

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Commonwealth Procurement Rules

The 2014 *Commonwealth Procurement Rules* (CPRs) are issued by the Finance Minister under s105B(1) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). As per s105B(2) of the PGPA Act, this instrument is not subject to section 42 (disallowance) of the *Legislative Instruments Act 2003*.

The repeal of the *Commonwealth Authorities and Companies Act 1997* (CAC Act) and most of the *Financial Management and Accountability Act 1997* (FMA Act) have eliminated the need to explicitly repeal the 2012 CPRs. The 2012 CPRs were issued under the FMA Act and replaced the 2008 Commonwealth Procurement Guidelines.

The 2014 CPRs incorporate the requirements of Australia's international trade obligations, government policy and good practice in procurement into a set of rules which apply to Commonwealth procurement. The CPRs apply to procurement conducted by non-corporate Commonwealth entities and certain procurements conducted by prescribed corporate Commonwealth entities.

Procurement encompasses the whole process of acquiring goods or services. It begins when an agency has identified a need and decided on its procurement requirement. Procurement continues through the processes of risk assessment, seeking and evaluating alternative solutions, the awarding of a contract, the delivery of and payment for goods and services and, where relevant, the ongoing management of the contract and consideration of disposal of goods.

Division 1 of the CPRs contains rules applying to all procurements regardless of their value or whether an exemption applies. Division 2 of the instrument contains additional rules applying to procurements valued at or above the relevant procurement threshold.

There have been limited changes moving to the 2014 CPRs. The revocation of the *Finance Minister's (CAC Act Procurement) Directions 2012* necessitates amendments to Chapter 2 (Procurement Framework) and Chapter 3 (How to use the Commonwealth Procurement Rules) and the introduction of s 30 of the *Public Governance, Performance and Accountability Rules 2014* (PGPA Rules) which lists additional Government entities subject to the CPRs. S 30 of the PGPA Rules reflects Australia's current and future international obligations. Other changes include clarifying existing obligations under the CPRs and modifications to the reporting and procurement thresholds.

These instruments do not incorporate any documents by reference. The CPRs are supported by guidance available at <http://www.finance.gov.au/procurement/>.

Consultation

All FMA Act agencies and those *Commonwealth Authorities and Companies Act 1997* bodies subject to the 2012 CPRs were consulted on the development of the 2014 CPRs. In addition, Finance consulted publicly on the development of the 2014 CPRs through the Australian Government Procurement Coordinator blog.

The Joint Committee on Public Administration and Audit was consulted as part of its inquiry into the PGPA Act Rules development.