



Review of Procurement ACT

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EXECUTIVE SUMMARY

Government procurement in the ACT is governed by legislation that requires value for money purchasing and an array of policies and directives that require various social and economic factors to be taken into account in determining 'value for money'.

Decisions about procurement are the responsibility of the agency undertaking the procurement activities. However, each agency is not expected to maintain comprehensive expertise and capability in government procurement law and policy. To do so would be resource intensive and inefficient in a small jurisdiction such as the ACT.

Expertise in procurement law and policy is centralised in Procurement ACT, a business unit with the Chief Minister, Treasury and Economic Development Directorate. Procurement ACT supports all other ACT government agencies with advice and guidance to undertake procurement,¹ by providing individualised support for agency officers undertaking procurement over \$200,000 and by providing standard forms and online information for agencies undertaking procurements of lower value. Procurement ACT also provides advice to government on procurement policy, and manages various whole of government contracts and systems. This is an appropriate model for the ACT.

In the years since procurement became a central service function, there has been ongoing development of the relationship between Procurement ACT and the agencies undertaking procurement. There have been sometimes differing views about: the nature and standard of the service that is or should be offered by Procurement ACT, the extent of capability that agencies should be expected to have in undertaking procurement, and the degree of consultation or control that agencies should expect in relation to procurement policy and other whole of government procurement activities. These issues are not unique to procurement, but have also arisen over time in relation to other ACT government shared services.

In recent years, Procurement ACT has been taking a more proactive approach to the relationship between itself and agencies, which has included: conducting a customer satisfaction survey and seeking to respond to areas of dissatisfaction, better defining the services offered, implementing regular engagement with individual agencies, and improving the training and information provided to improve the overall capability of ACT officers undertaking procurement. These have been positive developments.

While Procurement ACT has been in many respects on a positive journey towards a better practice service, there is still some way to go in providing an efficient and customer-centric service. Procurement ACT needs to reform its processes for a more streamlined and efficient support function and increase its ability to generate knowledge and greater value from procurements across government.

To generate greater knowledge and insights into spend across government, Procurement ACT should, subject to appropriate cost-benefit analysis, seek to

¹ Procurement ACT supports agencies for goods and services procurement; since July 2019, Major Projects Canberra has been responsible for procurement and delivery of capital works and major infrastructure projects.

upgrade its IT systems so that comprehensive information about agency purchasing can be aggregated and analysed. The ACT public service spends \$1.5 billion per annum on procurement activities, and could likely achieve greater efficiency and effectiveness in that spend with the benefit of analytics and knowledge beyond each individual procurement.

On support processes, work is underway and needs to be brought to a satisfactory conclusion, to better define the respective roles and responsibilities of Procurement ACT and agencies. At the same time, Procurement ACT needs to thoroughly analyse and reform its handling of individual procurements over \$200k that are conducted by agencies with the guidance and intervention of Procurement ACT. There are frequent reports from agencies of extended delays and inconsistent advice from Procurement ACT, which impact on agencies attempting to undertake procurement in an efficient and appropriate way. The current work practices within Procurement ACT are not only often frustrating for agencies, but inevitably are not making the most efficient use of Procurement ACT resources. Better practice would see efficient processes with reduced handling steps, and more focus on high value interventions, including more strategic advice on contemporary procurement methods.

A necessary underpinning will be to ensure that the information available to agencies better supports self-service on more routine matters, and that agencies have access to, and ensure their officers undertake, adequate training in procurement commensurate with their business need. Work is already underway by Procurement ACT to improve information and training in consultation with agencies, and this work should continue, and be reviewed over time to ensure continued relevant and usefulness.

Some initiatives have been recently commenced to provide more opportunities for customer feedback and input. Regular customer experience testing, user-centred design and feedback loops, and accountability for performance in meeting clearly defined service standards, need to become core principles in Procurement ACT's operations

The legislation and policy framework for government procurement in the ACT is complex. There would be benefits to government in modernising the framework, to more clearly and simply set out the policy outcomes that officers should be seeking to achieve when undertaking procurement, and to enable more flexibility over time for government to adjust those policy settings.

RECOMMENDATIONS

1. Procurement ACT, in consultation with agencies, should complete the work of better defining procurement roles and responsibilities, to provide greater clarity and certainty about the delineation of responsibility between agencies and Procurement ACT and to better delineate the respective responsibilities of Procurement ACT and Major Projects Canberra. This should be reflected in updated content in the Service Catalogue, Service Overview and on the Procurement Hub, and be clearly communicated to agencies.
2. Procurement ACT should pursue the development of systems capability to provide whole-of-government data analysis and reporting on procurement spend across agencies. Procurement ACT should use this capability to provide more informed policy advice to government, to generate deeper market insights for agencies, and to support the development of further whole-of-government contracts where additional value can be generated. Consideration should be given to mandating agency use of whole-of-government contracts where better value is thereby available.
3. If IT systems are acquired that enable comprehensive centralised analysis and reporting of procurement spend, Procurement ACT should ensure it acquires the capability to undertake the necessary data analysis, and should institute the systems or training required across the ACTPS to underpin reporting consistency.
4. Procurement ACT should, in consultation with agencies, consider whether it should build on its contract management expertise to develop a service offering for ongoing contract management advice to agencies. Over time, consideration could be given to a similar expansion into advice and support on probity management.
5. Procurement ACT should redesign the Procurement Hub utilising user-centred design principles, with a goal of enabling easy access to information by non-expert users and generating data that will enable continuous improvement. Agencies should ensure adequate levels of training for officers undertaking simple procurements.

6. Procurement ACT needs to examine in detail, using a methodology such as LEAN, the processes and typical workflows within its operations for supporting complex procurements, with a view to remediating pain points and blockages, standardising procedures, and eliminating steps that do not add value. This should be undertaken with customer involvement in a user-centred design process and based on benchmarks from best practice in other jurisdictions. Data on performance and customer needs should be deployed for continuous improvement over time. Performance metrics should be developed, in consultation with agencies, to provide ongoing accountability for procurement services. Annual customer satisfaction surveys should be conducted and reported to agencies.
7. Procurement ACT should finalise the suite of user-centred face to face and e-learning training modules and guidance being developed with the Community of Practice. Online modules need to be designed consistent with e-learning principles. Training effectiveness should be monitored and reviewed based on user feedback. Agencies should ensure the maintenance of internal procurement capability commensurate with their usual extent of procurement activity.
8. Procurement ACT should review and refresh its workforce capability to enable it to provide capable policy advice, customer-focussed systems and service, and support for the full range of contemporary procurement options.

Terms of Reference

1. Is Procurement ACT's role correctly articulated? If not, what should its role be?
2. Does Procurement ACT, as currently structured, have the right operational arrangements and capabilities to perform its role? If not, what are the gaps?
3. Do directorates and agencies receive effective procurement advisory and support services and training from Procurement ACT to support them to achieve value for money procurement outcomes? If not, what needs to be provided:
 - a) by Procurement ACT; and
 - b) by directorates and agencies themselves?
4. What does contemporary government procurement look like and how can best practice be achieved in the ACT?

The Head of Service is seeking to review the operational performance of Procurement ACT with a view to establishing whether, under current arrangements, Procurement ACT is delivering its role effectively and efficiently.

The Review will examine similar functions in other jurisdictions as well as contemporary research to establish a view of better practice roles and organisational structures in this area. The reviewer will also examine available Procurement ACT complaints mechanisms and undertake consultation with senior executives in key directorates and agencies to establish what works and what could be improved.

Note: The Terms of Reference focussed the Review only on the capabilities and services provided to agencies and did not address the satisfaction or otherwise of market participants or suppliers.

Methodology

Renée Leon independently led the review, supported by the Strategy and Transformation Office, Workforce Capability and Governance, CMTEDD.

The Review examined documentation provided by Procurement ACT and met with multiple stakeholders including Directors-General, the Under Treasurer, Procurement ACT, Procurement Board representatives, directorate Chief Financial Officers, agency officers and external procurement experts from the Commonwealth Department of Finance and the Australasian Procurement and Construction Council.

A jurisdictional comparison of legislation, contemporary procurement models and best practice was conducted to inform review recommendations.

CONTEXT

This section sets out the current framework of legislation, policy and administration for procurement in the ACT Public Service (ACTPS).

The [ACT Government Procurement Framework](#) is the hierarchy of legislation, statutory instruments, policies, schemes, tools, templates, and systems that support Territory Entities to undertake procurement for the ACT Government. Territory Entities will be referred to as directorates and/or agencies throughout this report.

The Framework is administered by Procurement ACT, a business unit within the Treasury stream of CMTEDD. The Executive Group Manager of Procurement ACT currently reports through the Under Treasurer to the Special Minister of State.

Procurement in the ACT is legally the responsibility of each separate agency undertaking procurement. In the past, each agency had, to varying degrees, its own officers with some knowledge of procurement law, practice and policy. As an outcome of the Functional Review conducted in 2005-2006, procurement expertise was centralised in Treasury as part of overall reform to centralise common services. This was intended to be both more efficient than maintaining multiple small pockets of expertise, and more likely to ensure all agencies had access to a common standard of advice and support.

Procurement ACT manages procurement policy and provides advice and support to directorates undertaking procurements. For procurements above an estimated value of \$200,000, Procurement ACT plays an active role. It provides advice to agencies to assist them to fulfil their role in the process, such as guidance on the preparation of Statements of Requirements and Risk Assessments, and undertakes some aspects of these procurements itself, such as publication on Tenders ACT. Procurements under the estimated value of \$200,000 are predominantly managed by agencies, with access to self-service and advisory services from Procurement ACT as required. Agencies are required to report these procurements, as well as any contract variations, on a central Contracts Register which is maintained by Procurement ACT. Data concerning procurements under \$25,000 is not centrally reported.

