

Procurement Sourcing Rules

Power and Water Corporation's
Procurement Framework



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Foreword

I am pleased to issue Power and Water's revised Procurement Sourcing Rules that underpin the Procurement Framework. These rules represent the corporation's efforts to commercialise procurement at Power and Water and ensure good practice is achieved.

Power and Water's success in delivering energy, water, and wastewater services to communities across the Northern Territory is supported and delivered by the businesses and suppliers we work with. Choosing and managing these relationships effectively is therefore essential to achieving the best results and a least cost model in procurement.

All business units are working to build creative, clever, and commercial solutions that help us get the best value for all Territorians. To become an attractive customer, it is essential that we continue to forge closer links and relationships with our suppliers. These closer links help build competitiveness and enable Territory business to compete in national and international markets.

The rules give us the foundations for this work. By applying the rules, we demonstrate that Power and Water is commercial and also accountable, transparent and trusted. The rules ensure our procurement activities are robust, deliver better public services and support our business and corporate objectives.

Djuna Pollard
Chief Executive Officer

Introduction

I. Focus on sourcing

- a. Power and Water Corporation has its own 'Procurement Sourcing Rules' that facilitate the implementation of its Procurement Framework. Section 36 of the 'Government Owned Corporations Act 2011' permits Power and Water to operate from its own 'Procurement Policy'.
- b. The Procurement Sourcing Rules are the instructions for undertaking *procurement* activity at Power and Water. *Procurement practitioners* at Power and Water may be audited for their compliance with the rules and *suppliers* have the right to complain where they believe the rules have not been complied with.
- c. Although the rules are a compulsory requirement, they do allow discretion in many instances providing a level of flexibility that is essential in a large and diverse organisation such as Power and Water. Where the rules use the term '**must**', the rule is mandatory, and non-compliance is a breach of the rules. Where the rules use the term '**should**', this indicates good practice and every effort **should** be made to comply with them.
- d. The rules **must** be read in conjunction with Power and Water's six key *procurement* principles, the 'Procurement and Contract Management Delegation Schedule and Delegation of Authority' and the supporting guidelines written to support Power and Water's 'Procurement Policy'.

Procurement Rules – the benefits

Power and Water needs to attract innovative and commercial suppliers to help us deliver on our service commitments to the people of the Northern Territory.

*To do this, we **must** compete with other agencies, other utilities and other businesses to attract the best businesses to respond to our tender needs. If we do this poorly, they will look elsewhere.*

To become an attractive customer, Power and Water needs to forge close links with business and build more relationships with suppliers.

In a sense, procurement is positioned like no other to understand the difference between cost and value, to realise the impact that sourcing decisions can have on operational capability, to see the opportunities for supply to impact productivity and to identify the business implications of wider market shifts.

The rules help us achieve all of this by providing the foundations for a robust, confident, ethical and transparent procurement process.

II. Purpose of the rules

- a. The purpose of the rules is to:
 - i. provide a logical and plain English format that is easy for all *procurement practitioners* at Power and Water to use.
 - ii. streamline Power and Water's *procurement* processes by providing a single source reference document with links to the good practice guidelines, tools and templates for additional information.
 - iii. encourage staff to engage early with the market, stimulate competition and innovation and work with *suppliers* to develop and deliver better options and best value for Territory and Power and Water.

III. How to use the rules

- a. The rules contain boxes and side bars with more information, definitions and links to the good practice guidelines, tools and templates found on Power and Water's web pages. Information in the boxes and side bars are not part of the rules but are provided to assist with interpretation and understanding.
- b. Words and phrases written in *italics* are defined in the 'Jargon Buster' document. Words and terms written inside quotation marks are separate documents or good practice guidelines written to support and provide understanding of the 'Procurement Sourcing Rules'.
- c. The rules refer to *procurement* grades, the values assigned to each level are defined in Appendix A: Grade level values. Changes to the grade level values can only be approved by the *functional delegate*. Grade levels may be different to the financial delegation levels.

Rule 1: Making changes to the rules

- 1.1 Changes to the rules can only be made by the *functional delegate*.
- 1.2 The *functional delegate* may approve the creation or changes to supplementary *procurement* documents not inconsistent with the 'Procurement Sourcing Rules', including good practice guidelines and explanatory notes.

Rule 2: Procurement Outlook

- 2.1 Power and Water **must** publish an annual 'Procurement Outlook' on its website for access by *suppliers*. The 'Procurement Outlook' **should** provide a rolling three year forecast on possible, probable and blue-sky *procurement* activity at Grade 3 level.
- 2.2 The outlook **must** be updated at least every six months to ensure it maintains relevance and value to industry. The timing of the updates **should** coincide with the development of the 'Statement of Corporate Intent' at Power and Water.
- 2.3 The outlook **must not** be viewed or interpreted as an invitation for bids or as a pre-solicitation document.
- 2.4 The outlook will be subject to adjustment to suit changing business requirements.

Rule 3: Annual Procurement Plan

- 3.1 Power and Water **must** prepare an *Annual Procurement Plan*. The *Annual Procurement Plan* is for internal planning and reporting purposes only and not for use by industry.
- 3.2 The *Annual Procurement Plan* **must** include strategies for improving Power and Water's *procurement* capability and capacity.

Getting started

Rule 4: The Key Procurement Principles

- 4.1 The six key procurement principles that **must** be applied to every *procurement* activity, irrespective of the value and complexity involved or the location of the *procurement* are:
 - a. best value for Territory
 - b. ethical and fair treatment
 - c. probity, accountability and transparency
 - d. sustainable and skilled industry partners
 - e. environmental protection
 - f. promotion of Power and Water's objectives.

Best value for Territory

- 4.2 Best value for Territory is the principle underlying all *procurement* activities at Power and Water. Procurement activity that delivers best value for Territory is the expected outcome of a planned procurement process, when all key requirements are considered.
- 4.3 In procurement, best value for Territory is the optimum combination of quality, quantity, risk, timeliness and cost, which **should** be determined on a whole-of-contract and '*whole-of-asset-life basis*', with consideration given to a supplier's capacity to contribute to the Northern Territory Government's broader strategic and policy outcomes, increasing local business participation and improving skills and employment in the Northern Territory. Risk includes environment and sustainability, health and safety, quality, fitness for purpose, Aboriginal employment, and other measures specific to particular *procurement* activities.
- 4.4 Best value for Territory can only be achieved if a whole-of-life perspective is adopted, including evaluating quotations and tenders with reference to whole-of-life maintenance, spare parts and the responsiveness of ongoing services. Local content is a component of best value for Territory as local businesses are usually more

agile and able to respond to requirements for provision of whole-of-life maintenance, spare parts, and the responsiveness of ongoing services. Achieving best value for Territory within the 'Procurement Policy' requires:

- a. open competition - no unwarranted barriers to the participation of *potential suppliers*. Best value for Territory is best achieved if there is competition between a range of *potential suppliers*.
- b. an informed buyer - Power and Water buyers and *procurement practitioners* have accurate information about the *supplier* market and are open to the potential for different products and market approach models to meet Power and Water's needs.
- c. fair and objective *tender* and evaluation processes - the assessment of *suppliers'* responses is based on fair and objective *assessment criteria* and analysis, which recognises enhancement of industry and business capabilities in the Northern Territory.

