



**Legislative Assembly for the
Australian Capital Territory**

Standing Committee on Public Accounts

Inquiry into the Auditor-General's Report No. 7 of 2021: Procurement Exemptions and Value for Money

Legislative Assembly for the Australian Capital Territory
Standing Committee on Public Accounts

Approved for publication

Report 9
10th Assembly
June 2022

About the committee

Establishing resolution

The Assembly established the Standing Committee on Public Accounts on 2 December 2020.

The Committee is responsible for the following areas:

- ACT Auditor-General
- Office of the Legislative Assembly
- Accounts of the receipts and expenditure of the ACT and its authorities
- All reports of the Auditor-General which have been presented to the Assembly
- Treasury including taxation and revenue.

You can read the full establishing resolution [on our website](#).

Committee members

Mrs Elizabeth Kikkert MLA, Chair

Mr Michael Pettersson MLA, Deputy Chair

Mr Andrew Braddock MLA

Secretariat

Mr Samuel Thompson, Committee Secretary

Ms Miriam El-Chami, Assistant Secretary (on secondment from the House of Representatives)

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About this inquiry

Under its resolution of establishment, the Standing Committee on Public Accounts examines all reports of the Auditor-General which have been presented to the Legislative Assembly. Specifically, the resolution requires the Committee to inquire into and report on reports of the Auditor-General which have been presented to the Assembly.

Acronyms

Acronym	Long form
ACT	Australian Capital Territory
Audit Report	The Auditor-General's Report No. 7 of 2021: <i>Procurement Exemptions and Value for Money</i>
MLA	Member of the Legislative Assembly

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Recommendations

Recommendation 1

The Committee recommends that the ACT Government mandate that every procurement includes whole-of-life costs factored into value-for-money assessments.

Recommendation 2

The Committee recommends that the ACT Government mandate that every procurement includes a signed declaration of conflict of interest.

Recommendation 3

The Committee recommends that the ACT Government improve and strengthen procurement documentation processes to ensure that all aspects of probity are systematically captured and addressed.

In doing so, the ACT Government should:

- conduct a review of all its current documentation templates and revise where the requirements of the relevant legislation are not reflected;
- ensure that all staff likely to undertake procurements are properly trained on whole-of-life costs when assessing value for money, conflicts of interest, and risk management; and
- ensure that delegates do not 'sign off' on procurements unless all aspects of probity are addressed.

Recommendation 4

The Committee recommends that Procurement ACT provide greater direct support to ACT Government entities that conduct procurements infrequently, for both procurements below and above \$200,000.

Recommendation 5

The Committee recommends that, by December 2022, the ACT Government in collaboration with Procurement ACT, put in place assurance schemes across its directorates that:

- monitor the effectiveness of procurement reforms;
- ensure that there is an accurate and detailed record of instances of non-compliance in procurements;
- annually report on adherence to probity and ethical considerations across tender processes;
- record remediation actions undertaken for non-compliance; and
- monitor that staff who undertake procurements have had the necessary and appropriate training.

Recommendation 6

The Committee recommends that the ACT Government implement a system of management action for staff undertaking procurements who breach the procurement framework. In doing so, the Committee recommends that non-compliance, and management action is monitored and reported through the relevant directorates performance management system.

Recommendation 7

The Committee recommends the ACT Government ensure that all procurements above the threshold are accurately reported on the ACT Government Contracts Register.

Recommendation 8

The Committee recommends that the ACT Government publishes online further guidance on the respective roles of, and relationship between, Procurement ACT and the Government Procurement Board.

Recommendation 9

The Committee recommends that the *Government Procurement Act 2001* is amended to ensure that, as an independent body, the Government Procurement Board Chair is a non-government member.

1. Introduction

Preliminary

- 1.1. Reports of the Auditor-General form a significant part of the Committee's work. The Committee has an important role to follow-up on the reports and recommendations of the Auditor-General.
- 1.2. Where the Committee determines a report of the Auditor-General requires further examination by the Committee, it may conduct a formal inquiry into the matter. This may include calling for written submissions, hearing from witnesses, and preparing a written report for presentation to the Legislative Assembly.

Acknowledgements

- 1.3. The Committee acknowledges those who contributed to its inquiry, including the Auditor-General and staff from the ACT Audit Office, the Special Minister of State, and Procurement ACT.

