

Commonwealth Procurement Rules Explanatory Statement

The Commonwealth Procurement Rules are issued by the Minister for Finance under s105B(1) of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). As per s105B(2) of the PGPA Act, the instrument is not subject to section 42 (disallowance) of the *Legislative Instruments Act 2003*. This instrument commences on 1 July 2022 and repeals the previous Commonwealth Procurement Rules (F2020L01519).

The Commonwealth Procurement Rules incorporate the requirements of Australia's international trade obligations and government policy in procurement into a set of rules which apply to Commonwealth procurement. The Commonwealth Procurement Rules apply to procurement conducted by non-corporate Commonwealth entities and certain procurements conducted by prescribed corporate Commonwealth entities as listed in section 30 of the PGPA Rule.

The updated Commonwealth Procurement Rules reflect the Australian Government's commitment to improving the competitive capability of small and medium enterprises when participating in Commonwealth procurement, leading to better participation and outcomes for both Government and industry.

This update includes a number of revisions comprising:

- the inclusion of *Government Procurement (Judicial Review) Act 2018* under Legislation heading and inclusion of 'free trade agreements and other commitments' under the International obligations heading within Figure 1: Legislative and policy diagram;
- a clarification that the Commonwealth Procurement Rules apply to the administrative services of the Commonwealth Superannuation Corporation that relate to the superannuation schemes it administers;
- a requirement that non-corporate Commonwealth entities and prescribed Commonwealth corporate entities must comply with procurement-connected policies where the policy indicates that it is applicable to the procurement process and to the entity;
- new text advising procuring officials to consider the disaggregation of large projects into smaller packages that maximise competition, where appropriate;
- amended text reflecting the removal of the \$1 million threshold in the *Supplier Pay On-Time or Pay Interest Policy* – Resource Management Guide No. 417;
- new text to provide that suppliers do not need to take out insurance until a contract is to be awarded, to limit insurance imposts in contracts and embed the principle of risk sharing by better reflecting the actual risk in contractual liability; and
- an amendment to Appendix A: Exemption 17 allowing the Department of Defence to directly engage an SME for procurements valued up to \$500,000.

The Commonwealth Procurement Rules are supported by guidance available at <http://www.finance.gov.au/procurement/>.

Consultation

The Minister for Finance approved the amendments to the Commonwealth Procurement Rules.