4.5 Best value for Territory means achieving the best return for Power and Water and the Northern Territory recognising that this may not necessarily be at the lowest price but the best combination of whole of life costs and quality factors (non-cost) which include:

- fit for purpose and quality
- whole of life costs (including support, warranty, licensing and disposal)
- efficiency and effectiveness
- timeliness
- flexibility
- innovation
- local benefit
- intangible costs and benefits

4.6 A range of supporting guidelines are provided to assist in the application of the best value for Territory principle including:

- a. 'Supplier Selection Guideline' that provides practical advice for evaluating *submissions* and selecting *suppliers* to ensure best value for Territory is achieved.
- b. 'Approaching the Market Guideline' that provides advice on commercial ways of seeking *submissions* from the market and the correct application of each approach.
- c. 'Selling to Power and Water Guideline' that assists business in responding to Power and Water's *procurement* needs.

Ethical and fair treatment

4.7 Providing ethical and fair treatment of all *suppliers* means conducting all dealings in an open, honest, and impartial manner and respecting their rights as well as their obligations. Power and Water *procurement practitioners* can ensure this principle is reflected throughout their purchasing activities by:

- a. open and competitive tendering (where practicable and appropriate)
- b. providing *suppliers* with equal opportunity to supply Power and Water
- c. streamlined and user-friendly *tender* requests
- d. clear and easy to understand *assessment criteria* and methodology
- e. consistent *supplier* feedback on decisions and performance
- f. timely assessment of *tender submissions* and punctual decision-making
- g. timely and effective complaints process
- h. effective communication and provision of information to all *suppliers*
- i. appropriate risk allocation in *contract* documentation.
- j. adhering to the requirements of the *Modern Slavery Act 2018*
- k. supporting Power and Water's Reconciliation Action Plan (RAP).

Probity, accountability and transparency

- 4.8 The principle of probity, accountability and transparency refers to ensuring the integrity of the *procurement* process and actions taken by Power and Water staff. All *procurement* activities **must** be undertaken in a manner that ensures:
- clearly established roles and responsibilities
 - transparency of decisions made
 - adherence to the 'Code of Conduct'
 - identification and management of actual or potential conflicts of interest
 - confidentiality of all commercial information
 - Power and Water *procurement practitioners* are accountable for their actions.

Sustainable and skilled industry partners

- 4.9 The objectives of having sustainable and skilled industry partners include:
- development of existing and new business capable of supporting a multi-utility provider across the Northern Territory.
 - using Power and Water's *procurement* activities as a driver for an improved business environment and increased competition in the Northern Territory.
 - raising the skills level, capability and capacity of industry and business to deliver the complex utilities supplies and services to meet Power and Water's evolving needs.
 - increased opportunities for business on the basis of best value for Territory.
 - promotion of industry and business awareness of its rights and obligations under Power and Water's Procurement Framework.
 - improving local Aboriginal Business Enterprises (ABE) participation and collaboration in the Supply Chain, as part of the RAP.
 - delivering projects at least cost to ensure enduring solutions that will benefit Power and Water's consumers.

Encouraging competition

Competition is a key element of Power and Water's procurement framework. Effective competition requires non-discrimination and the use of competitive procurement processes.

*Participation in Power and Water's procurement actions imposes costs on Power and Water and suppliers. These costs **should** be considered when designing a process that is commensurate with the scale, scope and risk of the proposed procurement activity. Asking for unnecessary information in a tender process imposes costs on business as well as Power and Water.*

Other costs to Power and Water arise from having overly complex or poorly written documentation that subsequently require addenda to be issued.

Having silent suppliers on panel contracts also cause indiscriminate costs as each supplier still requires a contract to be established with negotiated terms and conditions.

- 4.10 Sustainable and skilled industry partners means that Power and Water's *procurement* processes:
- result in *procurement* activities which do not disadvantage *Territory Enterprises* or local ABEs.
 - recognise and take account of measures taken to deliver least cost, best value, and sustainable solutions to ensure efficient Power and Water products and services for the Northern Territory community.
 - are effective in encouraging development of the right skill sets available to Power and Water.
 - provide competitive businesses with full, fair and reasonable opportunity to participate in the growth of the Northern Territory.

Environmental protection

- 4.11 Environmental protection supports Power and Water's objective of adopting best practices to promote and protect the environment and minimise environmental harm.
- 4.12 Environmental protection means that Power and Water's *procurement* policies and processes will be implemented so as to minimise the risk of:
- breaching laws in force in the Northern Territory that are designed to protect the environment.
 - non-compliance with complementary policies, programs and strategies.
 - adverse impacts on the environment and wildlife arising directly or indirectly from the *procurement* of supplies.

- d. endangering the public.
- e. causing unnecessary waste, including but not limited to over-packaging or because of an unduly short useful life of supplies.
- f. using materials derived from threatened species or from threatened environments.

4.13 Power and Water's *procurement* policies and processes will be implemented to:

- a. maximise resource recovery by considering products with high reused, recycled or renewable content and products with high reusability and recyclability.
- b. foster the development and production of products and processes of low environmental impact.
- c. provide leadership and incentive to business, industry and the community by promoting the use of environmentally sensitive supplies where it is technically possible and represents best value.

Promotion of Power and Water's objectives

The ultimate objective of *procurement* is to add value to Power and Water in fulfilling its vision, goals and corporate objectives as defined by the 'Statement of Corporate Intent'.

To a large extent the other five principles also contribute to this but this principle includes concepts such as:

- a. maintaining the highest image and reputation of Power and Water through execution of the 'Procurement Policy' in full conformity with the rules, delegations and governance specified
- b. ensuring *procurement* activity delivers electricity, water and sewerage services to the Northern Territory safely, reliably and efficiently and in doing so:
 - i. operating at least as efficiently as any comparable business.
 - ii. maximising the financial return to the Northern Territory on its investment in Power and Water.

Rule 5: Local industry participation

- 5.1 *Procurement practitioners must* apply practices that promote the use of *Territory Enterprises* or local *ABEs*. A mandatory minimum 30% weighting on local content **must** be applied to all competitive *procurement* activities, combined with a maximum 30% weighting on price.
- 5.2 *Procurement practitioners should* consider, in the context of best value for Territory:
 - a. the benefits of doing business with *Territory Enterprises* and local *ABEs* when specifying requirements and evaluating best value for Territory including local knowledge, agility and ability to respond quickly or in an emergency.
 - b. barriers to entry for *Territory Enterprises* and local *ABEs*, such as costly preparation of submissions or large contracts that could otherwise be broken into smaller components but noting that Rule 4 still applies and takes precedence.
 - c. *Territory Enterprises'* and local *ABE* capabilities and their commitment to local and regional markets.
 - d. the potential ancillary benefits to Power and Water and the broader Territory economy from having a larger, more competitive *Territory Enterprise* and local *ABE* base.

Rule 6: Protecting suppliers' information

- 6.1 All Power and Water staff **must** protect *suppliers'* confidential or commercially sensitive information. This includes information that could compromise fair competition between *suppliers*. Commercially sensitive information that **must not** be disclosed includes:
 - a. the design and contents of a *tender* or panel *submission*
 - b. trade secrets and proprietary information
 - c. new and innovative ideas and solutions
 - d. intellectual property
 - e. pricing structures and profit margins
 - f. marketing strategies.