2. Conduct of inquiry

Referral and decision to further inquire

- 2.1. Auditor-General's Report No. 7 of 2021: *Procurement Exemptions and Value for Money* (the Audit Report) was presented to the Legislative Assembly on 3 August 2021.
- 2.2. The Audit Report examined a selection of high value procurements undertaken in 2019 and 2020 from across all areas of the ACT Government and focused on whether agencies effectively documented the rationale for using an exemption, and pursued value for money, managed risks, and maintained high standards of integrity.
- 2.3. In accordance with the resolution of establishment of the Standing Committee on Public Accounts (the Committee), the Audit Report was referred to the Committee for examination.
- 2.4. On 23 September 2021 the Committee received a briefing from the Auditor-General in relation to the Audit Report.
- 2.5. On 23 September 2021 the Committee resolved to establish an inquiry into the Audit Report.
- 2.6. The Government Response to the Audit Report was presented to the Assembly on 9 November 2021.

Conduct of inquiry

- 2.7. On 8 December 2021 the Committee heard evidence from the ACT Auditor-General and his staff, the Special Minister of State, and Procurement ACT.
- 2.8. On 15 June 2022 the Committee met to consider the Chair's draft report on its inquiry.
- 2.9. On 15 June 2022 the Committee adopted the Report on its inquiry for presentation to the Legislative Assembly.

3. Audit background and outcomes

3.1. This chapter presents an overview of the Audit Report.

Audit background

3.2. The audit examined 33 high value procurements undertaken by ACT Government entities in 2019 and 2020 that exercised exemptions from the requirements of government purchasing under the *Government Procurement Regulation* (2007) (the Regulation). In particular, the audit considered:

- how entities documented the rationale for using exemptions and justified not adopting an open and competitive process; and
- how effectively the procurement process considered risks, ensured a high level of integrity and accounted for the whole of costs of the purchasing decision.¹

3.3. The Regulation requires that, for the procurement of goods and services valued at more than \$25,000, entities seek 'three quotes or conduct an open tender process'.² However, exemptions may also be exercised to these requirements by conducting a 'select tender process'.³ The Audit Report stated that exemptions can be granted for a range of reasons:

... such as policy priorities that have urgent purchasing needs, or when there is only one supplier in the market with the knowledge or equipment to meet the government's needs.⁴

3.4. The Audit Report stated that 'in 2019-2020 exemptions were used for 14 percent of all procurements [by ACT Government entities]. This represented approximately \$119 million in spending'.⁵

Audit conclusions

Procurement exemptions

3.5. In relation to the use of procurement exemptions by ACT Government entities, the Audit Report concluded that entities 'are complying with the legislative requirements for using an exemption in procurement' and found that entities most often use exemptions because 'they assert there is a limited number of suppliers able to provide the goods and services required'.⁶ However, the audit concluded that entities were not consistently

¹ Auditor-General's Report No. 7 of 2021: *Procurement Exemptions and Value for Money*, p 1.

² Auditor-General's Report No. 7 of 2021, p 1.

³ Auditor-General's Report No. 7 of 2021, p 1. Procurements that use exemptions and are above \$25,000 may also be referred to as 'select' or 'single select' procurement, 'limited sourcing', 'direct sourcing', 'select tender' and 'single select tender'.

⁴ Auditor-General's Report No. 7 of 2021, p 1.

⁵ Auditor-General's Report No. 7 of 2021, p 1.

⁶ Auditor-General's Report No. 7 of 2021, pp 1–2.

demonstrating that a value for money assessment had occurred, a requirement under the legislation. It found that ‘only 14 of the 33 procurements had a Tender Evaluation Plan and only eight of these resulted in a Tender Evaluation Report’.⁷

Value for money in procurement process

3.6. In relation to the inconsistencies found in entities’ consideration of ‘probity and ethical considerations, management of risk and optimisation of whole of life costs’, the Audit Report concluded that:

- less than half of the procurements considered in the audit had a documented process for addressing probity issues, and only a third had signed Declarations of Confidentiality and Conflicts of Interest
- less than half of the procurements considered in the audit had effective risk assessments, and for those procurements that did have a risk assessment, these were largely focused on operational matters and not risks related to the procurement
- there was no evidence that whole of life costs were factored into the value for money assessment.⁸

Audit recommendations

3.7. The Audit Report made four recommendations, provided in the table below. The right column of the table indicates the position the ACT Government adopted for the relevant recommendation in its response to the Audit Report.