Agency officers can access Annual Procurement Plans, Procurement Activity Reports and other procurement resources through the Procurement Hub intranet site. Procurement expertise within some agencies has increased in recent years, with the establishment of dedicated areas in some cases, to support specialised procurement and contract management requirements. Agency procurement officers help to manage probity and risk, providing tailored advice and a level of assurance to Directors-General.

The Government Procurement Board also plays an important role in assurance, reviewing large procurement proposals and providing advice to Territory Entities, Directors-General and Ministers about those proposals.

Although large procurements must be approved by the Procurement Board and Procurement ACT supports procurements over \$200,000, the Director-General or relevant agency head is ultimately accountable for all procurement risk and spend.²

² *Government Procurement Act 2001. s.3B*

Directors-General also have the authority to grant exemptions from legislative requirements on procurements (such as number of quotes, Secure Local Jobs Code certificate) under extenuating circumstances.

The *Financial Management Act 1996* is also relevant to government procurement, but is outside the scope of Procurement ACT; legal advice is frequently sought from the Government Solicitor by Procurement ACT or by agencies on delegations, contracts and financial obligations.

The Procurement Framework expressed through the *Government Procurement Act 2001* is high level; the Act requires agencies to pursue value for money in procurement, having regard to probity, risk, competition, whole of life costs, and matters prescribed by regulation. Price is not the sole factor when assessing value for money. In addition to legislative requirements a suite of policy layers and values have been instituted that are to be incorporated into tender evaluations. Policy positions have generally been established by Ministerial Directives under the *Government Procurement Regulation 2007* and other subordinate legislative instruments, except for the Secure Local Jobs Code arrangements which have been legislated.

Leveraging purchasing power to deliver social, ethical, and sustainable outcomes can have positive flow on effects, and most Australian governments seek to use government purchasing power to achieve these objectives to varying degrees. The ACT Government has implemented a range of policies that use procurement as a means to achieve government objectives, including: the Charter of Procurement Values, which requires six specified values³ to be taken into account in procurement decisions; a requirement to consider local industry and economic benefit to the ACT⁴; compliance with the Secure Local Jobs Code for certain specified types of tenders⁵; and the Ethical Treatment of Workers Direction, which incorporates into procurement decisions an assessment of tenderer practices as an employer.

Effectively implementing procurement policies that aim to achieve social goals depends on appropriate expertise, support, and education about approaching the market, evaluating tenders, and managing contracts and suppliers. Officers undertaking procurement need to assess a potentially complex array of factors, including price, supplier capability, and impacts on the economy, society and the environment.

³ Aboriginal and Torres Strait Islander Peoples' Economic Participation; Business Development and Innovation; Diversity, Equality and Inclusion; Environmental Responsibility; Fair and Safe Conditions for Workers; Transparent and Ethical Engagement.

⁴ Local Industry Participation Policy.

⁵ Tenders for construction, cleaning, security or traffic management work.

BEST PRACTICE PROCUREMENT

This section sets out principles for best practice procurement, derived from research and jurisdictional comparisons.

Legislation vs policy

For the majority of Australian jurisdictions, including the Commonwealth, Victoria, New South Wales, South Australia and the Northern Territory, the head procurement legislation is silent on the values or principles that govern procurement decisions. Rather, effect is given to the intended outcomes of procurement through subsidiary instruments including Ministerial directives or non-binding procurement guidelines. In Western Australia, the objects of the relevant Act refer to value for money and economic, social, and environmental benefits, but the rules that govern procurement are still set out in directions issued by the Minister.

The ACT is the only jurisdiction that defines rules of procurement in its legislation, though it also has a mix of binding regulations, Ministerial directives and non-binding policy that further elaborate the procurement framework. The *Government Procurement Act* requires agencies to pursue value for money which the Act defines as the best available procurement outcome. However, that concept is not further defined.

There are advantages in the approach taken by the majority of jurisdictions to establish the principles and rules for procurement in non-legislative instruments. Government procurement is a powerful tool for influencing social and economic outcomes. Defining the goals and policies for procurement in non-legislative instruments gives governments greater flexibility over time to modify its priorities for government spend in order to reflect government policy goals.

Strategic procurement

Business and government leaders are adopting a more strategic approach to procurement that considers broader impacts. This reflects a shift away from primarily seeking best value in each individual procurement transaction, to a more holistic approach that delivers a range of economic, social and environmental outcomes. Elements of a strategic approach include:⁶

- ▶ maximising whole of life value across the procurement lifecycle
- ▶ increased innovation, community engagement, competition, and effective collaboration with industry through contemporary supplier relationships
- ▶ development of an outcomes-based framework delivered centrally
- ▶ clear spend categories, leveraged to deliver more effective outcomes consistent with government priorities
- ▶ centralised systems to generate insights and analysis from its knowledge of procurement across government
- ▶ increased efficiency of transactional activities through streamlined procurement workflow systems

⁶ [Future Procurement Skill Requirements - A More Strategic Procurement Approach](#). Australasian Procurement and Construction Council, August 2018

Contemporary practices

Contemporary practices give consideration to fit for purpose design, delivery and whole of life costs, including:

- ▶ the initial purchase price
- ▶ maintenance and operating costs
- ▶ transition out costs; and licensing costs (when applicable)
- ▶ the cost of additional features
- ▶ consumable costs, including the environmental sustainability of consumables
- ▶ decommissioning, remediation and disposal costs (including waste disposal)

Governments are exercising greater scope to choose alternative procurement practices that are in the public interest and do not diminish competition. Examples include public-private partnerships, commissioning, co-design and insourcing.

Commissioning is taking greater prominence in the delivery of government-funded health and social services by third parties. Commissioning focusses on specifying service delivery needs, and monitoring for the achievement of specified outcomes that demonstrate those needs are being effectively met, rather than contracting more rigidly for the delivery of precise services under more traditional modes of procurement. Core service delivery areas within the ACT Government, such as Health Services and Community Services Directorate, are more frequently seeking to use a commissioning approach.

Commissioning practices sometimes involve suppliers engaging in a process of service co-design with government agencies and/or intended users to refine the nature of the services to be delivered, in order to best meet the desired outcomes. These approaches require a re-think from more traditional procurement models, which usually rely on arms-length engagement with suppliers seeking to demonstrate their respective claims to deliver tightly-specified goods or services.

Customer focus

A centre-led procurement model needs to provide customer-focussed services that recognise the roles and needs of providers and customers. This is not unique to procurement, but reflects now well-established expectations for shared services-type offerings in both public and private sectors. Agencies that have the responsibility for undertaking procurements are customers for the expertise and support of the central procurement function. Customer service principles include:

- ▶ making the service sufficiently simple and accessible
- ▶ co-designing resources and tools
- ▶ providing effective training and e-learning modules
- ▶ providing service according to transparent standards
- ▶ enabling and acting on feedback from customers on the service received
- ▶ providing adequate reporting and accountability as to performance.

ROLE OF PROCUREMENT ACT

The role of Procurement ACT is formally set out in the ACT Budget papers as a function of the Chief Minister, Treasury and Economic Development Directorate:

- ▶ advising the government on procurement policy and developing and implementing the government's procurement related policies
- ▶ supporting directorates to achieve value for money outcomes by providing procurement advisory and support services
- ▶ providing training and support to staff across government undertaking procurement activities
- ▶ administering the ACT Government Contracts Register and procurement systems
- ▶ supporting Territory staff to undertake procurement activities efficiently and effectively, with contemporary advice and provision of templated and standardised documentation and processes
- ▶ establishing and managing cost effective whole-of-government arrangements, and
- ▶ representing the ACT Government in cross-jurisdictional engagement on procurement policy matters, including in relation to international trade agreements.

Centre-led procurement is right for the ACT

The role of Procurement ACT is in most respects correctly articulated at a high level. Consistent with best practice, it centralises procurement policy expertise and responsibility, together with management of centrally-provided systems and whole-of-government contracts. Some additional roles that should be considered are discussed below.

Centre-led procurement, with ultimate responsibility for procurement decisions devolved to agencies, is appropriate for the size and needs of the ACT. It would not be efficient or effective for agencies in a small jurisdiction to maintain complete expertise and capability to manage all their own procurements in-house. This is not the case in large jurisdictions such as the Commonwealth where the central function is limited to policy development, whole-of-government contracts, and central tender reporting, while departments and agencies largely manage all their own procurement activities and capability requirements.⁷

Nevertheless, in recent years, ACT directorates have increased their capability to undertake internal procurements and developed expertise for niche requirements, for example, housing tenders, specialised health equipment and fleet management. This is appropriate for agencies undertaking regular procurement activity. The size and scope of internal procurement capability varies by agency. In some cases, procurement business units have been established with several full-time staff. For some, this has been in recognition of their responsibility for substantial or niche procurement activities and the benefits of maintaining in-house capability as additional assurance for the responsibility of their Director-General. Other agencies

⁷ Subject to various whole-of-government controls, such as ICT procurement arrangements.

however indicated they had established in-house business units at least partly due to dissatisfaction with the services provided by Procurement ACT.

If the recommendations of this Review are implemented to improve the services provided by Procurement ACT, agencies may be able to review their in-house units to right-size them for agency support, rather than to duplicate the capability that ought to be available at the centre. Agencies that undertake regular or niche procurement should maintain an appropriate level of knowledge and capability for their business needs, while relying on advice from Procurement ACT for more complex procurements.