Rule 7: Third-party contractors and consultants

- 7.1 *Procurement practitioners* may *contract* third-party contractors or consultants to provide advice, arrange or manage a *procurement* activity. In these instances, the third-party contractor or consultant **must** comply with the rules. *Procurement practitioners* **must** refer to the 'Management of External Service Providers Policy' for further information.
- 7.2 Third-party contractors or consultants **must not** be the *chairperson* of a *tender assessment panel* or participate in an assessment if there is a conflict of interest.
- 7.3 The third-party contractor or consultant **should not** be permitted to *tender* for any project where they have provided advice or assistance to Power and Water in relation to a related *procurement* activity.

Rule 8: Estimating value

- 8.1 *Procurement practitioners* **must** estimate the total value of a *procurement* activity to determine its value or *grade* level threshold, exclusive of GST. Staff **must** act in good faith and use their best professional judgement to estimate the value of a *procurement* activity or the maximum total estimated value.
- 8.2 In determining the maximum total estimated value, *procurement practitioners* **must** consider the total value over the whole-of-life of the *contract* and not simply the purchase price. The estimate **must** include the value of all of the *contracts* that may result from the *procurement* activity.
- 8.3 *Procurement practitioners* **must not** divide or otherwise design a *procurement* activity into separate phases or parts to artificially reduce the maximum total estimated value.
- 8.4 The 'Supplier Selection Guideline' **should** be read for further information.

Rule 9: Maintaining records

- 9.1 *Procurement practitioners* **must** maintain an electronically searchable audit trail throughout the *procurement* process. The detail of documentation maintained **should** be commensurate with the scale, scope and risk of the *procurement* activity. Documentation **should** provide accurate and concise information on:
 - a. the requirement for the *procurement*
 - b. the process that was followed
 - c. how best value for Territory was considered and achieved
 - d. relevant decisions and the basis for those decisions.
- 9.2 All documentation for Grade 1 *procurement* activities **must** be retained by the relevant business unit undertaking the purchase and stored electronically to allow payment and audit.
- 9.3 All documentation for Grade 2 and Grade 3 *procurement* activities **must** be retained in the allocated electronically searchable container.

Rule 10: The three procurement methods

Method 1: Open approach to market

- 10.1 Wherever possible, *procurement practitioners* **should** use an *open approach to market* to give all *suppliers* equal opportunity to compete.
- 10.2 For Grade 3 *procurement* activities, an *open approach to market* method **must** be used in preference to a *limited approach to market* process.
- 10.3 An *open approach to market* method **should** be used to establish *panel contracts*. However, selecting suppliers from the *panel contract* is not considered an *open approach to market* and **must** be undertaken in accordance with the *terms and conditions* of the *panel contract*.

Method 2: Limited approach to market

- 10.4 *Limited approaches to market* involve approaching one or more *potential suppliers* to make a *submission* rather than using an *open approach to market*.
- 10.5 For Grade 1 *procurement* activities, efforts for improving best value for Territory **should** be sought by informally seeking prices from more than one *supplier*. At least one *supplier* **must** be a *Territory Enterprise* or local *ABE*, unless otherwise approved, as outlined in Rule 11 and 15 or covered by a Standing Exemption in Appendix B.
- 10.6 Grade 2 *procurement* activities **must** be undertaken inviting a minimum of three quotes from suitable *suppliers* (at least one *supplier* **must** be a *Territory Enterprise* or local *ABE* unless otherwise approved or covered by a Standing Exemption in Appendix B). Any time less than three quotes are obtained, the *procurement* activity **must** be conducted in accordance with Rule 13 and approved in the 'Procurement Plan'.

Method 3: Direct negotiation

- 10.7 *Direct negotiations* are a *procurement* process in which Power and Water may contact a single *supplier* of its choice to submit an offer without having first gone through an *open approach to market*.
 - a. *direct negotiations* are not intended to avoid competition or discriminate against any *supplier*; they are used to deliver an expedient best value for Territory outcome, where it can be demonstrated that no real competition exists, or where there is a demonstrated benefit to Power and Water in accordance with Rule 13.
- 10.8 A *direct negotiation* **must** be conducted in accordance with Rule 49.

Rule 11: Industry Capability Network NT (ICN NT)

- 11.1 ICN NT **should** be engaged before commencing all *procurement* activities to determine if there is a *Territory Enterprise* that has the potential to participate.
- 11.2 ICN NT **must** be engaged and provide verification that there is no known *Territory Enterprise* capable of supplying the goods, works or services before procuring from an interstate *supplier* at a Grade 1 level.
 - a. unless the activity is covered by a Standing Exemption or approval is obtained from the Chief Procurement Officer to purchase interstate.
 - b. if it is determined that a *Territory Enterprise* identified by the ICN NT is not suitable, approval from the Chief Procurement Officer **must** be sought before proceeding to invite quotations.
- 11.3 ICN NT **should** be engaged for the purposes of undertaking market research for a *complex procurement activity* or for issuing a *Request for Information* or an *Invitation to Participate* in a Competitive Dialogue process.
- 11.4 ICN NT **should** be engaged prior to seeking approval for a *limited approach to market* and to support any justification for no *Territory Enterprise* being invited at the Grade 2 level.
- 11.5 Advice will be valid for one procurement activity for 90 days only. If the purchase is not complete within this time *buyers* will need to re-submit the request.

Rule 12: Exemptions

- 12.1 The *functional delegate* may exempt a specified *procurement* activity from the application of one or more of the 'Procurement Sourcing Rules' provided there is no resulting inconsistency with the 'Procurement Policy'. While the exemption remains in force, the *procurement practitioner* is not required to comply with the provision or provisions in respect of which the exemption applies.
- 12.2 Any decision by the *functional delegate* to exempt a specified *procurement* activity under this rule **must** be documented using the 'Request for Exemption from Procurement Sourcing Rules' form and kept by the *procurement practitioner* with the other *procurement* documents.

- 12.3 Due to operational needs, there are *procurement* activities that are exempt from the application of the 'Procurement Sourcing Rules'. These *procurement* activities are detailed in Appendix B: Standing Exemptions, as are the requirements to be used when applying the exemption.
- a. there is no requirement to obtain Industry Capability Network NT verification that there is no known *Territory Enterprise* capable of supplying the goods, works or services if the activity is covered by an item listed in Appendix B.

Rule 13: Undertaking a limited approach to market

- 13.1 *Procurement practitioners must* only conduct a *procurement* activity through a *limited approach to market* in the following circumstances:
- a. where, in response to an *open approach to market no submissions*, or no *submissions* that represented best value for Territory were received, or none of the *submissions* received met the minimum requirements.
 - b. where unusual advantageous conditions arise, such as from *unsolicited unique proposals*, or opportunities arising from liquidation, bankruptcy or receivership.
 - c. where the works, goods and services can be provided only by a particular *supplier* and there is no reasonable alternative or substitute for one of the following reasons:
 - i. due to an absence of competition for technical reasons
 - ii. to protect patents, copyrights or other exclusive rights
 - iii. they are the proprietary *supplier* for the particular product or service.
 - d. where a change of *supplier* would result in works, goods or services that do not meet requirements for compatibility with existing works, goods and services.
 - e. where the *procurement* is related to a continuing body of work and it can be demonstrated that a change of *supplier* would result in a significant cost impact to Power and Water for the works, goods or services.
 - f. at the direction of the Minister, Power and Water Board or the Chief Executive Officer due to the business critical nature of the engagement.
 - g. where Power and Water procures prototype works, goods or service that is intended for limited trial or that is developed at Power and Water's request in the course of and for a particular *contract* for research, experiment, study or original development.
 - h. in the case of a *contract* awarded to the winner of a design contest, provided that:
 - i. the contest has been organised in a manner that is consistent with these rules
 - ii. the contest is judged by an independent jury with a view to a design *contract* being awarded to the winner by Power and Water.
- 13.2 Approvals to undertake a *limited approach to market must* be obtained from the *functional delegate*. Approval to undertake a *limited approach to market* also exempts the *Procurement Practitioner* from consulting ICNNT.
- 13.3 Where a *limited approach to market* is undertaken, all other provisions of the 'Procurement Sourcing Rules' **must** be adhered to.

