, unsuccessful suppliers must be advised of their non-selection (the [Treasurer's Instructions 1106 and 1107](#)). As well as providing the name and the price accepted (where appropriate), this advice should reiterate the offer to debrief the unsuccessful supplier. Local suppliers especially should be encouraged to seek debriefing.

Where a purchase is subject to the provisions of a binding **free trade agreement**, if requested, the unsuccessful supplier must be promptly provided with a written explanation of the reasons that its offer was not selected.

### Debriefing unsuccessful suppliers

The purpose of the debriefing session is to help unsuccessful suppliers submit more competitive bids in the future by identifying ways in which the supplier's offer could have been improved.

At the *debriefing interview*:

- limit discussion to how the supplier's offer performed with respect to the evaluation criteria;
- discuss strengths as well as weaknesses; but
- do not:
  - make comparisons between the unsuccessful supplier's offer and the winning offer, or any other offer; or
  - use the debriefing interview to justify the selection of the successful supplier.

The *debriefing team* should include at least two people, including one member of the evaluation committee. The debriefing interview should be fully documented including:

- who attended (from the agency and from the business concerned);
- information provided to the unsuccessful supplier;
- any issues arising;
- details of any information that was requested, but not disclosed due to commercial-in-confidence considerations; and
- any likely future complaints and recommendations for further action.

Where a *multi-stage purchasing process* is used, eg Expressions of Interest used to short-list suppliers, suppliers not short-listed must be offered a debriefing interview, in a similar way to unsuccessful suppliers.

A *Record of Debriefing Interview pro forma* is available under 'Forms' in the 'Resource Library' on the 'Buying for Government' section of the [Purchasing website](#).

## Reporting, disclosure and audit requirements

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### Tenders website

The information to be included on the **Tenders website** is set out in the **Treasurer's Instruction 1110**.

For free trade impacted procurements the additional mandatory requirements for reporting contracts are contained in the International Procurement Obligations publication.

### Quarterly and annual reporting

Quarterly and annual reporting requirements are set out in **Treasurer's Instruction 1111**.

Agencies are required to report quarterly on:

- all procurements for which approval to aggregate has been granted in accordance with the **Treasurer's Instruction 1119**; and
- contracts with a value of \$50 000 or more not awarded to Tasmanian businesses (**Treasurer's Instruction 1111**).

The purchasing related information to be included in the agency's annual report, together with examples, is detailed in the Instruction and includes information on contracts awarded, Tasmanian business participation in procurement and approvals of various exemptions or alternative procurement processes.

### Disclosure – contracts valued at over \$2 million

Agencies are required to make publicly available, on the 'Contracts Awarded' section of the **Tenders website**, all contracts arising from a procurement valued at over \$2 million (the **Treasurer's Instruction 1110** and **1124**).

Detailed requirements, including what needs to be taken into account when determining whether a procurement is valued at more than \$2 million, are provided in the **Treasurer's Instruction 1110**.

### Audit Requirements

For each financial year, agencies are required to undertake a compliance audit on a percentage of the agency's direct/limited submission sourcing procurements approved pursuant to the **Treasurer's Instruction 1114** and a percentage of an agency's contract extensions approved pursuant to the **Treasurer's Instruction 1115(2)**. Further information is located in the **Treasurer's Instruction 1128**.

## Managing a contract

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The level of contract management will depend upon the complexity and value of the contract. Simple contracts, for example the purchase of commercially available goods, will usually only require inspection on receipt, validation and payment of invoice.

Contract management responsibilities for more complex or high value contracts may include:

- managing the transition between the agency, the new contractor and the outgoing contractor;
- monitoring the quality of the service/output provided and progress against milestones;
- ensuring that the contract remains within budget;
- authorising contract payments;
- establishing management reporting systems;
- negotiating contract variations;
- managing conflict and dispute resolution;
- exercising a contract extension option or ensuring that tenders are called in sufficient time to award a new contract, prior to the expiration of the current contract; and
- reviewing and evaluating the contract at its completion to identify any shortcomings in the planning or contract management processes, and the level of customer satisfaction with the contract outcomes.