Where it makes sense for an agency's business needs to maintain internal procurement business units, those should be viewed as the first port of call for routine support for agency officers undertaking procurements. Procurement ACT would still be the single source of truth in case of doubt, and the source of more complex advice and procurement capability development. There will also be agencies that, by virtue of their size or their infrequent conduct of procurement, could not justify maintaining a dedicated procurement capability, for whom Procurement ACT will continue to be their primary source of advice and support.

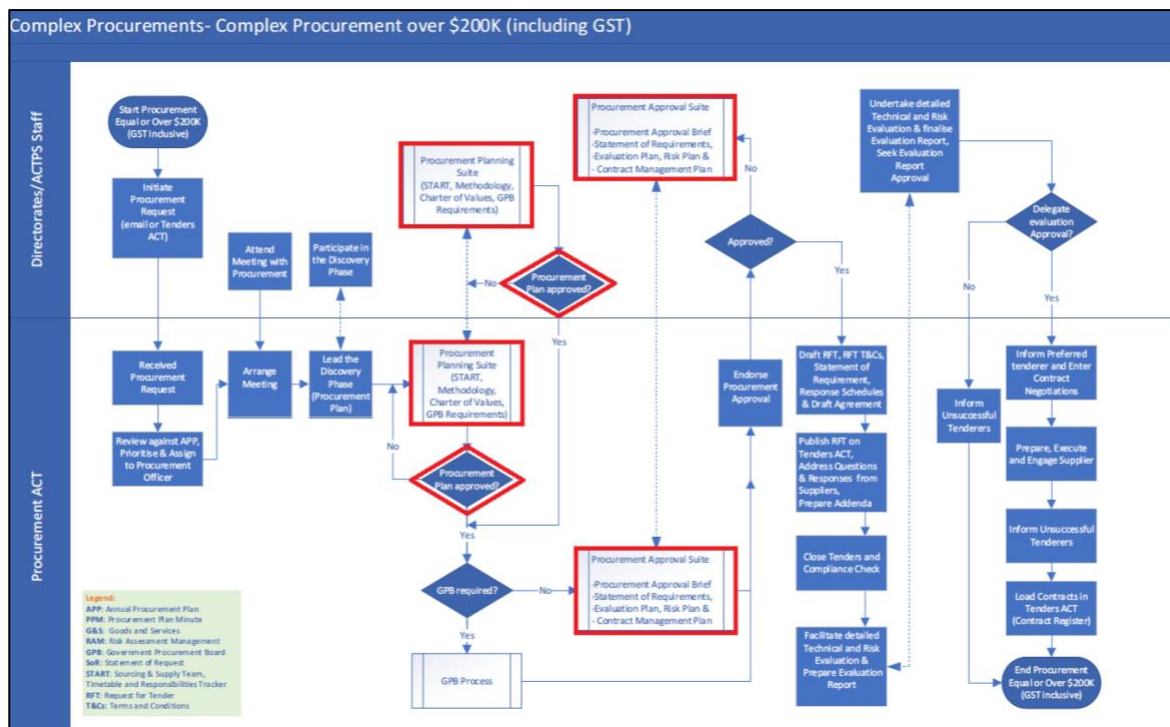
Procurement support – role clarity

There has been concern over time by agencies that the respective roles and responsibilities as between Procurement ACT and agencies in the management of procurements are unclear. This was raised in an internal Procurement Review process in 2018-19 and has also been raised by agencies consulted for this Review.

Procurement ACT has sought to respond to this concern by producing a Service Catalogue in October 2020 and a detailed Service Overview in December 2020. The Review understands that these were the subject of consultation with agencies.

The Service Overview provides detailed workflow diagrams which are useful in delineating responsibility between agencies and Procurement ACT. For most of Procurement ACT's functions, the detailed descriptions and diagrams provide an adequate level of clarity.

However, there continue to be multiple areas of overlapping responsibility within the 'Procurement Services and Advice' service category for complex procurements. For example, the workflow shows agencies and Procurement ACT both having responsibility for the Procurement Planning Suite, both having responsibility for the step 'Procurement Plan approved', and both having responsibility for the Procurement Approval Suite.



Similarly, the Roles and Responsibilities page of the Service Overview shows agencies and Procurement ACT both having responsibility for many of the process steps throughout complex procurements, with the general caveat that the role of lead and support is “dependent on the customers’ requirements and availability of internal procurement support/ knowledge.”

Roles and Responsibilities	Directorate/ Agency	CSIG DIVISION
Development of forward procurement plans.	✓	✓
Procurement project engagement and planning including schedule development.	✓	✓
Procurement strategy development.	✓	✓
Development of needs and performance outcomes, risk assessment and statement of requirements.	✓	
Pre-tender consultation for complex procurements (where required).	✓	✓
Development of sourcing documentation including Procurement Plan Minute, Tender Evaluation Plan and Request for Tender/Proposal.	✓	✓
Procurement plan approval for complex procurements.	✓	✓
Advertise complex procurements to market.		✓
Evaluate market responses for complex procurements.	✓	✓

The work that has been done to produce the suite of underpinning documents that detail Procurement ACT's service offering provides a sound basis for the provision of services by a central advisory and support function in the context of devolved responsibility. This has been a good aspect of the work done by Procurement ACT to respond to the 2018-19 Procurement Review.

However, the area of greatest continuing contention and difficulty for agencies is the extent of unclear and overlapping responsibility for complex procurements. The Service Catalogue and Service Overview would benefit from more clearly setting out the roles each should play and particularly who has the decision role and who has the support role. The *Government Procurement Act* makes clear that directorates are responsible for their own procurement, a position which Procurement ACT also emphasises. Nevertheless, in practice procurements over \$200k cannot proceed without decisions and approvals at various points by Procurement ACT.

It is recognised that agencies with less capacity and capability may need more support than others, but this should not change the fundamental question of who has responsibility for what roles in the procurement process. The foundational documents that describe Procurement ACT's service offer should make it possible for agencies to determine the nature of the responsibility that they should ordinarily have.

With the establishment of Major Projects Canberra (MPC) in July 2019, procurement for capital works was moved from Procurement ACT to MPC. Agencies have noted a number of areas where there is confusion or uncertainty about which aspects of procurement should be handled by MPC as capital works, or by Procurement ACT as goods and services procurement. For example, the procurement of storm water pipes rests with MPC as often associated with capital works but could equally be seen as a simple procurement of goods. It would be helpful for Procurement ACT and MPC to liaise with agencies to establish principles for the resolution of these areas of uncertainty and overlap. There is also the potential for confusion as to the role of the Procurement Board, with some agencies seeing it as an alternative source of advice on complex procurements.

Procurement ACT advises that work is underway to further clarify respective roles and responsibilities. A Working Group has been established under the Procurement Community of Practice,⁸ with membership comprising representatives of all directorates, Major Projects Canberra, and at least one minor agency. There are three sub-groups, which are considering roles and responsibilities for: procurements under \$200k, procurements over \$200k, and procurements with a construction or capital works component.

Given the long-running lack of clarity, it will be essential that the outcome of this process brings the confusion to an end. Once there is a defined outcome that agencies agree provides sufficient clarity, Procurement ACT should ensure its Service Catalogue, Service Overview, and Procurement Hub intranet site reflect the defined roles and responsibilities.

⁸ The Procurement Community of Practice was established by Procurement ACT in August 2020.

RECOMMENDATION 1:

Procurement ACT, in consultation with agencies, should complete the work of better defining procurement roles and responsibilities, to provide greater clarity and certainty about the delineation of responsibility between agencies and Procurement ACT, the role of the Procurement Board, and the respective responsibilities of Procurement ACT and Major Projects Canberra. This should be reflected in updated content in the Service Catalogue, Service Overview and on the Procurement Hub, and be clearly communicated to agencies.

Proposed additional roles for Procurement ACT

DATA ANALYSIS AND REPORTING

Procurement ACT's advisory and support role currently positions it as providing advice and support for agencies undertaking procurement. In practice, this has taken the form of providing that advice and support for discrete individual procurements. However, there is another aspect of advice and support that Procurement ACT is well-placed to provide that would assist agencies and the government to achieve better value for money across government spend.

The potential value that a centre-led model offers is the whole-of-government perspective, synthesising information to achieve better use of the procurement dollar. Currently, Procurement ACT provides reporting on expenditure and usage under whole-of-government contracts, and shares analysis with customer segments that have particular interests in certain whole-of-government services, for example, fleet managers or utility stakeholders. However, in relation to procurements conducted by agencies, there is limited system-wide data and reporting, covering only high level information on numbers and value of contracts by agencies. With its involvement in all large procurements, and its management of the central registers for tenders and for contracts, Procurement ACT could usefully generate data analysis and insights that aggregate government spend under a range of goods and services categories. Procurement ACT should be able to see what suppliers have been used before, how value for money was achieved, and share that information with agencies.

Central procurement areas in other governments provide this service.⁹ This approach would underpin more informed advice to government on procurement policy, enable agencies to understand the benchmarks in the market for value for money, and provide a strong basis for the identification of fresh opportunities to achieve value via additional whole-of-government contracts for commonly procured goods or services.