Rule 14: Using V-forms

- 14.1 *V-forms* can be used for the purchase of goods or services to the maximum value of \$1,000 (exclusive of GST). The exception is freight for an unlimited value outside a *contract*.
- 14.2 *V-forms must not* be used for the following:
- a. splitting purchases to stay within the authorised purchasing limit
 - b. purchasing stocked items
 - c. purchasing contract items
 - d. purchasing goods or services from an interstate *supplier*
 - e. purchasing the same goods or services on an ongoing, regular basis.
- 14.3 Where *V-forms* are used, the *buyer must* follow the instructions detailed in the *V-form* books.

- 14.4 Completed *V-forms* and the accompanying tax invoice from the *supplier* **must** be provided by the *buyer* and stored electronically to allow payment.
- 14.5 *V-form* expenditure **must** be approved by the *financial delegate*.

Rule 15: Grade 1 procurement activities

- 15.1 Grade 1 *procurement* activities are *simple procurement activities* and do not require a 'Procurement Plan'.
- 15.2 *Buyers* **must** seek to minimise the effort and cost associated with very low value purchases at the Grade 1 level while still complying with the rules.
- 15.3 *Buyers* **should** use an existing contract, where one is in place.
- 15.4 Best value for Territory **must** still apply for all Grade 1 *procurement* activities.
- 15.5 *Buyers* **must** purchase from a *Territory Enterprise* or local *ABE*, unless the conditions outlined in Rule 11 are applied.
- 15.6 *Buyers* may purchase Grade 1 value goods, without obtaining a quote where these goods, are low value and readily available off-the-shelf.
- 15.7 Where a quotation received exceeds this Grade level limit, contact Strategic Sourcing:
- if the value to be awarded is equal to or greater than \$50,000 (exclusive of GST) but less than \$55,000 (exclusive of GST) Strategic Sourcing will issue a request number and created a purchase contract in Maximo to allow a purchase order to be released.
 - if the value is equal to or greater than \$55,000 (exclusive of GST) the *buyer* **must** recommence the *procurement* action as a Grade 2 activity and follow on from Rule 16.
- 15.8 All Grade 1 *procurement* activities **must** be approved prior to the purchase being undertaken. All Grade 1 *procurement* activities **must** be accompanied by a purchase order.
- if the requirement is not sourced from a *Territory Enterprise*, a copy of the verification from the Industry Capability Network NT or approval from the *functional delegate* **must** be attached to the purchase order.
 - purchase orders **must not** be approved by the *buyer* where they are the *financial delegate*. *Segregation of duties* **must** occur in all transactions.
- 15.9 The *buyer* **must** notify an unsuccessful supplier if applicable.
- 15.10 The *buyer* **must** manage the life cycle of the contract.
- 15.11 The *buyer* **must** ensure the goods, works and services awarded under the *contract* are delivered in accordance with the quality and timing described.

Grade 2 and 3 Procurement Activities

Rule 16: Initial considerations

- 16.1 *Procurement* activities **must** be undertaken using approved documentation.
- 16.2 *Procurement practitioners* **should** use an existing contract, where one is in place.

Rule 17: Future tender opportunities

- 17.1 All *open approaches to market* at a Grade 3 level **should** be published as a 'Future Tender Opportunity' a minimum of eight weeks prior to release.

Rule 18: Procurement Planning

- 18.1 A 'Procurement Plan' **must** be developed for all Grade 2 and 3 activities prior to approaching the market, this includes detailing the assessment methodology, assessment criteria and weightings that will be published in the *approaching the market documentation*.

- 18.2 Grade 3 'Procurement Plans' **must** include a procurement risk management plan (refer rule 19) and tender assessment plan (refer rule 20).
- 18.3 Some Grade 3 *procurement* activities may require the services of a probity advisor, the 'Procurement Plan' **must** indicate if one is required. *Procurement practitioners should* refer to the 'Probity Engagement Guideline' when considering this requirement.
- 18.4 A 'Procurement Plan' **must** be fully approved before going to market, the *delegate must not* be the *chairperson* or member of the *tender assessment panel*.
- 18.5 An approved 'Procurement Plan' is only valid for a period of six months from the date of delegated approval. If the activity has not been released to the market within this timeframe, approval of an updated 'Procurement Plan' **must** be obtained.
 - a. where adjustments are required during the *tender* development stage (other than those that require *functional delegate* approval), the *financial delegate* may approve these changes (in the case of the *financial delegate* being the Chief Executive Officer, the Executive General Manager may approve changes not related to the estimate).

Rule 19: Assessing and managing risk

- 19.1 A procurement risk management plan **must** be prepared for all Grade 3 *procurement* activities. This is included as part of the 'Procurement Plan'.
- 19.2 The 'Procurement Risk Management Guideline' is designed to help *procurement practitioners* with this process.

Rule 20: Tender Assessment Plan

- 20.1 A tender assessment plan **must** be prepared for all Grade 2 and 3 *procurement* activities. This is included as part of the 'Procurement Plan'. A tender assessment plan is not required when using an existing *panel contract*.
- 20.2 The tender assessment plan **must** be endorsed by the *chairperson* of the *tender assessment panel*.
- 20.3 The *tender assessment panel* for:
 - a. Grade 2 *procurement* activities **must** comprise at least two people including the *chairperson*
 - b. Grade 3 *procurement* activities **must** comprise at least two people plus the *chairperson*.
- 20.4 All members of the *tender assessment panel must* declare any actual, potential or perceived conflicts to the *chairperson* before commencing the tender assessment using the 'Disclosure of Interest – Procurement Activity' form, if a declaration is made the *chairperson must* consider the proposed approach to managing the conflict of interest and **must** advise the affected person of the decision about their participation.

Rule 21: Contractor Accreditation Limited

- 21.1 Contractor Accreditation Limited (CAL) **must** be applied in accordance with the 'Contractor Accreditation Limited Fact Sheet' for all Grade 3 *procurement* activities.
- 21.2 Where a *supplier* or subcontractor can provide evidence of accreditation from another recognised Australian accreditation scheme and it can be assessed to meet the same levels as the CAL accreditation then that accreditation can be accepted in place of CAL.
- 21.3 All accreditation requirements **must** be clearly dealt with in the *terms and conditions of tender and contract*.
- 21.4 Approval for waiver in applying CAL **must** be obtained from the *functional delegate*.

Rule 22: Contract term

- 22.1 All *contracts must not* exceed a term of 36 months (including the sum of all proposed extensions) unless otherwise approved by the *functional delegate*.

Rule 23: Industry Participation Plans

- 23.1 An 'Industry Participation Plan' **must** be submitted by *suppliers* after notification that they have been awarded a *contract* valued at \$5 million (inclusive of GST) or more unless otherwise approved by the *functional delegate*.
- 23.2 'Industry Participation Plans' **must not** be developed for *panel contracts* regardless of the value.