Audit Report Recommendation ⁹	Government Position ¹⁰
<p>R1—To support ACT Government entities to improve the quality and comprehensiveness of procurement documentation, Procurement ACT should:</p> <p>a) promote the use of the Procurement Plan Minute, Tender Evaluation Plan and Tender Evaluation Report templates for procurements using exemptions; and</p> <p>b) provide training to entities on the use of these templates and the assessment of value for money in procurements using exemptions.</p> <p>ACT Government entities should review and revise as necessary their Chief Executive Instructions, or similar procurement policy guidance, to promote the use of Procurement ACT templates, namely the Procurement Plan Minute, Tender Evaluation Plan and Tender Evaluation Report.</p>	Agreed

⁷ Auditor-General’s Report No. 7 of 2021, p 2.

⁸ Auditor-General’s Report No. 7 of 2021, p 2.

⁹ Auditor-General’s Report No. 7 of 2021, pp 5–6.

¹⁰ *Government response*, tabled 9 November 2021, [p 2].

<p>R2—To support ACT Government entities to improve staff understanding of the importance of integrity in procurements using exemptions, Procurement ACT should:</p> <ul style="list-style-type: none"> a) promote the Probity in Procurement Guide (2020); and b) provide training to entities in probity risk assessments and identifying and monitoring conflicts of interest in procurements using exemptions. <p>ACT Government entities should improve staff understanding of the importance of integrity in procurement using exemptions by requiring delegates and officers undertaking procurement to undertake probity training, which would include the management of probity risks and identifying and monitoring conflicts of interest.</p>	Agreed
<p>R3—To support ACT Government entities to improve the quality and comprehensiveness of risk management in procurements using exemptions, Procurement ACT should:</p> <ul style="list-style-type: none"> a) prepare better practice guidance on the management of procurement risk; and b) review and revise the procurement risk assessment template to provide greater clarity on the scope of a procurement risk assessment and examples of procurement risk that could be considered. 	Agreed
<p>R4—To support ACT Government entities to optimise whole of life costs in procurements using exemptions, Procurement ACT should prepare better practice guidance on the identification of whole of life costs and how they should be incorporated in value of money assessments.</p>	Agreed

4. Committee comment

Value for money in procurement processes

- 4.1. The Audit Report considered how entities were meeting the requirements of probity and ethical behaviour, management of risk, and optimising whole of life costs in the 33 procurements considered as part of the audit.¹¹ A key issue identified was that staff undertaking procurements were not ‘paying attention, taking account of, or factoring in the whole-of-life costs when assessing value for money’.¹² In relation to this, the ACT Auditor-General, Mr Michael Harris, stated:

That [issue] is probably best demonstrated when you look at procurements in relation to IT—particularly software upgrades, and additional IT equipment and software related procurements. Frequently, these procurements will be assessed in terms of their cost to the purchaser in relation to the upfront cost but not the whole-of-life cost of IT equipment—software in particular. It is not uncommon ... for people to be relatively locked into a single supplier ... the actual initial purchase price of the equipment is one component, and the ongoing maintenance and upgrade of that equipment is another component. We did not see sufficient evidence that people were taking account of the entire lifecycle costs of those products when they were going through procurement exemptions.¹³

- 4.2. The Auditor-General stated that ‘the procedures and the policies that are in place are effective if they are followed. The issue is that they are not being followed as rigorously as they should be.’¹⁴ The Auditor-General added that:

... entities are effectively documenting the rationale, but they are, if you like, following the steps because they have to follow the steps. I think that is the best way of describing it. “There is a process to be going through. If I tick all of these boxes, I have fulfilled the process and that is the end of the matter.”¹⁵

- 4.3. Special Minister of State, Mr Chris Steel, acknowledged that value-for-money may have been contemplated and assessed during the procurements, but stated that ‘it may not necessarily have been appropriately documented’.¹⁶ The Committee is of the view that to ensure staff undertaking procurement are considering whole-of-life costs when assessing value for money, the relevant documentation should be a mandatory part of any

¹¹ Auditor-General’s Report No. 7 of 2021, p 25.