“A centralised function should assist directorates to achieve better use of the procurement dollar (value for money) and provide support to make

⁹ <https://www.wa.gov.au/organisation/department-of-finance/what-are-agencies-buying>
<https://www.buyingfor.vic.gov.au/annual-reports>

procurements available to anyone (level playing field). The unique value proposition is 'we see everything', and that information should be synthesised to provide advice to directorates. For example, bringing together the experiences that directorates have had with certain providers."¹⁰

Consultation with Directors-General and procurement officers identified the following opportunities:

- ▶ whole-of-government and cross-directorate contract opportunities
- ▶ leveraging pre-qualification panels and schemes in other jurisdictions, particularly NSW and the Commonwealth
- ▶ expenditure – where is the money being spent, by who, on what?
- ▶ trends in expenditure
- ▶ tracking supplier performance
- ▶ oversight of agency compliance with legislative requirements and procurement values

One opportunity that greater data insights would expand is whole-of-government contracts. At present, Procurement ACT has responsibility for negotiating and managing contracts for goods and services that are supplied across government and maintains a range of whole-of-government panels and pre-registered suppliers.

Current whole-of-government contracts cover:

- ▶ Government banking services
- ▶ Post BillPay services
- ▶ Stationery and office products
- ▶ Electricity supply
- ▶ Digital mail

Panels, multi-use lists and pre-registered suppliers can be accessed by agencies for provision of goods and services. Areas covered by these arrangements at present are:

- ▶ Catering providers
- ▶ Social enterprise suppliers
- ▶ Medical imaging devices
- ▶ Medical services
- ▶ Creative services
- ▶ Digital goods and services
- ▶ EAP
- ▶ Labour hire
- ▶ Professional and consulting services

¹⁰ Quotes throughout this report have been sourced from senior ACTPS officers consulted for the Review.

The establishment and maintenance of whole-of-government arrangements is an important function for a central procurement body. Economies of scale are likely to produce greater value for commonly sourced goods and services, and pre-registered supplier schemes, including panels and multi-use lists, save agencies a good deal of duplicated work.

Agencies considered that there were likely more opportunities for whole-of-government arrangements that would reduce duplicated effort by agencies procuring similar good and services. The establishment of better systems for whole-of-government procurement reporting should be used to identify fruitful opportunities for whole-of-government arrangements. At the same time, consideration should be given to whether and when use of whole-of-government contracts should be mandatory where economies of scale are driving better value outcomes.

The Review has been advised that the existing IT systems that host the online procurement tools used by agencies and the central register for tenders and contracts do not have the capability to aggregate information on procurement spend and to sort it into useful goods and services categories. Procurement ACT undertakes some aggregated reporting but system limitations make this a manual and onerous process. Overtures have been made to other jurisdictions to access their platforms, but these efforts have not been successful due to the cost and degree of customisation required.

Subject to appropriate cost-benefit analysis, Procurement ACT should consider upgrading its IT systems to support more comprehensive and responsive whole-of-government reporting and analysis. The cost-benefit analysis should take account of the total cost to government of its procurement spend and the likely value that could be achieved, and risks that could be avoided, with greater central and agency knowledge. Opportunities to piggyback on capability and systems with applicability across other functions of the ACT should be explored.

Procurement ACT has advised that it is working on the development of a business case for this purpose.

RECOMMENDATION 2:

Procurement ACT should pursue the development of systems capability to provide whole-of-government data analysis and reporting on procurement spend across agencies. Procurement ACT should use this capability to provide more informed policy advice to government, to generate deeper market insights for agencies, and to support the development of further whole-of-government contracts where additional value can be generated. Consideration should be given to mandating agency use of whole-of-government contracts where better value is thereby available.

IT systems alone will not produce the analysis and insights required. Should Procurement ACT pursue and implement the IT capability to support reporting on whole-of-government spend, it will also need to ensure it has the internal capability and skillsets to undertake the necessary data analysis and to both maintain and continuously improve the central reporting capability. Furthermore, there does not appear to be clear guidance or centrally managed guard rails that would ensure procurements are categorised alike on the Contracts Register by procurement officers in agencies across the ACTPS. Systems and/or training would need to be provided to ensure consistency in the descriptions of goods and services procured to make best use of centrally generated data analysis capability.

RECOMMENDATION 3:

If IT systems are acquired that enable comprehensive centralised analysis and reporting of procurement spend, Procurement ACT should ensure it acquires the capability to undertake the necessary data analysis, and should institute the systems or training required across the ACTPS to underpin reporting consistency.

CONTRACT MANAGEMENT AND PROBITY

Another area that Procurement ACT could consider as an additional aspect of its advice and support role is in contract management.

At present, Procurement ACT's Service Overview references contract management expertise for managing whole-of-government contracts and for providing advice to directorates for the development of contract management plans during the initial procurement process. However, Procurement ACT does not have an ongoing role to provide advice and support on contract management throughout the life of the contract through to completion. Centralised reporting would enable complete visibility into the contract process, including engagement with certain suppliers and their performance across different organisations. The centralised process would help contract managers identify compliance issues associated with complex contracts and reduce risk across legal, market and procurement levels.

Contract management skills should ideally be integrated with procurement across the ACTPS. Effective contract management is an essential part of ensuring value for money is achieved in the delivery of the contract, not only as promised in the procurement of it.

Work is underway, in a Working Group established by the Procurement Community of Practice, to develop a contract management framework, which would provide consistent guidance and advice on effective and efficient management at each stage of a contract.

This Review does not suggest Procurement ACT should take over the role of contract manager. Ongoing contract management is necessarily the responsibility of agencies, as the agency has the ongoing relationship with the supplier, background knowledge of the contract and the policy context, and the primary interest in the outcome of the contract. However, there is no single source of contract management

expertise in government, and this is a role Procurement ACT could develop, subject to resourcing.

Over time, it may also be appropriate for Procurement ACT to consider the provision of advice on probity management. Procurement ACT has already produced a Probity in Procurement Guide, in May 2021, and could consider further development of its role, subject to assessment of capacity and capability, noting however, that at this stage, focus should be on refining and improving the services already provided.

RECOMMENDATION 4:

Procurement ACT should, in consultation with agencies, consider whether it should build on its contract management expertise to develop a service offering for ongoing contract management advice to agencies. Over time, consideration could be given to a similar expansion into advice and support on probity management.

ADVISORY AND SUPPORT SERVICES

Systems, tools and templates

Low risk procurements under \$200,000 are categorised as basic or simple and are predominantly managed by agency officers. Procurement ACT provides limited advice on request and maintains a series of fact sheets and other resources on the Procurement Hub, its ACT Government intranet site, to assist agencies undertaking simple procurements. Agencies agreed in 2013 that an appropriate level of support for procurement activity under \$200,000 was for the central function to provide basic information and training, and maintain a simple online system.

The OSQAR purchasing platform is the online system provided by Procurement ACT for undertaking simple procurements. The OSQAR tool prompts for relevant information, including tick box options for application of the Secure Local Jobs Code, Aboriginal and Torres Strait Islander Procurement Policy and to identify the level of risk as low, medium or high. High risk procurements require the assistance of a Procurement ACT officer.

Usage of OSQAR is not mandatory and many officers continue to use in-house forms or templates rather than the OSQAR platform. It may be that the proliferation and continued use of other templates and systems indicates that officers do not find the OSQAR tools sufficiently helpful or self-explanatory. Procurement ACT should explore this with users as part of client feedback and continuous improvement. In addition, the OSQAR platform is not available to all ACTPS staff. For example, the IT systems in ACT schools do not have access to the OSQAR platform, which means that reporting based on procurements undertaken through the OSQAR tool is not reliable or comprehensive. Procurement ACT is in consultation with relevant directorates about whether broader OSQAR access can be facilitated, for example for schools and the Canberra Hospital, but there are significant IT systems barriers.

In the 2019 CSIG Customer Satisfaction Survey, 60% of respondents rated the support provided as good or very good. The Review considers that Procurement ACT should be aiming for a higher customer satisfaction rating in this area, and that it should provide a sufficiently effective form of support to enable agencies to undertake these procurements with confidence.

It is unclear from the survey material provided to the Review whether the satisfaction rating was directed at the service provided by way of help desk support, and/or the support available by way of tools and resources on the Procurement Hub. Agencies have described the material on the Hub as confusing and unhelpful.

“It would be good if Procurement ACT could improve web pages that are accessed by procurement officers to get information on how to conduct a procurement. It should take the reader through a step-by-step process and the tools required (including systems, templates, policies and procedures that are clearly linked to each step).”

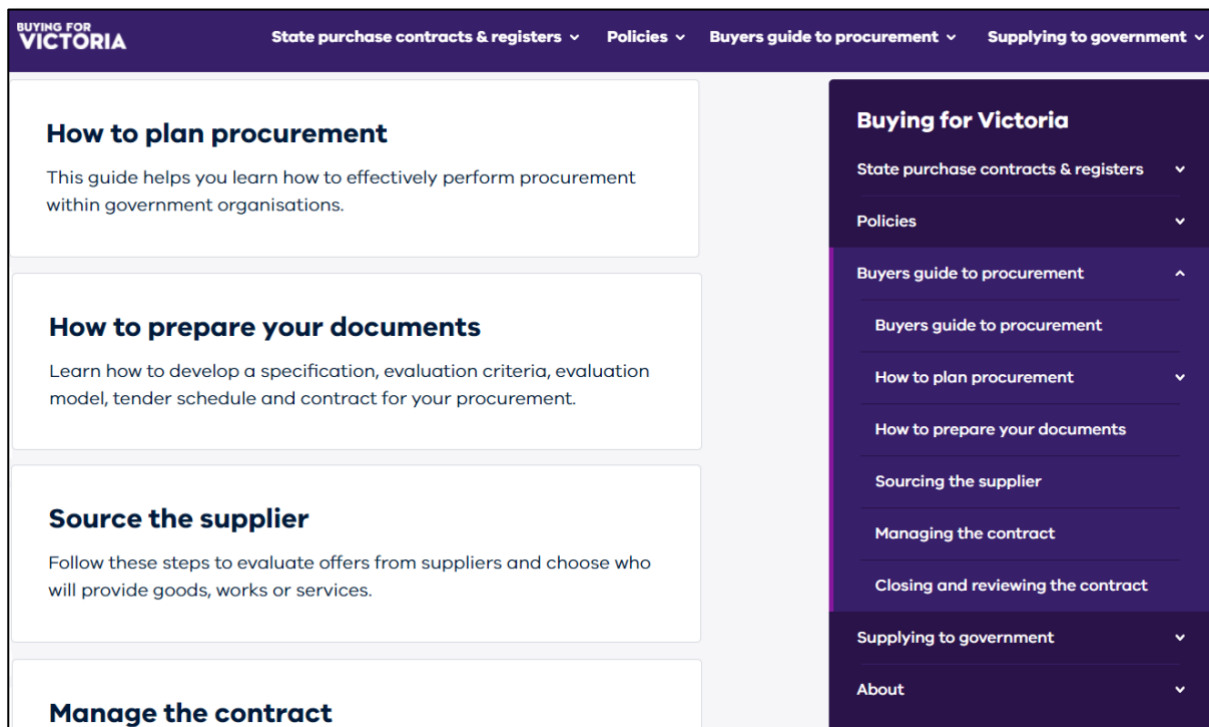
“For simple procurements, there is a mound of documentation that’s overwhelming. There needs to be a simple explanation with more detailed guidance available at each step.”