Grade 2 and 3 - Approaching the market

Rule 24: Seeking quotes/advertising

- 24.1 For Grade 2 *procurement activities* a minimum of three quotes **must** be sought (at least one potential *supplier must* be a *Territory Enterprise*) unless there is a standing exemption in place or approval from the *functional delegate* has been obtained under the conditions for a *limited approach to market* detailed in Rule 13.
- 24.2 For Grade 3 *procurement activities* Power and Water **must** use an *open approach to market* unless approval from the *functional delegate* has been obtained under the conditions for a *limited approach to market*.
- to openly advertise, *procurement practitioners must* engage Strategic Sourcing staff, who will help guide the process through the Northern Territory Government's centralised *procurement* system Quotations and Tenders Online (QTOL).
 - the Agency Purchase Requisitions Online (APRO) system **must** be used to release all *open approaches to market* unless otherwise approved by the *functional delegate*.

Rule 25: Terms and conditions

- 25.1 The *terms and conditions* for quote, *tender* and *contract* that **must** be used for approaches to the market are:
- Power and Water's suite of standard *terms and conditions* of quote, *tender* and *contract*.
- 25.2 Prior to use of any alternative *terms and conditions* of quote, *tender* or *contract*, the *procurement practitioner must*:
- consult with the relevant *Category Manager*
 - obtain approval from the *functional delegate*.

Rule 26: Allocating sufficient time

- 26.1 *Procurement practitioners must* allow sufficient time for *suppliers* to respond to an *approach to the market* and **must** use sound judgement when calculating sufficient time.
- 26.2 The factors that **must** be considered when calculating sufficient time include:
- the nature and complexity of the *procurement* activity
 - if there is an existing *contract*, the time left on the existing *contract* to ensure the existing *contract* does not expire or require a variation during the *procurement* process
 - the type of information and level of detail *suppliers* need to provide in their responses
 - the nature of the goods, works and services required
 - the level of complexity in describing the deliverables
 - the level of risk
 - the extent of any anticipated subcontracting or the likelihood of consortia bids
 - how critical the *procurement* activity is to Power and Water.

Allowing sufficient time

Don't jeopardise the results you could achieve with a rushed process. If you don't allow sufficient time, you may limit the:

- number of suppliers that can respond and the quality of their responses.
- level of competition and Power and Water's ability to get best value for Territory.
- choice of solutions offered and Power and Water's ability to purchase the right one.

Put yourself in the supplier's shoes to work out how much time is sufficient. How long will it take to:

- obtain, read and analyse all the tender documents.
- ask questions to clarify the requirements and get answers.
- develop a meaningful response that includes accurate pricing information.
- prepare, check and submit the response and deliver it on time.
- continue with your day job.

Rule 27: Setting minimum time periods

27.1 The following minimum time periods **must** be applied to the various types of *procurement* activities and associated processes. Days are expressed as *business days*.

One-step procurement activity

- 27.2 For a one-step *procurement* activity, the following **must** apply unless otherwise approved by the *functional delegate*:
- for Grade 2 a minimum time period of three full *business days* **must** be allowed for responses.
 - for Grade 3 a minimum time period of 20 full *business days* **must** be allowed without an accompanying 'Future Tender Opportunity'.
 - if a 'Future Tender Opportunity' has been published a minimum time period of ten full *business days* **must** be allowed for responses.

Multi-step procurement activity

- 27.3 For a multi-step *procurement* activity including:
- an Expression of Interest (EOI) followed by a Request for Tender (RFT) or Request for Proposal (RFP).
 - an *Invitation to Participate* (ITP) in a competitive dialogue process followed by a RFT or RFP.

The following minimum time periods **must** apply unless otherwise approved by the *functional delegate*:

- STAGE 1: a minimum time period of 20 full *business days* for an EOI or ITP
- STAGE 2: a minimum time period of 10 full *business days* for a RFT or RFP.

Competitive dialogue

Competitive dialogue is a technical term for a type of open procurement process often used where there is no known solution in the marketplace.

It involves a structured dialogue phase with each shortlisted supplier who invents a possible solution to meet the agency's needs.

It is different from market engagement, which is a generic term for any time you talk to suppliers.

Key features of competitive dialogue include:

- *openly advertising an Invitation to Participate*
- *shortlisted suppliers are often paid for their participation in the dialogue phase.*
- *Power and Water writes its specification of requirements during or at the end of the dialogue phase.*
- *Power and Water then issues an RFT or RFP to all shortlisted suppliers.*

See the 'Approaching the Market Guideline' for further information

Rule 28: Determining the assessment methodology

28.1 A weighted comparative analysis **must** be used for all *procurement* activities unless approval is obtained from the *functional delegate* to use one of the following:

- simple score
- target price
- sole source (only applied where a single *supplier* is invited through an approved *limited approach to market*).

28.2 The 'Supplier Selection Guideline' details each of these methodologies and **should** be used when determining the most appropriate assessment methodology to use.

28.3 The *tender* assessment methodologies **must** be documented within the 'Procurement Plan' and published in the *approaching the market documentation*.

Rule 29: Determining the assessment criteria

29.1 The *assessment criteria* described are applicable to all assessment methodologies except sole source.

29.2 The *assessment criterion* of price is mandatory (maximum 30%) and **must** be used to assess *tenders* at either the *primary* or *secondary assessment phase*.

29.3 The *assessment criterion* of local content is mandatory (minimum 30%) and **must** be used to assess *tenders*.

29.4 No more than six *assessment criteria* **should** be used in any *tender* assessment process.

- 29.5 The 'Supplier Selection Guideline' lists the following *assessment criteria* that **should** be considered in conducting a *tender* assessment:
- a. price – a mandatory criterion that cannot be weighted higher than 30%. Price **should** include the whole of life cost where the operational cost is considerable.
 - b. local content – a mandatory criterion set at a minimum of 30% to enhance capacity building of *Territory Enterprises*.
 - c. capacity – capability, technical merit, ability to be able to complete the works in the required timeframes and fit for purpose.
 - d. quality – the quality of goods, services or works.
 - e. past performance – provides evidence of quality, price and other attributes for similar projects.
 - f. on time delivery – to specification, and in full for the quoted price.
 - g. health and safety – to ensure Power and Water's key focus is also part of the *procurement* activity.
 - h. environment – full compliance with all relevant environmental legislation is the minimum standard.
 - i. innovation – measured by improved efficiency and or effectiveness.
 - j. Aboriginal participation – to give opportunity for ABE to participate in *procurement* activities and provide employment in communities for Aboriginal people. May also incorporate into local content.
 - k. other – project-specific.

Rule 30: Weighting assessment criteria

- 30.1 Applying a weighting to *assessment criteria* is required for all assessment methodologies except sole source.
- 30.2 Price **must** be weighted but only to a maximum of 30% and local content **must** be weighted at a minimum of 30%. Any other chosen *assessment criteria* **must** be weighted at a minimum of 10%.
- 30.3 *Assessment criteria* **should** be weighted according to their relative importance.
- 30.4 The *Chairperson* **should** set *minimum score benchmarks* for any *assessment criteria* that are considered critical in a *tender* assessment process. The 'Supplier Selection Guideline' provides further advice.
- 30.5 The weightings and any *minimum score benchmarks* applied to the *assessment criteria* **must** be included in the 'Procurement Plan' and published in the approaching the market documentation.