Agencies should refer to Crown Law for any legal advice.

## Payment of invoices

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Under the cash management **Treasurer's Instruction 402**, agencies must pay all invoices with a value of less than \$50 000 within 30 calendar days, or if a shorter term has been agreed, within the shorter term. For invoices of \$50 000 and above, payment must be made in accordance with the agreed terms and by the due date.

The Instruction also requires the payment of interest where invoices are not paid in accordance with the Government's payment policy.

In addition, the financial expenditure **Treasurer's Instruction 705**, which prescribes the use of the Tasmanian Government Card (TGC), mandates the use of the TGC for *applicable payments* below \$1 000. Agencies are responsible for determining the application of the TGC policy to their business, by identifying and documenting *applicable payments* for payment by the TGC within their agency.

**The Treasurer's Instructions 402 and 705** are available from the [Treasury website](#).

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## Disposal of Government assets

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Agencies are responsible for all disposals, with the exception of motor vehicles managed by the Government's Fleet Manager, personal computers and real property. Disposal requirements are contained in the **Treasurer's Instruction 1301** and the publication, *Disposal of Government Assets – Tasmanian Government Agencies*.

Any contract prepared in relation to a disposal must comply with the Government's policy on [confidentiality in contracts](#).

## More information

Need more information? Try one of the following:

Source	Contact details	For information on ...
<b>Agencies</b>	Purchasing Units Procurement Review Committee Intranet Internet	... agency-specific purchasing guidelines; and ... purchasing complaints officer contact details.
<b>Office of the Crown Solicitor</b>	Email: <a href="mailto:Crown.Solicitor@justice.tas.gov.au">Crown.Solicitor@justice.tas.gov.au</a>  Tel: (03) 6165 3627  <a href="http://www.justice.tas.gov.au">www.justice.tas.gov.au</a>	... contracts; and ... tender/quotation conditions.
<b>Procurement and Property Branch (Department of Treasury and Finance)</b>	Email: <a href="mailto:purchasing@treasury.tas.gov.au">purchasing@treasury.tas.gov.au</a>  Tel: (03) 6166 4229	... purchasing policies and procedures; and ... common-use-contracts.
<b>Tasmanian Government Purchasing website</b>	<a href="http://www.purchasing.tas.gov.au">www.purchasing.tas.gov.au</a>	... pro forma procurement documentation; ... agency purchasing contacts; ... purchasing policy; ... common use contracts; ... debriefing sessions; ... the purchasing complaints process, including nominated agency complaints officers; ... useful links, including links to other State government tender websites; and ... “Items of Interest” – developments in government purchasing and events.
<b>Treasury website</b>	<a href="http://www.treasury.tas.gov.au">www.treasury.tas.gov.au</a>	... Treasurer’s Instructions.
<b>Tenders website</b>	<a href="http://www.tenders.tas.gov.au">www.tenders.tas.gov.au</a>	... current tenders; and ... awarded contracts.

## Glossary

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### Agency

Agency or inner-Budget agency refers to those government agencies which are subject to the *Financial Management and Audit Act 1990*.

### Building and Construction

The construction and refurbishment of buildings and residential properties, and associated maintenance (services and residential) and professional services (eg architects).

### Conditions of Contract

Conditions of contract define the rights and obligations of both parties once the contract has been awarded. This includes insurance requirements, price variation clauses, appointment of sub-contractors etc.

### Conditions of Tender

Conditions of Tender are the rules governing what a tender submission should contain, how it should be submitted, and how it will be evaluated.

Pro forma conditions of tender for the purchase of goods and services are available under 'Forms' in the 'Resource Library' on the 'Buying for Government' section of the [Purchasing website](#).

### Common Use Contract

A whole-of-government contract established by the Department of Treasury and Finance for the supply of goods and services. A Common Use Contract must be used by all inner-Budget agencies and may also be accessed by other eligible organisations. A list of all of the whole-of-government Common-Use Contracts is located on the [Purchasing website](#) > Contracts.

### Consultant

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

### Contract

A contract is an obligation, such as an accepted offer, between competent parties upon a legal consideration, to do, or abstain from doing, some act.