“It’s impossible to find the information you need – a searchable database of information would be a big help.”

The Procurement Hub contains a large amount of useful information however much of the material is duplicated, difficult to access, and sometimes out of date. For the most part, resources on the Procurement Hub simply set out a range of policies and fact sheets, which are not grouped in a logical or accessible way that can be applied at the appropriate stage of the procurement process.

User-centred design requires that website owners seek to understand what their customers are likely to be looking for, and create the content, features, and functionality that customers want, rather than arranging the website by categories that suit the service provider.

The Procurement Hub is a provider-centric website rather than a user-centred one. For example, the Hub gathers all the applicable procurement policies under the tab ‘Policy’ and leaves it to the user to find the information they need and to work out how to apply the policy. A user-centred design would be arranged under the sequential steps in a procurement process. Relevant material is extracted at each point where that aspect of the policy would need to be applied, and with explanatory material and examples to guide the application of the policy. [Buying for Victoria](#) provides a working example:



Website design should be developed and tested with users, so that the service provider understands the way in which users will interpret and access the material. Often the language and materials produced by an expert provider will assume a higher degree of knowledge and understanding than the average user brings to the process. Only user testing can identify and iron out accessibility blocks such as

technical language, unclear processes, and assumed knowledge. This should be applied to forms, purchasing platforms, e-learning modules and website material. The Hub should take the user through a step-by-step process including incorporating live links to relevant systems, tools, templates, policies and procedures.

Improvements to the information and tools on the Procurement Hub will increase ACTPS staff ability to undertake simple procurements, and will reduce the need for Procurement ACT to provide support and routine information that could be found on the website.

Website design is not a one-off process. It must be regularly reviewed based on analytics about usage and dropout rates, and customer feedback about accessibility and usefulness. A common way of receiving feedback is through a feedback or rating option at the bottom of each web page which would facilitate continuous improvement.

In addition to the Procurement Hub, Procurement ACT operates multiple platforms, including a public procurement website and Tenders ACT. Centralising information into a single Hub for buyers and suppliers would reduce the administration and cost required to maintain these platforms and make it easier for the customer, either buyers or suppliers, to access information.

Simple procurements are left largely with directorates, which is appropriate given the need to focus resources on supporting higher value and higher risk procurements. This position was agreed by directorates some years ago. However, simple procurements are not unimportant. Failures of process or probity in these procurements can be as damaging to public confidence as errors in larger value procurements. It is worth investing in adequate tools and regular reporting for directorates to have confidence their staff can undertake simple procurements appropriately. Agencies should also ensure that their staff are adequately trained to undertake these procurements.

RECOMMENDATION 5:

Procurement ACT should redesign the Procurement Hub utilising user-centred design principles, with a goal of enabling easy access to information by non-expert users and generating data that will enable continuous improvement.

Agencies should ensure adequate levels of training for officers undertaking simple procurements.

Advice and support for complex procurements

Procurements over \$200,000 are considered complex and require the involvement of Procurement ACT. Procurements under \$200,000 that are rated as being of higher risk are also considered complex procurements and should involve Procurement ACT. Complex procurements being supported by Procurement ACT are consistently sitting above 200 in number at any one time. Procurement ACT has advised that the majority of its resources are engaged in the support of complex procurements. As set out in the workflows published in the Service Overview, the process of progressing a

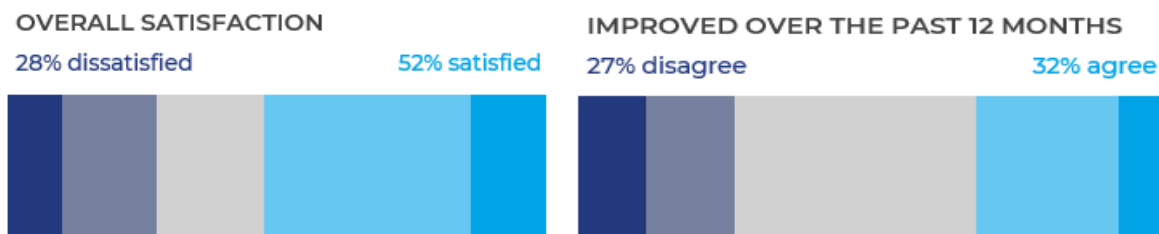
complex procurement involves many steps that pass back and forth between agencies and Procurement ACT, in a context where there is some ambiguity as to their respective roles and responsibilities.

Results from participants in the 2019 CSIG Customer Satisfaction Survey, relating to the support for goods and services procurements, rated their satisfaction as follows:

- ▶ advice for purchases under \$200,000 (60% rated as good or very good)
- ▶ facilitating the tender evaluation process (52%)
- ▶ support for purchases over \$200,000 (50% - with positive ratings for more specific components of this support ranging from 42% to 48%)
- ▶ drafting documentation (47%)
- ▶ developing evaluation criteria (staff understanding the services they deliver (42%); %)
- ▶ drafting statement of requirements (44%)

On average, 28% of customers provided a poor-quality rating for the Procurement service(s) they had used. Of these, an average of 41% reported *continuous* poor experiences, and 71% indicated that the effort required to resolve matters was unreasonable.

Customer Satisfaction Survey 2019: Procurement ACT results



Procurement ACT has been actively endeavouring to address these satisfaction ratings since the 2019 survey, including instituting monthly program management meetings to track performance, development of the Service Overview detailing workflows, and implementation of the START scheduling tool and post project surveys. A follow-up survey has not since been conducted. Best practice for a customer-facing organisation would see customer satisfaction surveyed at least once annually.

Agencies consulted for this Review continue to express overall dissatisfaction with the quality of service provided for complex procurements. Frequently raised concerns were inconsistency of advice, extended delays in progressing procurements, and a lack of knowledge or support for more contemporary methods of procurement.

INCONSISTENT ADVICE

Agencies expressed frustration with the inconsistency in advice from different officers in Procurement ACT.

“Interactions with Procurement ACT staff are dependent on the quality of the person you’re dealing with.”

“Consistency is problematic – it’s clunky, advice is incorrect or interpreted differently.”

“There are excellent individuals, then you have to work around the ones less capable.”

“Things get done and re-done, with different bits of feedback and conflicting advice which blows out timelines.”

Inconsistency of advice provided from different officers within Procurement ACT and through the approval process is problematic and can contribute to delays. There do not appear to be standard approaches set out for officers within Procurement ACT to apply, and there is no active program to identify and rectify the drivers of this ongoing concern expressed by agencies. Agency officers will have ‘go to’ experts that they frequently rely on within Procurement ACT but there is no single source of truth. This not only causes agencies to distrust the quality of advice received, but results in ‘forum-shopping’ or escalation within Procurement ACT. This increases the workload both for agencies and Procurement ACT.

EXTENDED DELAYS

Those interviewed for this Review consistently expressed the concern that internal processes of Procurement ACT (the many steps in the procurement process that require handing of information back and forth between agencies and Procurement ACT, and up and down within Procurement ACT for clearance) create delays that compound over the progress of a procurement, sometimes into many months or even longer.

“They (Procurement ACT) get in the way and are too slow.”

“People have developed workarounds to avoid going to Procurement ACT.”

“Requests for Tender go back and forth with comments and changes for months.”

Two recent examples canvassed with the Review demonstrated unjustifiably long timeframes for relatively simple procurement. For the procurement of some fairly common types of training, the Directorate provided procurement documentation that had been developed with input from Procurement ACT at the draft stage, but then waited 7 weeks for clearance from Procurement ACT to proceed, despite this stage of the process having been forecast to take 2 weeks. Similarly, documentation for the procurement of consultancy panels by Housing ACT, which had been drafted after consultation with Procurement ACT, took 13 weeks before being cleared by Procurement ACT. The Review was informed that these experiences were not uncommon.

Agencies described problems such as unexplained departures from agreed schedules with no communication from Procurement ACT, needing to make numerous follow-up contacts to get responses, progress ceasing when the assigned officer within Procurement ACT was on leave, having to implement multiple changes to documentation that simply reflected editorial suggestions from Procurement ACT rather than matters relevant to procurement policy, and having to field difficulties in the tender process due to errors introduced in the documentation by Procurement ACT.