Rule 31: Responding to queries

- 31.1 *Potential suppliers* are likely to ask questions about any *procurement* actions. Replies **must** be provided promptly to all questions and requests for more information. Where a response cannot be provided in a reasonable time, consideration **should** be given to extending the closing date.
- 31.2 When responding to questions or meeting requests for additional information, *procurement practitioners* **must not** give unique information that provides one *supplier* an unfair advantage over other *suppliers*.
- 31.3 Where it is important to disclose advantageous information, this information **must** be made available to all *potential suppliers* through the issue of an addendum.
- 31.4 All responses to *potential suppliers'* queries **must** be made in writing either by email, letter or an addendum.
- 31.5 All addenda **must** be approved by the *functional delegate* from a Grade 3 level.

Rule 32: Changing the process or requirements

- 32.1 Changes to an *approach to market*, other than a revision to the 'Scope of Works', may be required after publication and before the deadline for responses closes.
- 32.2 In these instances, all *potential suppliers* **must** be notified of any changes to the *procurement* process or requirements. These changes **must** be notified through issue of an addendum, see rule 31.
- 32.3 Adequate time **must** be given to *suppliers* to respond to the changes; extending the deadline for receipt of *submission* may be required.

Grade 2 and 3 - Assessing responses

Rule 33: Checking compliance and admissibility

- 33.1 Reviewing submissions for compliance with the *terms and conditions* of the request documentation **must** be undertaken strictly in accordance with the terms and conditions of the request documentation.
- a. for Grade 2 *procurement practitioners* are responsible for conducting the compliance and admissibility checks, Strategic Sourcing may provide advice when required.
 - i. *procurement practitioners* must consult with Strategic Sourcing if there are any compliance issues and be managed in accordance with Rule 33.3 - 33.5.
 - b. for Grade 3 Strategic Sourcing is responsible for conducting the initial compliance and admissibility checks, with further scrutiny of compliance provided by the *tender assessment panel* during assessment.
- 33.2 The review of all submissions for compliance with the *terms and conditions* of the request documentation **must** be completed prior to the commencement of the *tender* assessment process.
- 33.3 Where a compliance issue is identified **only** the *functional delegate* will decide on the submission's admissibility.
- 33.4 If a submission has been declared as non-compliant and inadmissible, the submission **must** be set aside and will not be made available to the *tender assessment panel* unless there is a successful appeal, see rule 34.
- 33.5 The supplier **must** be notified of the decision to set aside their submission as soon as possible.

Rule 34: Appeals

- 34.1 Where provided with an opportunity by the *functional delegate* a *supplier* may appeal a decision to set aside its *submission* for non-compliance and admissibility.
- 34.2 Any appeal against a decision to set aside a *submission* for non-compliance and admissibility **must** be decided by the *functional delegate*.

Rule 35: Declaring conflicts

- 35.1 All members of the *tender assessment panel* **must** declare any actual, potential or perceived conflicts to the *chairperson* before commencing the *tender* assessment using the 'Disclosure of Interest – Procurement Activity' form. If a declaration is made the *chairperson* **must** consider the proposed approach to managing the conflict of interest and **must** advise the affected person of the decision about their participation.

Rule 36: Undertaking negotiations

- 36.1 The *tender assessment panel* is required to negotiate either through the use of a Best and Final Offer (BAFO) process or a more formal negotiation process with respondents following the closing of an *approach to market* but **must**:
- a. only negotiate with shortlisted respondents, if a BAFO or negotiation will not be undertaken approval must be obtained from the *functional delegate* prior to the assessment being completed.
 - b. consult with Strategic Sourcing if not using the BAFO process, prior to commencing more detailed negotiations.
 - c. obtain approval through the assessment recommendation from the *financial delegate* if negotiations lead to an increase in price or risk to Power and Water.

Rule 37: Treatment of responses

- 37.1 Procedures **must** be in place that guarantees all *suppliers'* responses are treated fairly including receipt, handling and assessing of responses.
- 37.2 Submissions made in response to an *approach to market* **must** be treated confidentially and made available only to the *tender assessment panel* for assessment. The *tender assessment panel* **must not** discuss or seek input from anyone not involved in the assessment process.
- 37.3 Where a *supplier* is offered or requests the opportunity to correct errors or omissions, the same opportunity **must** be offered to all other *potential suppliers* where similar omissions and errors exist. There is no obligation to extend the opportunity to correct errors or omissions to all *suppliers* where the errors or omissions do not apply to all *suppliers*.

Rule 38: Competitive neutrality

- 38.1 *Procurement practitioners* **must** ensure competitive neutrality is applied to all *procurement activities* strictly in accordance with the terms and conditions of the request documentation.

Grade 2 and 3 - Awarding the contract

Rule 39: Awarding and declining

- 39.1 Where the individual award value is from \$1M (exclusive of GST), a company financial report **must** be obtained from the recommended supplier(s) prior to award.
 - a. Strategic Sourcing will obtain the appropriate report in accordance with the following conditions:
 - i. award value from \$1M but less than \$5M (exclusive of GST) requires a 'Risk of Failure Report',
 - ii. award value from \$5M requires a 'Comprehensive Report'. These report requirements **must** be applied in accordance with the 'Fact Sheet – Company Financial Reporting'.
 - b. Approval for waiver in applying these report requirements **must** be obtained from the *functional delegate*.
- 39.2 *Procurement practitioners* **must** award the contract to the supplier that has:
 - a. demonstrated that it fully understands and has the capability to deliver the requirements and meet the *terms and conditions* of the *contract*.
 - b. offered the best value for Territory over the whole of life of the goods, services or works and which may not always be the cheapest price.
- 39.3 Where no *supplier* emerges from the *tender* process that meets 39.2, the *procurement* activity **must** be declined.
- 39.4 *Tender declines* **must** be undertaken by completion of a 'Decline All Tenders' paper approved by the *functional delegate*.
 - a. the functional delegate **must not** be the chairperson or member of the tender assessment panel.
- 39.5 The *chairperson* **should** provide a reasoned justification for the selection of a recommended *supplier* or *suppliers* in the 'Assessment Recommendation' paper.
 - a. the 'Best Value for Territory Spreadsheet' **must** be used for recording and calculating assessment criteria scores unless using the sole source method. For contracts where price is not assessed in the initial or primary assessment phase – other non-price score sheets **should** be used.

Rule 40: Recommendation to accept

- 40.1 The *chairperson* **must** ensure the appropriate approvals are obtained from the *financial delegate* by issuing an 'Assessment Recommendation' document.
- The financial delegate **must not** be the chairperson or member of the tender assessment panel.
- 40.2 On receipt of an 'Assessment Recommendation', the *financial delegate* **must**:
- approve the recommendation
 - approve acceptance of negotiated *terms and conditions* in consultation with the *functional delegate*
 - approve acceptance of any risks identified in the company financial reports where required
or
 - reject the recommendation and refer the *procurement* activity back to the *tender assessment panel* for further consideration or cancellation.
- 40.3 Notification that the *contract* has been awarded **must** be made by issuing:
- either a purchase order or a 'notice of acceptance' or the execution of a formal *contract* for Grade 2.
 - a 'Notice of Acceptance' or the execution of a formal *contract* for Grade 3.
- 40.4 A purchase contract **must** be created in Maximo prior to the purchase order being release. Segregation of duties **must** occur in all transactions.

Rule 41: Informing suppliers

- 41.1 *Suppliers* often need to plan and schedule their existing work in order to provide quotations for Power and Water and it may be significantly detrimental to their business to delay decision making in awarding a *tender*. *Tender* assessments **should** be concluded within six to ten weeks depending on complexity.
- 41.2 After completing the assessment process, all unsuccessful *suppliers* **must** be informed in writing of the decision and offered the opportunity to debrief, see rule 43.