### Contract Management

Once the contract is awarded, a Departmental representative/s is assigned to manage the relationship between the Department and the Contractor. This includes managing any issues or risks that arise, and to generally ensure that the objectives of the project are met.

### Contractor

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.

### Disposal

A disposal of goods at the end of their useful life.

## Dumped Goods

Dumped goods are goods that:

- are imported from overseas at less than their normal value;
- may cause injury to an Australian industry producing similar goods or hinder the establishment of an Australian industry; and
- have been classified as being "dumped" by the Australian Customs Service.

## Evaluation Criteria

The criteria are used to assess the merit of offers received. The evaluation criteria are specified in the quotation or tender documentation.

## Expression of Interest (EOI)

An EOI is the first step in a multi-staged procurement process and is used as a means of exploring the market or to prequalify businesses for a procurement so as to reduce the cost of tendering by restricting the issue of formal tenders.

## Free Trade Agreement

Under various free trade agreements and arrangements, agencies cannot discriminate against suppliers from the countries with which those agreements are signed. Further information is available from the [International Procurement Obligations](#) publication located under 'Publications' in the 'Resource Library' on the 'Buying for Government' section of the [Purchasing website](#).

## Goods and Services

Goods are tangible, transportable supplies. Services are intangible supplies or effort, such as consultancies.

## Government Business Enterprise (GBE)

GBEs are entities which operate outside the Public Account, principally on the basis of funds derived through their operations. GBEs are subject to their own enabling legislation and the *Government Business Enterprises Act 1995*.

## Government Information Technology Conditions (GITC)

The GITC is used for all purchases of computer hardware, software and IT services, except as provided in the [Treasurer's Instruction 1123](#).

## Legal Services

Legal advice, civil litigation services, and commercial and conveyancing legal services.

## Local Business

All businesses operating in the State, which have a permanent office or presence in Tasmania and employ Tasmanian workers.

## Open Tender

A Public tender where any business that can meet the requirements of the Request for Tender can tender.

## **Probity**

Probity is a risk management approach to ensuring procedural integrity, by:

- ensuring an open competitive process;
- ensuring a transparent process;
- identifying and resolving conflicts of interest;
- accountability in relation to decision making; and
- monitoring and evaluating performance.

## **Probity Adviser**

A Probity Adviser provides advice on probity issues before and during the process of tendering and contracting to ensure the process is fair and in accordance with government guidelines.

## **Procurement**

The entire process by which all resources are obtained by an entity, including planning, design, standards determination, specification writing, selection of suppliers, financing, contract administration, disposals and other related functions.

## **Purchasing**

Also known as procurement, purchasing is the acquisition of goods or services.

## **Quality Assurance**

A system of activities whose purpose is to provide assurance that the quality control is being done effectively.

## **Quotation**

A quotation is the bid submitted in response to a Request for Quotation from a contracting authority.

## **Request for Tender (RFT)**

A RFT is a document soliciting offers from businesses capable of providing a specified work, good or service.

## **Request for Quotation (RFQ)**

A RFQ can be either a verbal or written request for offers from businesses capable of providing a specified work, good or service.

## **Review Committees**

Departmental committees established to review the process used for all procurements valued at \$100 000 or more. Prior to entering into negotiations with the preferred supplier and finalising a contract, the Review Committee's role is to ensure that a fair and equitable process has been followed and that the selection procedures outlined in the relevant government procurement guidelines have been adhered to.

## **Risk**

Factors that may adversely affect the successful completion of a project.

### **Roads and Bridges**

The construction and maintenance of roads and bridges and associated professional services (eg civil engineers).

### **Specification**

A document which clearly, accurately and completely describes the essential requirements of the goods and services being purchased.

### **Statutory Authority**

Statutory authorities are each established under specific legislation which defines the purpose for which they are established and the general functions for which they are responsible.

### **Tender**

A proposal, bid or offer that is submitted in response to a Request for Tender.

### **Value for Money**

Value for money means achieving the desired outcome at the best possible price.

### **Written Quotation**

A written Request for Quotation to undertake specific works or supply goods and services.