¹² Mr Michael Harris, ACT Auditor-General, *Committee Hansard*, 8 December 2021, p 2.

¹³ *Committee Hansard*, 8 December 2021, pp 1–2.

¹⁴ *Committee Hansard*, 8 December 2021, p 2.

¹⁵ *Committee Hansard*, 8 December 2021, p 4.

¹⁶ *Committee Hansard*, 8 December 2021, p 13.

procurement. In addition, staff should undergo proper training to understand how to complete the documentation.

Recommendation 1

The Committee recommends that the ACT Government mandate that every procurement includes whole-of-life costs factored into value-for-money assessments.

Conflicts of interest

- 4.4. The Audit Report stated that ‘ACT Public Service employees’ obligations in relation to conflicts of interest apply at all times, not only during procurement activities’.¹⁷ However, it found that all 33 of the procurements considered by the Audit Office did not include signed declarations and the procurement documentation was not sufficient to give confidence that staff were effectively addressing conflicts of interest.¹⁸ During the Committee’s public hearing on 8 December 2021, the Auditor-General stated that there ‘needs to be more exposure and more training in that area for public servants to understand what conflicts of interest are and how to address them’; adding that, ‘I do not believe that across the public sector ... there is a sufficient understanding of what a conflict of interest actually is’.¹⁹
- 4.5. Mr Glenn Bain, Executive Group Manager at Procurement ACT raised that ‘it is not always the case’ that a declaration of a conflict of interest needs to be signed; and while Procurement ACT suggests that one is signed for each procurement, it is not a requirement for low-value, low-risk procurement activity.²⁰ Mr Bain reported that since the audit, Procurement ACT published a probity procurement guide containing advice on how to ‘recognise a potential conflict of interest and what to do with it, right from disclosure statements all the way through to proper management of any potential conflict’.²¹
- 4.6. However, the Committee considers that a declaration of a conflict of interest should be a mandatory part of any procurement process, even if it is a low-value, low-risk procurement. Once more, the Committee is of the view that more training is required for staff to properly understand what a conflict of interest is, and how to identify and document it using the provided templates.

Recommendation 2

The Committee recommends that the ACT Government mandate that every procurement includes a signed declaration of conflict of interest.

¹⁷ Auditor-General’s Report No. 7 of 2021, p 29.

¹⁸ Auditor-General’s Report No. 7 of 2021, p 31.

¹⁹ *Committee Hansard*, 8 December 2021, pp 2–3.

²⁰ *Committee Hansard*, 8 December 2021, p 7.

²¹ *Committee Hansard*, 8 December 2021, p 6.

Risk management

- 4.7. The Audit Report provided that while Procurement ACT developed a Risk Management Plan template to assist ACT Government entities, ‘only 14 of the 33 procurements considered as part of the audit (42 percent) had formally assessed procurement risks using this template’.²² It added that:

The documentation and consideration of procurement risks was more comprehensive and visible for these procurements than for procurements that did not use the template.²³

- 4.8. The Audit Report also found that ‘there is limited understanding of when a procurement risk management plan is required’.²⁴ The Committee is of the view that there needs to be a greater understanding of procurement processes amongst staff and considers that training, supplemented with strengthening the templates and documentation, can ensure that staff are able to identify how to address each step of a procurement. The Committee also considers that delegates should not sign off on procurements unless all aspects of probity are addressed and accurately documented using the provided templates.

Recommendation 3

The Committee recommends that the ACT Government improve and strengthen procurement documentation processes to ensure that all aspects of probity are systematically captured and addressed.

In doing so, the ACT Government should:

- conduct a review of all its current documentation templates and revise where the requirements of the relevant legislation are not reflected;
- ensure that all staff likely to undertake procurements are properly trained on whole-of-life costs when assessing value for money, conflicts of interest, and risk management; and
- ensure that delegates do not ‘sign off’ on procurements unless all aspects of probity are addressed.