Rule 42: Contract award publication

- 42.1 Details of *contracts* awarded as a result of a Grade 2 request or an *open approach to market* **must** be published on the Northern Territory Government website unless otherwise approved by the *functional delegate*.
- 42.2 Publication **must** be made within 28 days of *contract* award through the APRO system.

Grade 2 and 3 - Managing/reviewing progress

Rule 43: Debriefing suppliers

- 43.1 All unsuccessful *suppliers* **must** be given the opportunity to be debriefed following a *procurement* activity.
- 43.2 Debriefs **must** be conducted within ten *business days* of receiving the request from the *supplier*.
- 43.3 Commercially sensitive information and information relating to the assessment scores or prices of other *suppliers* **must not** be disclosed at the debrief. The 'Debriefing Suppliers Guideline' **should** be read prior to conducting a debrief, this guideline also includes a checklist that **should** be used.
- 43.4 Information that helps the *supplier* improve future *tender* responses **should** be provided at the debrief including:
- the reasons the proposal was unsuccessful
 - how the proposal performed against each of the *assessment criteria* and the relative strengths and weaknesses
 - other concerns and questions.
- 43.5 A written copy of the debrief **should** be provided to the *supplier* within five *business days* of the debrief.

Rule 44: Supplier complaints

- 44.1 *Procurement practitioners must* consider and respond impartially to a complaint and **must** attempt to resolve a complaint in good faith.
- 44.2 In dealing with a complaint, *procurement practitioners must not* prejudice the *supplier's* ongoing or future participation in *contract* opportunities.
- 44.3 Records **must** be kept of all correspondence with the *supplier* making the complaint.
- 44.4 Complaints or feedback may be lodge online through the Power and Water website.

Rule 45: Contract Management

- 45.1 *Contracts must* be managed in accordance with the 'Contract Management Rules'.

Debriefing means fewer complaints

Providing a full and un-sanitised debrief to suppliers is important. Telling suppliers about the strengths and weaknesses of their proposal gives them the opportunity to improve future proposals. Organisations that debrief suppliers receive fewer complaints. Debriefs should also be used as an opportunity to strengthen our own tender documentation and processes. The best debriefs are 360-degree events and both parties walk away with new ideas for improvement. Power and Water needs quality submissions from all its potential suppliers and debriefs are important in achieving this. Refer to the 'Debriefing Suppliers Guideline'

Panel contracts and supplier lists

Rule 46: Establishing and using panel contracts

- 46.1 The 'Establishing and Using Panel Contracts Guideline' **must** be read prior to deciding to establish a *panel*.
- 46.2 The process for the establishment of a *panel contract* will be managed in accordance with the Grade 2 and 3 Rules outlined above.
- 46.3 *Panel contracts must not* be used to purchase works, goods or services on any single purchase order with a value above \$1,000,000 unless otherwise approved by the *functional delegate*.
- 46.4 The *panel must not* be used to purchase works, goods or services that are not described in the approach to market used to establish the *panel*.
- 46.5 *Panel contracts must* be used and managed in accordance with Buyer's Guides and 'Contract Management Rules'.

Rule 47: Establishing and using supplier lists

- 47.1 The 'Guideline - Establishing and using supplier lists' **must** be read prior to deciding to establish a *supplier list* or procure from it.
- 47.2 An 'Authority to Establish Supplier List' **must** be fully approved by the *functional delegate* before going to market.
- 47.3 The opportunity to qualify for a *supplier list must* initially be openly advertised in accordance with an *open approach to market*.
 - a. the list and 'Application to Qualify' details for future applications **must** be published on the Power and Water website.
- 47.4 The *supplier list 'Application to Qualify' must* include the following:
 - a. define response times (for the initial application).
 - b. the name and address and contact details for the Power and Water person managing the process.
 - c. a clear description of the broad works, goods or services required.
 - d. details of the assessment process for gaining acceptance to the supplier list.
 - e. how the supplier list will operate.
 - f. a list of any conditions/criteria that each supplier must meet to participate and how the business unit will check each supplier meets the conditions.
 - g. how the supplier list will be refreshed or terminated.

- 47.5 The *supplier list* **must not** be used to purchase works, goods or services that are not described in the '*Application to Qualify*' used to establish the *list*.
- 47.6 *Supplier lists* **must not** be established to purchase works, goods or services on any single purchase order or *contract* with a value above \$1,000,000 unless approved by the *functional delegate*.
- 47.7 On receipt of an '*Assessment Recommendation*' to establish a *supplier list*, the *functional delegate* **must**:
- a. approve the recommendation; or
 - b. reject the recommendation and refer the activity back to the assessment panel for further consideration or cancellation.
- 47.8 After completing the list establishment process, all unsuccessful *suppliers* **must** be informed in writing of the decision and reasons why.
- a. the establishment of, or changes to, supplier lists must be published on Power and Water's website.
- 47.9 The number of *supplier list* members invited to provide quotations **must** be in accordance with the list rules as summarised below, unless otherwise approved by the *functional delegate*.
- a. the requirements are aligned to the Grade levels and must be processed in accordance with the associated rules for that level and within the required category if applicable to the list
 - b. less than \$50,000 – one *supplier*
 - iii. if there are multiple *suppliers* in the required category a *Territory Enterprise* or local *ABE* **must** be invited to quote, an interstate *supplier* may also be invited to participate.
 - c. \$50,000 but less than \$200,000 – minimum of three *suppliers*
 - i. one supplier **must** be a *Territory Enterprise* or local *ABE*.
 - d. \$200,000 but less than \$1,000,000 – all list members (within the required category)
 - e. the *tender assessment panel* is required to negotiate either through the use of a Best and Final Offer (BAFO) process or a more formal negotiation process with respondents following the closing of a request for quotation, in accordance with Rule 36 (this is only a mandatory requirement from \$50,000).
- 47.10 *Contracts* awarded from a *supplier list* **must** be managed in accordance with the '*Contract Management Rules*'.

Rule 48: Using other lists

- 48.1 *Procurement practitioners* **should** use whole of government *contracts*, *panel contracts*, *pre-qualification lists* or other *contracts* established by any Northern Territory Government agency to procure goods, works and services where there is a clear value for Territory benefit.
- 48.2 *Procurement practitioners* **should** consider participating in other collaborative or *syndicated contracts* with energy and water utilities in other jurisdictions where there is a clear value for Territory benefit.
- 48.3 *Procurement practitioners* **must** seek approval from the *functional delegate* before participating in other agency lists, *contracts*, *tenders* or *syndicated contracts*.
- 48.4 *Procurement practitioners* from another Agency **must** seek approval from the *functional delegate* before participating in Power and Water lists, *contracts*, *tenders* or *syndicated contracts* if allowed for in the *terms and conditions*.