Procurement ACT has advised that the nature of large procurements is that default timeframes may not be appropriate. A range of factors contribute to the length of time required to plan and develop tenders, including the level of pre-planning, complexity, novelty, experience and capability of the business area. Procurement ACT considers that it provides agencies with advice as to realistic timetables and that these timetables are agreed with the agency; Procurement ACT also notes that lack of capability in agencies adds to timeframes.

It is unclear what benchmarks, other than existing practice, Procurement ACT is applying to forecast what are 'realistic timeframes' for various procurements, or whether there is any internal system that seeks to maximise process efficiency to eliminate unnecessary delays against the agreed timeframes or to learn from effective practices of the most efficient officers. Planning for the support of complex procurements would benefit from the application of an approach that seeks to identify good practice internally, benchmark timeframes against good practice for comparable procurements either in the ACT or in other jurisdictions, and to actively monitor and report on performance against benchmarks.

Procurement ACT advises that tracking performance is based on timeliness against the schedule agreed for each procurement. Until recently Procurement ACT has not had an effective system to monitor performance in meeting the timeframes set for individual procurements or to report on its overall achievement of target timeframes. In March this year, Procurement ACT implemented the START scheduling tool to provide performance metrics for complex procurements. START uses an automated traffic light system to monitor performance against the agreed schedule. Projects with milestones exceeding 3 weeks become amber and those exceeding 6 weeks, red. As of July 2021, 55% of projects were on track, 10% were more than 3 weeks over schedule and 21% were more than 6 weeks over schedule. This early data seems to support the anecdotal experience conveyed in consultations that a significant proportion of procurements suffer more than minor delays.

The establishment of a more granular tracking system is a positive development; however the START tool seems so far to have been used primarily for tracking the progress of procurements with individual agencies, rather than being used as an aggregated data source across all procurements to identify common problems and pain points.

Procurement ACT has also recently commenced surveying customers as to their satisfaction with a range of aspects of the service provided, after each procurement project. This is a useful initiative. Thirty surveys have so far been issued, for procurements completed in March through May 2021; half of those surveyed have responded, of which the majority of responses were positive as to the support provided by Procurement ACT: 80% indicated their procurement experience was a positive one. It will be necessary for Procurement ACT to follow up and capture the

experience of those who did not complete the surveys. Data arising from these surveys going forward should be aggregated and used by Procurement ACT to identify and rectify areas of success or concern.

There is a formal supplier complaints management process however there is no mechanism for general complaints from agencies. Rather, it is expected that any issues will be resolved promptly through utilising sound working relationships between the Strategic Board, the Community of Practice Forums, individual agencies, and Procurement ACT. If an agreement cannot be reached between the relevant directorate and Procurement ACT officers, there is an escalation process outlined in the Service Overview to resolve the issue.

There is currently no data reported about the number of complaints or outcomes.

Recognising the ongoing concern by agencies with timeliness and effectiveness of advice, and the lack of adequate analysis of data and feedback to regularly inform improvement to processes, the Review considers that current support arrangements for complex procurements should be redesigned.

Consistent with best practice in customer service, Procurement ACT should employ a user-centred design process, that aims to identify and remediate pain points and blockages, standardise procedures, and eliminate steps that do not add value. Data from the START scheduling tool should be deployed for continuous improvement, and schedule targets should be benchmarked against best practice using information sourced through the Australasian Procurement and Construction Council or directly with other jurisdictions. Procurement ACT would benefit from more capability in customer engagement and system design to equip it to strip out obstacles and identify opportunities for increased efficiency.

Data should be used to identify opportunities for improvement. Customer-centred organisations front-load the information their customers are most likely to want. A good practice is to collate the questions most frequently asked on help lines and ensure that the frequently sought information is easily found on customer-facing websites, or is no longer needed by redesigning forms. These practises reduce the need for customers to call for advice, eliminating low value interactions and enabling resources to be focussed on higher value engagements. Similarly, customer-centred organisations examine their processes to identify pain points where delays or blockages occur and then focus resources or process design on ameliorating the pain points. User-centred design is not just a one-off, but needs to be constantly informed by real-time performance data to address points of service failure and improve the efficiency of allocation of resources.

The overall goal and effect of this redesign should be to reduce the resources needed to support individual procurements, by replacing low-value repetitive transactions with more accessible information and guidance, eliminating time-wasting steps in procurement processes, and ending the need for multiple follow-up interactions and escalations that are caused by slow and inefficient processes. The reduction in effort on these low-value activities will free up resources for more investment in capability development, data analysis, policy skills, and high value support activities.

There may be scope in redesigning existing processes to also consider a more risk-based approach to complex procurements. Agencies advised that some procurements that are over the \$200,000 threshold are not necessarily complex or

high risk. On the other hand, governments are naturally concerned to ensure that higher value procurements are being conducted with probity and with appropriate market competition.

While it is not likely to be possible to categorise procurements automatically into those requiring more or less support, a risk-based approach should be considered to triage and assess the level of Procurement ACT support required, rather than applying a one-size-fits-all process. A risk-based approach could enable prioritisation of complex procurements for support, leaving more commonplace examples to be managed largely by directorates with only light-touch involvement by Procurement ACT.

RECOMMENDATION 6:

Procurement ACT needs to examine in detail, using a methodology such as LEAN, the processes and typical workflows within its operations for supporting complex procurements, with a view to remediating pain points and blockages, standardising procedures, and eliminating steps that do not add value. This should be undertaken with customer involvement in a user-centred design process and based on benchmarks from best practice in other jurisdictions.

Data on performance and customer needs should be deployed for continuous improvement over time. Performance metrics should be developed, in consultation with agencies, to provide ongoing accountability for procurement services. Annual customer satisfaction surveys should be conducted and reported to agencies.

Education and training

Given the extent to which responsibility for procurements rests with agencies, it is critical that they are supported with effective and accessible tools to build their capability. The ACT Procurement Framework consists of a multi-layered landscape of legislative provisions, Ministerial directives, regulations, and policy guidance. Consultations undertaken for this Review indicated that the complexity of this policy landscape makes it difficult for officers to be certain about the application of multiple intersecting elements.

While review and simplification of the Procurement Framework would be ideal, at a minimum there needs to be effective education and training to enable agency officers to understand the goals and the mechanics of procurement processes and to effectively decide procurement approaches and outcomes, balancing all of the elements involved in determining value for money. Proactive capability development for agencies will assist directorate officers to autonomously manage risk and better understand their obligations, thereby reducing the resource burden being handled by Procurement ACT responding to repetitive and routine enquiries.

The importance of this activity has been recognised by Procurement ACT in recent years, with the establishment of the Capability section in 2019, and increased activity in this area since then, including the production of e-learning modules, the delivery of

face to face training, and the distribution of multiple fact sheets and guides on new procurement policy. In the 2020-21 year, Procurement ACT provided training to 1010 ACTPS officers: 236 face to face procurement training, 462 Procurement Values training, 132 Probity training (91 face to face, 51 e-learning) and 132 procurement e-learning module. In addition, four workshops were held on Aboriginal and Torres Strait Islander Procurement Policy.

The e-learning module¹¹ is a useful starting point, but appears to simply restate the range of policies and rules expressed on the Procurement Hub intranet, rather than being based on strong e-learning principles. The training, which is primarily for people with no or limited procurement experience, delves straight into the various legislative instruments, which require an assumed level of knowledge to understand and interpret, rather than taking a user-centred approach. Procurement ACT advises that it is planning additional modules to outline the processes for procurements above and below \$200k respectively; these modules are planned to be available by the end of this calendar year.

Online learning needs to be engaging and interactive; people learn best by trying and doing. It should test participant understanding on the way through and give the learner feedback on progress. It needs to be available in bite-sized chunks that can be accessed to help a person learn 'on the job' by applying the learning while doing the task. E-learning is sub-optimal when it is primarily the provision of information without support or guidance.

The Review notes that Procurement ACT will seek nominations from members of the Community of Practice to test future e-learning packages during the user acceptance phase of development. This will be a useful step in tailoring training to directorate needs but future modules must also be reviewed by people experienced in developing e-learning to ensure best practice and that material is accessible to all levels of experience.

Procurement ACT advised that it has received positive feedback about its face to face training sessions, based on 67 surveys received for training undertaken between September 2020 to July 2021, and that it has addressed areas of negative feedback or suggestions for improvement.

In 2019 Procurement ACT developed and piloted with Transport Canberra and City Services Directorate (TCCS), a tailored goods and services procurement training module, 'Working Together to Achieve Effective Procurement'. The material in that module has now been incorporated into Procurement ACT's training package.

During February and March 2019, a similar session aimed at the Senior Executive was delivered to TCCS and subsequently offered to all Directorates in April 2019. Some tailored Executive sessions continue to be provided on request by directorates.

Core areas that would benefit from increased education and training with a user-centred focus include:

- ▶ procurement policy application
- ▶ procurement values and applying value for money

¹¹ The e-learning module was developed by CIT under contract for Procurement ACT.

- ▶ planning and approach to market
- ▶ tender evaluation
- ▶ contract management

Training regarding the application of the Aboriginal and Torres Strait Islander Procurement Policy, Secure Local Jobs Code and procurement values has been developed and delivered to directorates reaching over 200 agency staff. Training on the Values framework was also developed and provided to over 400 ACTPS staff. Directors-General and agency procurement officers gave positive feedback about this additional education and training, but noted that there needed to be a similar level of training provided for base procurement needs and for other newly developed aspects of procurement policy. Resourcing for adequate training and education should be adjusted within Procurement ACT to reflect the increasing volume and complexity of procurement policy.

