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**AUSTRALIA AND  
NEW ZEALAND GOVERNMENT  
PROCUREMENT AGREEMENT**

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**REVISED SEPTEMBER 2007**

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## CONTENTS

Introduction	2
Objective of the Agreement	2
Definitions	3
ANZ Government Procurement Agreement	4
Exemptions	5
Monitoring	5
Administrative Guidelines	5
Review of the Agreement	5
Status of Annexes	5
<b>ANNEXES</b>	
Annex 1 <i>Exemptions from the Application of the ANZGPA</i>	6
Annex 2 <i>Monitoring Procedures</i>	7
Appendix to Annex 2	8

## **Introduction**

The Governments of the Commonwealth of Australia, New Zealand, New South Wales, Victoria, Queensland, Western Australia, South Australia, Tasmania, the Northern Territory and the Australian Capital Territory; hereinafter called the Parties:

- recognise the benefits to Australian and New Zealand (ANZ) industry and to government purchasing bodies of treating Australia and New Zealand as a single market for government procurement in accordance with the objectives and principles of the Australia New Zealand Closer Economic Relations Trade Agreement; and
- are committed to the achievement of the procurement objectives set out in this Agreement.

Accordingly, the Parties have decided to enter into this Agreement, to be known as the Australia and New Zealand Government Procurement Agreement (ANZGPA) which covers all goods and services procured by the Parties.

Responsibility for this Agreement lies with Ministers responsible for procurement throughout Australia and New Zealand. It is administered by the Australian Procurement and Construction Council (APCC) which includes senior officials representing Australian State, Territory and Commonwealth governments. New Zealand has full participation rights on the APCC. Changes to the Agreement are negotiated by the Ministers responsible for procurement through the APCC.

## **Objective of the Agreement**

The objective of the ANZ Government Procurement Agreement is to create and maintain a single ANZ government procurement market in order to maximise opportunities for competitive ANZ suppliers and reduce costs of doing business for both government and industry.

This will be achieved by:

- ensuring the opportunity exists for ANZ suppliers to compete on an equal and transparent basis for government contracts in the Commonwealth, States, Territories and New Zealand;
- ensuring the absence of inter-state and trans-Tasman application of preference schemes and other forms of discrimination in government procurement, based on the place of origin of goods and services;
- providing a mechanism for co-operation by the Parties in working towards achieving the greatest possible consistency in contractual, technical and performance standards and specifications, and simplicity and consistency in the application of procurement policies, practices and procedures; and
- ensuring that the Parties' application of electronic commerce methods to their procurement is consistent with this Agreement.

## Definitions

1. The following terms are defined for the purposes of the Agreement.

- (a) **Designated Bodies:** bodies designated in each jurisdiction to manage the Agreement and investigate complaints about non-compliance with the Agreement. They may include an agency or office responsible to a Party, or a position located within such agency or office.
- (b) **Goods and services:** includes goods alone, services alone or goods and services conjointly and includes construction and related services.
- (c) **Ministers responsible for procurement:** Ministers with portfolio responsibility for procurement policy where such direct responsibility exists, or Ministers with portfolio responsibility for the ANZGPA.
- (d) **Procurement:** the acquisition of goods and services by any contractual means including methods such as purchase, hire, lease, rental, exchange and competitive tendering and contracting (outsourcing) arrangements; and refers to all stages of the procurement process.
- (e) **Government procurement:** procurement by government bodies, that is departments and other bodies including statutory authorities, which are controlled by the Governments of the Parties to the Agreement and excludes procurement by any local authority, Government owned corporation, body corporate or other legal entity that has the power to contract, except where the Parties exercise their discretion to determine that the Agreement will apply. The Parties will use their best endeavours to encourage wider application of the Agreement, consistent with good commercial practice, to procurement by all such authorities, bodies and entities.
- (f) **Australian and New Zealand suppliers:** suppliers of services or goods produced wholly or partly in Australia or New Zealand (ie ANZ Supplies) along the lines described in Article 3 (Rules of Origin) of the Australia New Zealand Closer Economic Relations Trade Agreement.
- (g) **Value for money:** the primary determinant in government procurement of goods and services. Application of the value for money principle is aimed at achieving the best available outcome for money spent in terms of the procuring agency's needs. The test of the best available value for money requires relevant comparison of the whole of life costs relating directly to the procurement. Whole of life considerations include:
  - fitness for purpose and other considerations of quality;
  - performance;
  - price;
  - delivery;
  - accessories and consumables;
  - service support; and
  - disposal.