Direct Negotiations

Rule 49: Conducting a direct negotiation

- 49.1 *Direct negotiations* **must** be identified and approved by the *functional delegate* through the completion of a '*Procurement Plan*'. A negotiation plan **must** be prepared for all activities, this is included as part of the '*Procurement Plan*'.
- a. the delegate **must not** be the *chairperson* or member of the *tender assessment panel*

- b. 'Procurement Plan' documentation is only valid for a period of six months from the date of delegated approval. If the activity has not commenced within this timeframe, approval of an updated 'Procurement Plan' **must** be obtained.
- 49.2 A procurement risk management plan and tender assessment plan **must** be prepared for all Grade 3 procurement activities. This is included as part of the 'Procurement Plan'.
- a. the tender assessment plan **must** be endorsed by the *chairperson* of the *tender assessment panel*.
- 49.3 Some activities may require the services of a probity advisor, the 'Procurement Plan' **must** indicate if one is required.
- 49.4 Contractor Accreditation Limited (CAL) **must** be applied in accordance with the 'Contractor Accreditation Limited Fact Sheet'.
- a. approval for waiver in applying CAL must be obtained from the *functional delegate*.
- 49.5 All *contracts* resulting from a *direct negotiation* **must not** exceed a term of 36 months (including the sum of all proposed extensions) unless otherwise approved by the *functional delegate*.
- 49.6 All responses to *supplier* queries **must** be made in writing.
- 49.7 Submissions **must** be treated confidentially and made available only to the *tender assessment panel* for assessment. The *tender assessment panel* **must not** discuss or seek input from anyone not involved in the assessment process.
- a. submissions must be reviewed to confirm entity status through ASIC/ABN checks and CAL compliance where required.
- 49.8 The *tender assessment panel* **must** comprise at least two people including the *chairperson*.
- a. all members of the *tender assessment panel* **must** declare any actual, potential or perceived conflicts to the *chairperson* before commencing the tender assessment using the 'Disclosure of Interest – Procurement Activity' form, If a declaration is made the *chairperson* **must** consider the proposed approach to managing the conflict of interest and **must** advise the affected person of the decision about their participation.
- 49.9 Where the individual award value is from \$1M (exclusive of GST), a company financial report **must** be obtained from the *supplier* prior to award in accordance with Rule 39.1.
- a. approval for waiver in applying these report requirements **must** be obtained from the *functional delegate*.
- 49.10 The *chairperson* **must** ensure the appropriate approvals are obtained from the *financial delegate* by issuing an 'Assessment Recommendation' document.
- a. the financial delegate **must not** be the chairperson or member of the tender assessment panel.
- 49.11 On receipt of an 'Assessment Recommendation', the *financial delegate* **must**:
- a. approve the recommendation
- b. approve acceptance of negotiated *terms and conditions* in consultation with the *functional delegate*
- c. approve acceptance of any risks identified in the company financial reports where required
- or
- d. reject the recommendation and refer the activity back to the *tender assessment panel* for further consideration or cancellation.
- 49.12 Notification that the *contract* has been awarded **must** be made by issuing a 'Notice of Acceptance' or the execution of a formal *contract*.
- 49.13 Details of *contracts* awarded **must** be published on the Northern Territory Government website within 28 days.
- a. Strategic Sourcing arrange the publishing of this information through the APRO system.
- b. exemption from publishing award details must be obtained from the *functional delegate*.

Appendix A: Grade level values

Grade 1	Supplies with an estimated total value of less than \$50,000 exclusive of GST.
Grade 2	Supplies with an estimated total value from \$50,000 but less than \$200,000 exclusive of GST.
Grade 3	Supplies with an estimated total value from \$200,000 exclusive of GST

Appendix B: Standing exemptions

Procurement activities that are exempt from the 'Procurement Sourcing Rules' and from obtaining ICN NT verification are still required to be undertaken in accordance with the key *procurement* principles set out at Rule 4.

Further, all *procurement* conducted under exemption **must** meet the following provisions:

- protecting *suppliers'* information
- maintaining searchable records
- obtaining a reference number and electronically searchable container from Strategic Sourcing when the estimated value is at a Grade 2 level and above.
- declaration of a conflict of interest (except when in a declared emergency)
- review of *suppliers' terms and conditions* (except when in a declared emergency) in accordance with the delegations
- company financial report requirements apply as outlined in Rule 39.1
- obtaining documented *financial delegate's* approval to spend:
 - for Grade 1 activities this is undertaken via the issue of a purchase order.
 - for Grade 2 and 3 activities this is undertaken using the 'Email Template - Authority to Spend under Standing Exemption' (except when in a declared emergency - this is undertaken via the issue of a purchase order).
- notification that the *contract* has been awarded by the issue of a purchase order, notice of acceptance or execution of a formal *contract*.
- reference to this standing exemption and the associated number **must** be recorded on the purchase order or purchase contract that is established in Maximo for example: Issued under standing exemption item 1.
- application of the 'Contract Management Rules' still apply for Grade 2 and above activities (except when in a declared emergency).

Listed below are the items exempt from the 'Procurement Sourcing Rules':

1. Library subscription services.
2. Travel and freight on scheduled services. Where they are managed under Power and Water Corporations Travel or Recruitment Procedures. This includes:
 - a. the purchase of airfares, car hire, toll charges and accommodation required in association with official travel.
 - b. the use of interstate removalists when arranging the uplift of personal effects for interstate recruits
 - i. Power and Water **should** provide interstate recruits with a list of Northern Territory based removalists and encourage the use of reputable local firms. Local firms may have particular benefits for the recruit particularly in terms of insurance matters, which may need to be resolved.
3. Membership of professional organisations or associations and national peak bodies. Covers where membership is required in conjunction with Power and Water's core business.
4. Curriculum materials. Where those materials are available only from sole suppliers or licensors. They must be the only provider.
5. Advertising. Includes billboard and cinema advertising where there is no reasonable alternative.
6. Participation in collaborative industry projects. This includes research projects, industry benchmarking projects and policy development projects where Power and Water is a contributing member, not taking the lead on the project and a financial contribution is agreed upon and paid by Power and Water.
7. Financial contributions to private developers. Where there is a requirement to enhance infrastructure to cater for future capabilities, advantageous to Power and Water, which are outside the existing specifications of the developer's plans.
8. Partnership agreement with Charles Darwin University.
 - a. The Partnership agreement's objective is that the economic, social and environmental development of the Northern Territory is supported by a robust and resilient university working in partnership with government agencies, Power and Water and the wider community.
 - b. This exemption is valid where the services required fall under the core outcomes in the partnership agreement.
 - c. This exemption shall cease to operate when this agreement expires.

9. Attendance or participation fees for training, seminars, conferences and other related charges. This exemption allows Power and Water staff to attend any training, seminar or conference required that is in conjunction with Power and Water's core business. This includes forwarding of freight through interstate/overseas exhibition and conference organisers and their nominated subcontractors, acquiring display space through the organising body, send freight through the nominated freight forwarder, rent TV, lighting, pot plants etc. through whichever sub-contractor has been appointed to provide these requirements.
10. Renewal and purchase of software maintenance and licensing agreements. Covers requirements for existing business critical Information Communication Technology systems operated by Power and Water. This includes the installation and repair of hardware components of a proprietary nature relating to the Original Equipment Manufacturers (OEM) warranty and intellectual property provisions, where the upgrade of software necessitates hardware and peripheral component replacement.
11. Operational emergencies. Rapid acquisitions of an operational nature in support of an emergency, where public safety or damage to property will result without rectification.
12. Maintenance of plant and equipment agreements. Where for the purpose of warranty or system compatibility purchase (including servicing/maintenance) from an Original Equipment Manufacturer (OEM) or a specific supplier identified by the OEM is required.
13. Legislative regulation/requirement. Covers the payment of services mandated by a government or regulatory body.
14. Payments to insurance companies or legal firms. Where engagement has been arranged by a third party and Power and Water is obligated to pay the fee, including annual insurance premiums facilitated through a broker.

Contact

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