In August 2020, Procurement ACT established a Community of Practice which has been an important step in promoting procurement principles and uplifting capability across the ACTPS. The Community of Practice has a number of working groups, including Roles and Responsibilities which addresses the roles and requirements of non-capital construction procurement, procurement under \$200,000 and how OSQAR can support procurement of this nature; Data and Compliance Reporting; and a Guidance Material and Training Working Group.

In May 2021, the Guidance Material and Training Working Group was provided with an overview of training and materials that are universal in nature across the Territory, that are already in the pipeline to be developed by Procurement ACT. Outside what is already in development within Procurement ACT it was established that members felt training/guidance would be beneficial for:

- ▶ OSQAR
- ▶ dealing with tender responses that increase the value of a procurement to the next minimum tender and quotation threshold
- ▶ the procurement lifecycle/framework
- ▶ writing an effective Statement of Requirements
- ▶ contract management

The Working Group has been encouraged to indicate their preferred priority for the list of training and materials in development by Procurement ACT. The Working Group is planning to develop over 30 new or updated fact sheets and better practice guides for release over the coming year.

The establishment of the Community of Practice is a good initiative. Using this forum to refine and prioritise training and fact sheets will help ensure that these meets the needs of directorates. Procurement ACT will need to bear in mind that training and information needs to meet the needs of non-expert users and continue to ensure that user-acceptance testing includes a mix of new and experienced procurement officers.

Consideration should also be given, in consultation with directorates, to the desirability of ensuring that people undertaking procurement have the required level of knowledge to do so effectively and in compliance with legislation and policy.

“In my previous role [in another jurisdiction], everyone that had a delegation was required to do training to a certain level.”

“It would be useful to have a clear policy position from Procurement ACT in relation to training individuals tied to delegation levels.”

The Community of Practice should consider whether the completion of basic procurement training should be mandatory for anyone exercising a relevant financial delegation. While Procurement ACT does not have the power to require mandatory training, directorates should consider the risk mitigation that requiring a basic competence in procurement would provide.

The Review recognises that the Capability function with Procurement ACT is relatively new and has been on a steep upward curve in the establishment of materials and practices to underpin procurement knowledge and capability across the ACTPS. Good work has been done in a short space of time; however it is now timely to review the style, scale and content of the training provided to bring it up to a more effective level.

TRAINING PROVIDED BY PROCUREMENT ACT VS DIRECTORATES

As a centre-led function, Procurement ACT should provide basic training on introduction to procurement and use of the tools and systems that support basic procurement skills. Procurement ACT should also provide training on new policy as it is implemented. Agencies should maintain a level of internal capability consistent with the extent of their procurement activity. This includes ensuring enough officers are capable to undertake simple procurements without needing Procurement ACT support for routine matters, and developing and maintaining market knowledge for niche and specialist areas. Agencies that undertake significant or regular procurement should work with Procurement ACT to develop more advanced or specific training, such as that developed for TCCS, and ensure that enough officers for the agency’s business needs, and at suitable delegation levels, are capable of working effectively with Procurement ACT for complex procurements.

Procurement ACT has developed a Procurement Capability Framework, which was launched in February 2021. The Framework, which is primarily intended for officers undertaking procurement or contract management as a significant part of their role, identifies and defines the capabilities required for all levels of procurement professionals across the ACTPS. It is consistent with the Procurement Capability and Workforce Development Strategy recently released by the peak body for government procurement, the Australian Procurement and Construction Council. The ACT Procurement Capability Framework has been shared with directorates, including a self-assessment tool for agencies to survey their own procurement capability. This will be a helpful tool for consistent assessment of capability across the ACTPS. Agencies are encouraged to complete the self-assessment, which will not only enable each agency to have a better understanding of its target state and any capability gaps, but will also enable Procurement ACT to better tailor its training program to meet agency needs.

While agencies that undertake regular or significant procurement should be expected to maintain an adequate level of capability, Procurement ACT should be expected to have more expertise than agencies on complex aspects of procurement.

Procurement ACT should also be able to provide information to agencies about avenues for higher level training. For example, if agencies want to take some of their procurement staff on a professionalisation path, Procurement ACT would not be expected to provide that training but would be able to point agencies to available training in the marketplace.

Agencies should manage the maintenance of basic procurement capability appropriate to their business needs within existing training budgets; this training will primarily be sourced from Procurement ACT in any event.

The approach recommended in this Review to enhance the quality of training and increase the delivery of training will likely have some resource implications within Procurement ACT. While there is likely to be a one-off impact in reviewing and updating existing online information and courses and developing the additional training that has been identified as a priority by directorates, the benefit of ongoing investment in building capability across the ACTPS will reduce the demand on the advice and support function in time. Resources should be adjusted internally to reflect that shift.

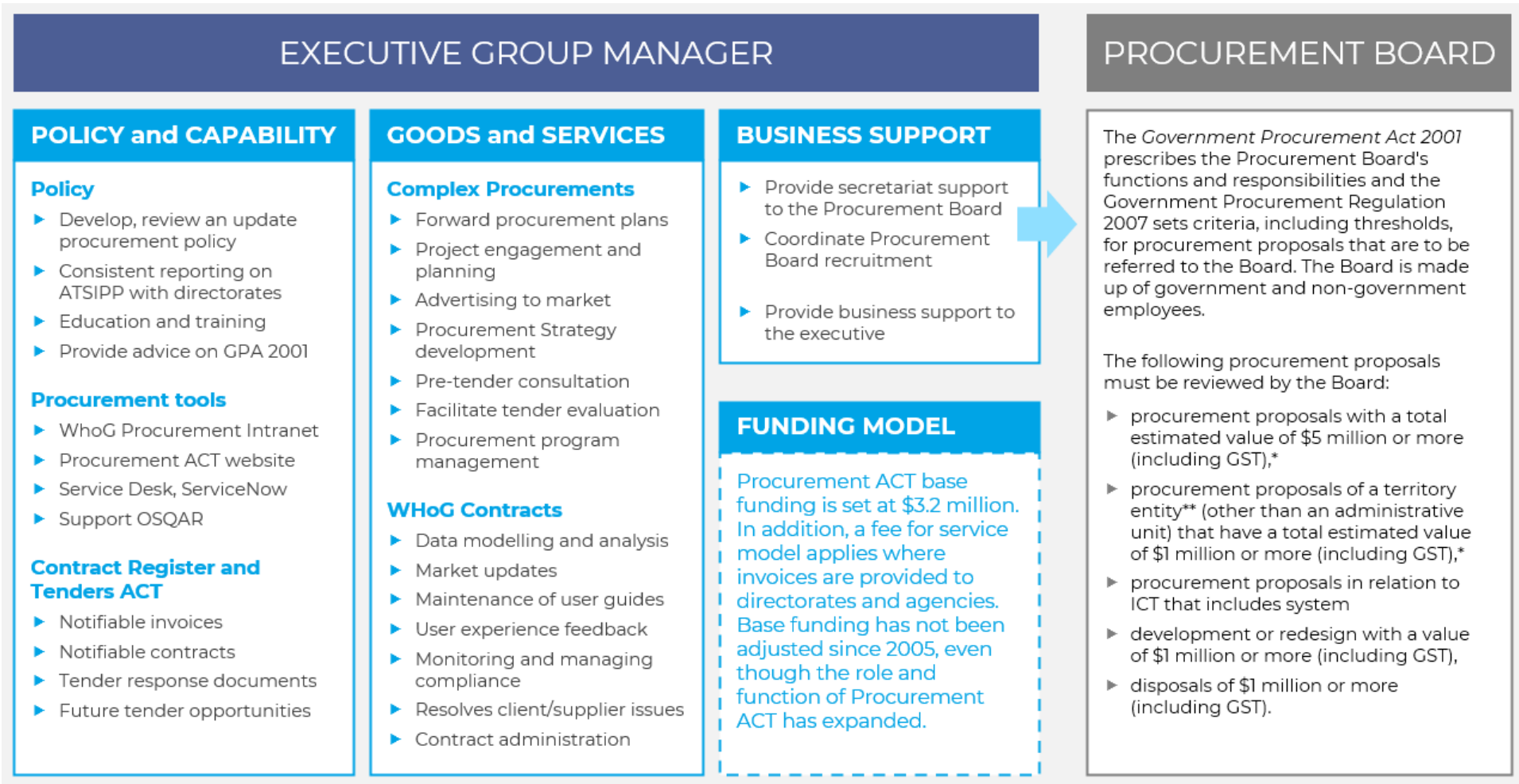
RECOMMENDATION 7:

Procurement ACT should finalise the suite of user-centred face to face and e-learning training modules and guidance being developed with the Community of Practice. Online modules need to be designed consistent with e-learning principles. Training effectiveness should be monitored and reviewed based on user feedback.

Agencies should ensure the maintenance of internal procurement capability commensurate with their usual extent of procurement activity.