- 4.9. Aspects of probity may also be overlooked by public servants ‘for whom a procurement is a once-in-a-career or once-in-every-five-years exercise’.²⁵ Mr Bain highlighted that ‘even if it is a low-value, low-risk [procurement], they are not always mindful of what they should be looking for’, adding that:

... [public servants] do not always get direct support from Procurement ACT. We provide indirect support for low-value, low-risk procurements up to about

²² Auditor-General’s Report No. 7 of 2021, p 33.

²³ Auditor-General’s Report No. 7 of 2021, p 33.

²⁴ Auditor-General’s Report No. 7 of 2021, p 34.

²⁵ *Committee Hansard*, 8 December 2021, p 7.

\$200,000. And above that, they would come to us and get the guidance that should be appropriate for that procurement.²⁶

The Committee is of the view that to ensure entities are adhering to each step of a procurement process, Procurement ACT should provide direct assistance to ACT Government entities that procure infrequently.

Recommendation 4

The Committee recommends that Procurement ACT provide greater direct support to ACT Government entities that conduct procurements infrequently, for both procurements below and above \$200,000.

Monitoring compliance

4.10. A key concern raised during evidence to the inquiry was that the ACT Government does not monitor procurement compliance nor reports on adherence to probity and ethical considerations across tender processes, particularly for procurements worth under \$200,000. The Committee were concerned to learn from the Audit Office that of the 33 audits that were investigated, there were none 'that got it right all the way through'.²⁷

4.11. When asked about how Procurement ACT measures adherence to the various procurement guidelines and principles, Mr Bain told the Committee that Procurement ACT does not 'formally monitor or run a compliance regime':

When matters come to our attention, such as procurement activity that goes awry or that could have been done in a better way, we bring that up with the directorate both at operational level, through monthly meetings that my officers have with each directorate and their procurement leads, and also in quarterly and six-monthly meetings with directors-general, at which we undertake to bring across what is going on in their directorate in the procurement space.²⁸

4.12. Mr Bain stated that to measure the effectiveness of the reforms stemming from the recommendations in the Audit Report, Procurement ACT would have to watch 'as it plays out'.²⁹ Mr Bain added:

We do not see all of that procurement activity; in fact, if it is under \$200,000 we do not see it unless it becomes a notifiable contract. ...

But what I would say is that as a follow-up there would be nothing to stop directors-general from putting in their own assurance schemes for these sorts of

²⁶ *Committee Hansard*, 8 December 2021, p 7.

²⁷ Mr Martin Handley, Director, Performance Audit, ACT Audit Office, *Committee Hansard*, 8 December 2021, p 3.

²⁸ *Committee Hansard*, 8 December 2021, p 12.

²⁹ *Committee Hansard*, 8 December 2021, p 14.

things—to check that the documentation meets the template of material that we have provided, for example, and pick up any deficiencies at that point.³⁰

Mr Bain explained that while ‘there is some rudimentary reporting out of a system that we provide to directorates to use for these low-value, low-risk activities’, the ‘reporting is not as detailed or granular as we might like’.³¹

- 4.13. The Committee is of the view that the ACT Government should actively monitor and report annually on procurement activity within its directorates. It considers that the ACT Government should put in place assurance schemes across its directorates to monitor procurements, hold detailed records of compliance and non-compliance and relevant remediation actions, and monitor that staff who are involved in procurement have attended appropriate training.

Recommendation 5

The Committee recommends that, by December 2022, the ACT Government in collaboration with Procurement ACT, put in place assurance schemes across its directorates that:

- monitor the effectiveness of procurement reforms;
- ensure that there is an accurate and detailed record of instances of non-compliance in procurements;
- annually report on adherence to probity and ethical considerations across tender processes;
- record remediation actions undertaken for non-compliance; and
- monitor that staff who undertake procurements have had the necessary and appropriate training.

Penalties for non-compliance and breaches

- 4.14. During its public hearing, the Audit Office told the Committee that it was not aware that it saw any instances of repercussions for staff involved in the procurement oversights.³² The Auditor-General told the Committee that generally there are repercussions for public servants who do not get the procurement process right, but that depends on ‘the scale of the issue’:

Indeed, those repercussions can go all the way to termination of employment if the scale of the breach is sufficient. To be fair, the vast majority of these breaches were at the minor end of the scale, and a lot of them were not large procurements, either. So, yes, there are penalties. Those penalties can be invoked

³⁰ *Committee Hansard*, 8 December 2021, p 14.