## **ANZ Government Procurement Agreement**

2. It is agreed that, except as stated otherwise in this Agreement, the Parties will:
  - (a) At all times of the procurement process, conduct their procurement activities in accordance with the spirit and intent of this Agreement,
  - (b) Ensure that all government bodies within their jurisdictions comply with this Agreement,
  - (c) Provide to services, goods and suppliers of the other Parties equal opportunity and treatment no less favourable than that accorded to their own domestic services, goods and suppliers (see 4 below),
  - (d) Promote opportunities for ANZ suppliers to compete for government business on the basis of value for money and avoid purchasing practices which are biased in favour of foreign goods and suppliers,
  - (e) Use value for money as the primary determinant in all procurement decisions (ie whether purchased, rented, leased, outsourced or exchanged),
  - (f) Achieve maximum practicable simplicity and consistency in the application of procurement policies, practices and procedures, and
  - (g) Debrief unsuccessful ANZ suppliers on request.
3. Within this framework the Parties will seek to maximise competitive opportunities in their procurement for ANZ suppliers while conforming with any commitments of the Parties under domestic and international government procurement agreements.
4. In accordance with Clause 2 (c) and (d) of this Agreement, Parties to the Agreement will not use amongst themselves any form of procurement practice which:
  - discriminates against;
  - is biased against; or
  - has the effect of denying equal access or opportunity to any ANZ supplier.

## **Exemptions**

5. It is recognised by the Parties that, under certain circumstances, there may be a need for exemption from some of the requirements of the Agreement for certain classes of procurement. The classes of procurement that are exempt from the Agreement are set out in Annex 1.
6. Parties may seek to have additional classes of procurement exempted from the Agreement. Such exemptions will be permitted only with the unanimous agreement of all jurisdictional Ministers responsible for procurement.

## **Monitoring**

7. It is agreed that monitoring of compliance with the Agreement will be undertaken by bodies designated by the Parties for this purpose, in accordance with procedures set out in Annex 2 to this Agreement. The Parties will co-operate in this process.
8. The APCC will report annually to the Ministers responsible for procurement on any developments or issues in the operation of the Agreement.

## **Administrative Guidelines**

9. Guidelines for the assistance of purchasing officers and other interested bodies in administering this Agreement may be drawn up by the APCC. These will be incorporated in Annexes to the Agreement.

## **Review of the Agreement**

10. The Agreement will be reviewed at five-yearly intervals unless otherwise decided unanimously by Ministers responsible for procurement.
11. The Agreement may be amended at any time by unanimous decision of the signatories of the Agreement either at a meeting of, or through correspondence between, Ministers responsible for procurement.

## **Status of Annexes**

12. The Annexes of this Agreement are an integral part of this Agreement.

## **Annex 1 - Exemptions from the Application of the ANZGPA**

### ***The following classes of procurement are exempt from the Agreement:***

1. Procurement conducted by Government bodies that trade in substantial competition with the private sector and would be placed at a significant commercial disadvantage if they were required to fully comply with all provisions of the Agreement.
2. Joint ventures with the private sector.
3. Internal procurement of goods and services by a government from its own Departments or authorities is exempt from all provisions of the Agreement where no other supplier has been asked to tender. If, however, public tenders are called for goods and/or services, the provisions of the Agreement apply irrespective of whether a government body submits a tender.
4. Where procurement specifications include proprietary items to ensure machinery or equipment integrity the procurement specification is exempt from the provisions of Clause 4 of this Agreement. Where such items are available from a number of sources and/or public tenders are called all aspects of the procurement other than the specification are subject to the provisions of the Agreement.
5. The urgent procurement of goods and services in the event of emergencies, such as natural disasters, periods of national security or UN peacekeeping operations.
6. Procurement of proprietary equipment of a work, health or safety nature specified in Industrial Agreements is exempt from the provisions of Clause 4 of this Agreement only as they may relate to biased specifications. Where such items are available from a number of sources and/or public tenders are called, all provisions of the Agreement apply other than those of Clause 4 of this Agreement only as they may relate to biased specifications.
7. Defence procurement of a strategic nature and other procurement where national security is a consideration will be subject to provisions prohibiting discrimination but will not be subject to monitoring.