OPERATIONAL ARRANGEMENTS AND CAPABILITIES

Procurement ACT organisational structure



Procurement ACT staff by team and classification

GOODS AND SERVICES PROCUREMENT		PROCUREMENT POLICY AND CAPABILITY	
EBM	1	EBM	1
Contracts and Category Management		Business Systems and Reporting Team	
SOG A	1	SOG A	
SOG B	3	SOG B	1
SOG C	5	SOG C	
ASO1-6	3	ASO1-6	1
Sourcing Advice and Supply (JACS, Health, CSD)		Policy Development Section	
SOG A	1	SOG A	1
SOG B	3	SOG B	
SOG C	4	SOG C	
ASO1-6	3	ASO1-6	2
Sourcing Advice and Supply (ED, TCCS, EPSDD, CMTEDD)		Policy Governance Section	
SOG A	1	SOG A	1
SOG B	2	SOG B	
SOG C	4	SOG C	1
ASO1-6	2	ASO1-6	1
Special Projects		Capability Section	
SOG A	1	SOG A	1
SOG B		SOG B	1
SOG C		SOG C	
ASO1-6		ASO1-6	6
TOTAL POSITIONS	34	TOTAL POSITIONS	17
SOG A	4	SOG A	3
SOG B	8	SOG B	1
SOG C	13	SOG C	1
ASO1-6	6	ASO1-6	10

Organisational structure and location

The Review considers that the Chief Minister, Treasury and Economic Development Directorate is the logical home for a centre-led procurement model. With the recent re-distribution of functions previously forming the Commercial Services and Infrastructure Group, of which Procurement ACT was one part, consideration may need to be given to changed alignments within the Directorate to ensure that Procurement ACT has oversight at a suitable level, rather than reporting directly to the Under Treasurer.

The current organisational structure of Procurement ACT, at a high level, is sound in that it combines procurement policy, capability development, and operational support, enabling an integrated approach to policy development and service delivery. The Review does not recommend separating these elements of procurement functions.

Procurement Policy and Capability

The previous section of this Review has described the strengths and areas for improvement of the education and training work, being undertaken in the Policy and Capability Branch. While that analysis has identified areas where existing training and capability building is not meeting the needs of the ACTPS, it appears that the work to address these gaps is on a strong trajectory. There has been an energetic focus on engaging with the views and needs of agencies, and on reviewing and improving the training materials and information provided. While there is still work to be done, the Review endorses the approach that is being taken, and suggests that it should be given additional impetus and support within Procurement ACT.

On the policy side, there has been a substantial increase in the development and implementation of procurement policy over the last five years, including the Aboriginal and Torres Strait Islander Procurement Policy, Secure Local Jobs Code, Charter of Procurement Values and forthcoming Two Pass Procurement Process. Procurement ACT has successfully managed a demanding workload of implementing and managing new policy.

The Review appreciates the significant effort that Procurement ACT has put into developing and implementing new procurement policy for the ACT. However, it appears that most of this recent effort has been concentrated on implementing policy ideas generated by Ministers.

The substantial overlay of new policies has resulted in a complex and potentially confusing policy landscape for agencies and for suppliers. Procurement ACT itself recognises there is scope for a more comprehensive review of the legislative and policy framework, to modernise the legislation and bring it into line with contemporary policy and practice. The Procurement Advisory Group established by the Strategic Board in 2018-19 identified multiple areas for improvement in the Procurement Framework, as a result of which Procurement ACT concluded that there needed to be a “better documented, risk-based and refined Procurement Framework that fits within and is clearly linked to the Territory’s broader financial management framework.” The Review would encourage Procurement ACT to work with directorates to build support and traction for taking this policy agenda forward.

Procurement ACT noted in discussions with this Review that, within existing resources, policy could only be allocated a relatively small team, as most of the staff of Procurement ACT are dedicated to supporting complex procurements, providing training, or supporting the Government Procurement Board. Recommendations for streamlining practices set out elsewhere in this Review should generate more efficient and effective arrangements that could release resources for greater investment in policy capability.

Policy development requires people who understand legislation and the policy framework, preferably have honed their policy skills in a variety of policy contexts, keep abreast of contemporary procurement practice, and apply their knowledge and expertise to generate appropriate policy for their jurisdiction. Knowing how to engage and consult with agencies on policy is a key component of the policy development process, particularly where other agencies are to be the key users of the policy as is the case with procurement. Agencies consulted by the Review expressed concern that they were not adequately consulted in the development of policies that affected their operations.

It may be that the scarce allocation of resources to policy development has limited the opportunities for Procurement ACT staff to develop and apply policy skills. While the Executive leader for policy has strong experience and capability, policy work also needs a capable team. Although the Procurement ACT structure indicates that there are 3 Senior Officer position and 3 ASO6 positions, the Review was advised that these have not been consistently filled.

Recognising the interest the ACT Government has in using its procurement as an instrument of broader social and economic policy, Procurement ACT needs to ensure it applies sufficient resources to support the government on this front, has enough capability to provide contemporary evidence-based advice on procurement policy, and attracts staff with sufficient experience of broader policy contexts to understand procurement from a social and economic perspective.

Procurement Operations¹²

The analysis above on the advice and support provided to agencies concluded that agencies are not receiving timely consistent support and that the approach to customer-focussed service design and feedback responsiveness is immature. The Review has recommended wholesale redesign of processes for procurement support, utilising LEAN methodology and user-centred design. It is not apparent that Procurement ACT (Goods and Services) currently has the right approach or capability to lead that redesign process or to instil the systems and mindset that customer-focussed data-driven services require.

Furthermore, agencies have expressed dissatisfaction at the apparent lack of knowledge within the operational side of Procurement ACT regarding innovative and contemporary practices.

¹² Goods and Services Branch

“We’ve been looking for more creative ways to do procurement and it is difficult to get advice on outcomes-based procurement.”

“If the role of Procurement ACT is to advise on procurement policy, why haven’t they been promoting commissioning? They’re not forward looking.”

“...we’ve been giving Procurement ACT feedback for two years about the need for more contemporary practice, but they have just defended their current practices”

“...old school – forms, tenders, tick boxes”

“...agencies don’t get any useful advice until they get to the Procurement Board”¹³

Increased attention to building the procurement capability of officers across the ACTPS, which this Review recommends, needs to be matched by significant capability building within Procurement ACT to enable it to add value and provide sophisticated advice on the full range of procurement approaches.

The recommended refresh of capability in Procurement ACT should include targeted acquisition or upskilling of officers to understand and apply contemporary procurement practices. There needs to be a clear focus on adding value to the procurement work of directorates, understanding their business and helping them to achieve the government’s overall aims when procuring goods or services.

The Review observes that, while there has been some targeted recruitment in recent years, the workforce within Procurement ACT (Goods and Services) has not benefited from the degree of mobility and talent attraction that enables other areas of the ACTPS to continually refresh and uplift their capabilities. 60% of staff have been in procurement roles for over 5 years, and 45% for over 10 years. The workforce in the advice and support roles is very top heavy, with the majority of staff employed at the Senior Officer level. Qualifications in procurement related areas are not a pre-requisite and there are currently no professional standards in place, although Procurement ACT intends to apply the Procurement Capability Framework to focus on uplifting its professional capabilities.

The ongoing dissatisfaction of agencies with the quality of service from Procurement ACT suggests that it does not have adequate capability to meet the needs of agencies seeking more contemporary and innovative approaches to procurement, including commissioning, co-design and outcomes-based contracting. As outlined above, the approach to the provision of advice and support has not been sufficiently responsive to customer needs or continuously improved based on data and feedback.

While the Review has recommended specific steps be taken to redesign procedures and support tools, the capabilities to implement this dynamic and user-centred approach may not be available within the existing Procurement ACT workforce. A more dynamic and responsive service offering will also improve the reputation of, and

¹³ Involvement of the Procurement Board is limited to large procurements.

engagement with, Procurement ACT across the ACTPS. This can be expected to produce a 'virtuous circle' effect in the attraction of a diverse and talented staffing cohort.

RECOMMENDATION 8:

Procurement ACT should review and refresh its workforce capability to enable it to provide capable policy advice, customer-focussed systems and service, and support for the full range of contemporary procurement options.

TOWARDS BEST PRACTICE FOR PROCUREMENT IN THE ACT

Procurement in the ACT should continue to be the responsibility of agencies. Expertise and support to ensure agencies are able to undertake procurements effectively and in compliance with government legislation and policy should continue to be provided centrally. Agencies should maintain a level of foundational procurement knowledge and capability commensurate with the scale and frequency of their procurement activity.

The central procurement function should have a strong focus on ensuring that agencies have access to high quality accessible information and tools that will enable agency staff to confidently undertake most simple procurements in accordance with the Procurement Framework without the need for individual support. A focus on building agency capability to a level consistent with the common needs of agency officers undertaking procurement will be a more effective use of resources than providing ongoing interventions and advice on a large volume of routine procurement elements.

The central procurement function should focus its own capability development on ensuring that it has deeper expertise in complex procurement issues and in the full range of contemporary and fit-for-purpose procurement options, and that it continues to refresh that capability to keep abreast of the evolving procurement landscape.

The central procurement function needs to be customer-focussed in its approach and practices. This includes user-centred design of processes, data-driven approaches to continuous improvement, well-defined processes for testing customer experience, and a transparent and responsive approach to customer feedback. The goal should be to increase capacity for high-value advice, policy and innovation, and reduce the effort and time spent on repetitive low value transactions. This can be facilitated by simplifying systems and enabling easy access by agencies to the most commonly-sought information and guidance.

The central procurement function should utilise its access to whole-of-government data and knowledge to drive greater value for money across government, both by identifying and actioning opportunities for whole-of-government contracts and by aggregating and analysing data on agency procurement to enable more informed procurement decisions by agencies.

Finally, a best practice procurement function would be grounded in a simplified and harmonised legislative and policy framework. A less complex and confusing policy framework would increase the likelihood that procurement activities are conducted efficiently and achieve the intent of government policy. The legislative and policy framework would benefit from review to reflect a clearer and more contemporary position, particularly relating to value for money. Consideration should be given to the benefits of defining value for money outside the head legislation to give government more flexibility to modify its procurement intent and policies in a timely way to meet its policy goals.