³¹ *Committee Hansard*, 8 December 2021, p 15.

³² Mr Michael Harris, ACT Auditor-General, ACT Audit Office, *Committee Hansard*, 8 December 2021, p 4.

through various pieces of legislation, depending upon the nature of the breach. It might be a disciplinary action; at the top end of the scale it would be a termination.³³

- 4.15. When asked whether management action is taken as a result of non-compliance, such as further training, counselling or termination of employment, Mr Bain stated ‘I do not know’, adding that:

Certainly, I would not be implementing any of that unless it was one of my staff that was found to have had a failing or a shortcoming. I presume that in the normal management of the directorates, those things would be taken into consideration.³⁴

- 4.16. It is the view of the Committee that the ACT Government should implement management action for staff who breach the procurement framework when conducting any procurement, but in particular those worth above \$200,000. The Committee proposes that management action could include, but is not limited to counselling, re-training, sanctions, or the termination of employees. In addition, the Committee considers that adherence to the procurement framework should be incorporated into relevant performance management systems to ensure that non-compliance is monitored and reported on.

Recommendation 6

The Committee recommends that the ACT Government implement a system of management action for staff undertaking procurements who breach the procurement framework. In doing so, the Committee recommends that non-compliance, and management action is monitored and reported through the relevant directorates performance management system.

Notifiable contracts register

- 4.17. The Committee heard from the Audit Report that, at the time of the audit, ‘three of the 33 procurements considered as part of the audit had not been published on the ACT Government Contracts Register’. Reasons were due to:
- a misunderstanding about the need to publish contracts that are made under panel arrangements; and
 - administrative errors by the entity responsible for the procurement.³⁵
- 4.18. Special Minister of State, Mr Steel stated that ‘ultimately anything that has gone through procurement that results in a contract is then published transparently’ on the contracts register.³⁶

³³ *Committee Hansard*, 8 December 2021, p 3.

³⁴ *Committee Hansard*, 8 December 2021, p 12.

³⁵ Auditor-General’s Report No. 7 of 2021, p 37.

³⁶ *Committee Hansard*, 8 December 2021, p 16.

4.19. Mr Bain stated that the register ‘was not designed as a reporting tool’ and explained that:

It was designed as a tool to provide a once-a-year procurement officer with the scripting, where they essentially put in what it is they want. It prompts them as to the right form of words to use in any approach to market documentation and provides certain templates. It draws on a bank of fundamental contract elements that would then flow into any contract arising from that procurement.

With that in mind, there was not a lot of thought put into its development for reporting against any activity. I can tell, for example, how many people have started a procurement on there, but I cannot always tell how many of them have resulted in a contract or if it has gone through.³⁷

4.20. The Committee is of the view that this comment made on the notifiable contracts register is incorrect. The notifiable contracts register was established under Division 3.2 of the *Government Procurement Act 2001*, and its purpose is to provide public access to ACT Government contracts. The Act provides that:

- the register must be kept and maintained electronically, and the material on the website³⁸ must always be accessible by the public, and for at least two years after the day in which the notifiable contract ends (sections 27 and 29);
- the register must contain minimum information for each notifiable contract (section 28);
 - Examples of minimum information prescribed by section 28 includes (but is not limited to): the parties to the contract, the responsible Territory entity, the date the contract was made and ends, the value of the total consideration, whether any part of the contract is confidential text.
- within 21 days after the day a notifiable contract is made, the minimum information of the contract must be entered into the register (section 30); and
- any part of the contract should not be confidential unless the responsible Territory entity is satisfied of the grounds for confidentiality of information under paragraph 35(1)(a).

4.21. As such, the Committee considers that the register *was* designed as a public reporting tool and considers that it must be kept up-to-date and accurate to allow for all procurements to be accurately recorded.

Recommendation 7

The Committee recommends the ACT Government ensure that all procurements above the threshold are accurately reported on the ACT Government Contracts Register.

³⁷ *Committee Hansard*, 8 December 2021, p 16.

³⁸ See <https://tenders.act.gov.au/contract/search>.