## Annex 2

### Monitoring Procedures

#### 1. Principles

- (a) Within each jurisdiction there will be one clearly identified point of contact for complaints (see Appendix to Annex 2). That point of contact, to be known as the Designated Body, will be recognised by the Parties as having the authority, responsibility and expertise to handle and investigate complaints across Government/public sector agencies covered by the Agreement.
- (b) The monitoring will be based on the examination of alleged breaches following complaints by a Party to the Agreement.

#### 2. Procedures

- (a) A complaint should first be raised with the Designated Body in the jurisdiction in which the complainant is located or directly with the Commonwealth Designated Body if Commonwealth procurement is involved. A complaint made informally may be processed informally if this is deemed appropriate by the Designated Body and the complainant.
- (b) The Designated Body in the jurisdiction in which the purchasing authority is located will investigate the complaint in accordance with the Agreement and report in writing to the Designated Body in the complainant's jurisdiction (a copy of the report is to be provided to the Secretary, Australian Procurement and Construction Council for information only). The Parties agree to provide details and documentation to permit a full investigation of complaints. Confidentiality of all information will be maintained.
- (c) If the response is satisfactory to the Designated Body in the complainant's jurisdiction, then the complaint will lapse.
- (d) If satisfactory resolution is not achieved, the Designated Body may then refer the matter to the relevant Minister responsible for procurement in the jurisdiction in which the purchasing authority is located for further investigation and decision.
- (e) In cases where complainants are located in more than one jurisdiction all relevant Designated Bodies and, where necessary, Ministers shall be involved in the procedures.

## Appendix to Annex 2

### Contacts for Designated Bodies

#### **COMMONWEALTH**

##### **Branch Manager**

Procurement Policy Branch  
Department of Finance and Administration  
John Gorton Building  
King Edward Terrace  
PARKES ACT 2600  
Tel: 02 6215 3859  
Fax: 02 6215 3366

#### **NEW ZEALAND**

##### **Manager**

Government Procurement Development Group  
Ministry of Economic Development  
PO Box 1473  
WELLINGTON  
NEW ZEALAND  
Tel: 64 4 474 2916  
Fax: 64 4 474 2659

#### **NEW SOUTH WALES**

##### **Group General Manager**

Policy Support Services  
Department of Commerce  
McKell Building  
2-24 Rawson Place  
SYDNEY NSW 2000  
Tel: 02 9372 8666  
Fax: 02 9372 8844

#### **WESTERN AUSTRALIA**

##### **Chief Executive Officer**

State Supply Commission  
5th Floor, Dumas House  
2 Havelock Street  
WEST PERTH WA 6005  
Tel: 08 9222 5700  
Fax: 08 9222 5750

#### **SOUTH AUSTRALIA**

##### **Executive Director**

State Procurement and Support Operations  
Department of Treasury and Finance  
GPO Box 549  
ADELAIDE SA 5001  
Tel: 08 8226 5001  
Fax: 08 8226 5667

#### **VICTORIA**

##### **Director**

Procurement, Government Services Group  
Department of Treasury and Finance  
Level 5/ 1 Treasury Place  
MELBOURNE VIC 3002  
Tel: 03 9651 15295  
Fax: 03 9651 2161

#### **TASMANIA**

##### **Director**

Procurement and Property Branch  
Department of Treasury & Finance  
GPO Box 147  
HOBART TAS 7001  
Tel: 03 6233 8789  
Fax: 03 6233 3681

#### **QUEENSLAND**

##### **The Director**

Queensland Purchasing  
Department of Public Works  
GPO Box 123  
BRISBANE QLD 4001  
Tel: 07 3235 4333  
Fax: 07 3224 7921

#### **NORTHERN TERRITORY**

##### **Chairman**

Procurement Review Board  
Department of Corporate & Information Services  
GPO Box 2391  
DARWIN NT 0801  
Tel: 08 8999 1418  
Fax: 08 8999 1710

#### **AUSTRALIAN CAPITAL TERRITORY**

##### **Executive Director Procurement Solutions**

Department of Treasury  
PO Box 818  
DICKSON ACT 2602  
Tel: 02 6207 0265  
Fax: 02 6207 5468