ACT Government Procurement Board

- 4.22. The relationship between Procurement ACT and the Government Procurement Board raised some confusion during the Committee's public hearing. The Auditor-General told the Committee that the relationship is something that the Audit Office does not fully understand.³⁹
- 4.23. Mr Steel provided the Committee with an overview of the Government Procurement Board through a question taken on notice, stating that 'the Board was created with responsibility for the ongoing improvement of procurement practices and purchasing skills in Government agencies'. Mr Steel also provided that Procurement ACT has the following interactions with the Board:
- **Secretariat:** Procurement ACT provides the services of a senior officer to fulfil secretariat functions and coordinate the Board half yearly and yearly annual reports, facilitate the administrative processes for Board recruitment and appointment and the necessary Cabinet/Committee clearances.
 - **Board Observer:** the Executive Branch Manager – Procurement Policy and Capability Branch attends Board meetings as an observer to provide technical advice on the Procurement Framework to Board members if requested. The Observer also identifies themes and issues raised by the Board to inform and improve future procurement practices and guidance for Territory entities.
 - **Goods and Services Procurement Officer:** the Goods and Services Procurement Branch provides procurement advisory services to Territory entities undertaking goods and services procurements over \$200,000 to ensure they adhere to the Procurement Framework and provide guidance on best practice procurement approaches.

The Board's role and advice is independent from the services provided to Territory entities by Procurement ACT. Further, Procurement ACT does not have a role in considering and implementing any advice provided by the Board for specific procurement proposals as that is the responsibility of the relevant Territory entity delegate.⁴⁰

³⁹ *Committee Hansard*, 8 December 2021, p 5.

⁴⁰ Mr Chris Steel MLA, *answer to QTON 01*, received 14 January 2022.

- 4.24. The Committee notes that further guidance on the respective roles of Procurement ACT and the Government Procurement Board should be made publicly available online to avoid confusion.

Recommendation 8

The Committee recommends that the ACT Government publishes online further guidance on the respective roles of, and relationship between, Procurement ACT and the Government Procurement Board.

- 4.25. Under the *Government Procurement Act 2001* the Government Procurement Board is comprised of nine members:

... five are Public Employee Members from the ACT Public Service (including the Chair and Deputy Chair) and four are Non-Public Employee Members. Members are appointed by the Special Minister of State for a term no longer than five years.⁴¹

- 4.26. The Committee is of the view that the Chair of the Government Procurement Board should be a non-government member to ensure that it can take an independent oversight position over procurement proposals from the ACT Government's directorates.

Recommendation 9

The Committee recommends that the *Government Procurement Act 2001* is amended to ensure that, as an independent body, the Government Procurement Board Chair is a non-government member.

⁴¹ Mr Chris Steel MLA, *answer to QTON 01*, received 14 January 2022.

5. Conclusion

- 5.1. The Committee is of the view that the Auditor-General's audit report into *Procurement Exemptions and Value for Money* was important in identifying and highlighting failures in high value procurements undertaken across all areas of the ACT Government. The Committee endorses the Auditor-General's recommendations.
- 5.2. The Audit Report identified areas for improvement in the quality and comprehensiveness of procurement documentation across government and guidance on the management of procurement risk, while optimising whole of life costs. In addition, the Audit Report identified that there is a need for greater use of policy guidance and more training to improve the understanding of integrity issues in procurement within agencies.
- 5.3. The Committee has made nine recommendations in relation to its inquiry into the Auditor-General's Report No. 7 of 2021.

Mrs Elizabeth Kikkert MLA
Chair, Standing Committee on Public Accounts
15 June 2022

Appendix A: Submissions

No.	Submission by	Received	Published
1	ACT Government	23/11/21	08/12/2021

Appendix B: Witnesses

Wednesday 8 December 2021

ACT Audit Office

- **Mr Michael Harris**, ACT Auditor-General
- **Mr Brett Stanton**, Assistant Auditor-General, Performance Audit
- **Mr Martin Handley**, Director, Performance Audit, ACT Audit Office

Chief Minister, Treasury and Economic Development Directorate

- **Mr Chris Steel**, Special Minister of State
- **Mr Glenn Bain**, Executive Group Manager, Procurement ACT

Appendix C: Questions taken on notice

Questions taken on notice

No.	Date	Asked of	Subject	Response received
1	08/12/21	Minister Steel	Relationship between Procurement ACT and Government Procurement Board	14/01/22