

2026

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ELEVENTH ASSEMBLY

Government Procurement Board – Terms of Reference and Strategic Direction

Ministerial direction presented pursuant to the *Government Procurement Act 2001* s 31(4)

**Presented by
Rachel Stephen-Smith MLA
Minister for Finance
February 2026**

Coretta Bessi
Chairperson
Government Procurement Board

Our ref: CMTEDD2025/4820

By email: Coretta.Bessi@act.gov.au; governmentprocurementboard@act.gov.au

Dear Ms Bessi *Coretta*

Written direction to Board (No. 2)

Pursuant to section 31 of the *Government Procurement Act 2001* (Act), I direct the Board as follows about the exercise of its functions.

Revocation

I revoke the direction implementing the current Terms of Reference and Strategic Direction.

Terms of Reference and Strategic Direction

I direct the Board to implement the attached Terms of Reference and Strategic Direction, effective from the date of this direction. As you would note, these reflect only a minor administrative change from the versions notified earlier this year.

Next steps

In accordance with section 31(5) of the Act, the Board must comply with this direction. I ask that the Board collaborates with Procurement ACT to give effect to this direction.

In accordance with section 31(4) of the Act, this direction, including the attached Terms of Reference and the Strategic Direction, will be presented to the Legislative Assembly within six sitting days of issue. They will also be published on the Procurement ACT website.

Should you have any questions, please contact Ms Leanne MacLaughlan, Executive Branch Manager (a/g), Procurement ACT at Leanne.macLaughlan@act.gov.au.

Yours sincerely



Rachel Stephen-Smith MLA

2 December 2025

Attachments:

- *Terms of Reference*
- *Strategic Direction*

act.gov.au

● Terms of Reference

ACT Government Procurement Board

(Published November 2025)



Acknowledgement of Country

The Government Procurement Board acknowledges the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region.

We respect the Aboriginal and Torres Strait Islander people, particularly our Aboriginal and Torres Strait Islander staff, and their continuing culture and contribution they make to the Canberra region and the life of our city.

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1. Key concepts

1.1. Context

- 1.1.1. The ACT Government Procurement Board (Board) was established in accordance with the *Government Procurement Act 2001* (Act).
- 1.1.2. The purpose and functions of the Board are specified in section 29 of the Act, and in Part 5 of the *Government Procurement Regulation 2007* (Regulation).
- 1.1.3. This Terms of Reference (ToR) forms part of a written direction given by the Minister for Finance to the Board under section 31 of the Act.
- 1.1.4. This ToR sets out how the Board exercises aspects of its purpose and functions, consistent with the Board's Strategic Direction.¹
- 1.1.5. The Board may determine its performance metrics against this ToR and the Strategic Direction in consultation with the Minister.
- 1.1.6. The Board may seek advice through Procurement ACT in relation to matters relating to the exercise of its functions, including the matters in this ToR.

1.2. Membership and commitment to diversity

- 1.2.1. Section 32 of the Act specifies the constitution of the Board.
- 1.2.2. Board membership, composition and tenure are in accordance with the requirements in the Act.
- 1.2.3. Reflective of the nature and breadth of procurements undertaken by the Territory, and subject to the availability of candidates, Board membership should reflect senior level expertise in various categories of procurement. Member specialisation in finance, construction, ICT, law, probity, community and human services, Aboriginal and Torres Strait Islander entities, small and medium business entities and the private or not-for-profit sector is also valued.
- 1.2.4. The selection process for Board members will be conducted in accordance with applicable ACT Government policy and seek to represent a broad cross section of the community, with regard to the considerations in this ToR. Where female representation on the Board is below 50 per cent, the relevant selection process will aim to improve female representation.

1.3. Code of Conduct

- 1.3.1. On commencement of their appointment, and on an annual basis thereafter, Board members must sign the Board Code of Conduct, as updated from time to time. The Code of Conduct will include requirements that Board members:
 - a. act in good faith;
 - b. act in the best interests of the Territory; and

¹ The Strategic Direction is also a written direction given by the Minister for Finance to the Board under section 31 of the Act.

- c. exercise the degree of honesty, care and diligence required to be exercised by a director of a company in relation to the affairs of the company.
- 1.3.2. Board members must complete any reasonable training and development requirements as instructed from time to time by the Chairperson or the Minister. At a minimum, Board members must complete the following e-learning modules:
 - a. Overview of the ACT Government Procurement Framework (on appointment to the Board); and
 - b. Probity in Procurement (on appointment to the Board and in accordance with the *Government Procurement Rules 2024* thereafter).
- 1.3.3. Board members must make themselves aware of, and ensure that they comply with, all relevant obligations that apply to them by virtue of their membership of the Board, including as applicable under:
 - a. legislation and instruments such as the Act, *Financial Management Act 1996*, *Public Sector Management Act 1996*, *Public Sector Management Standards 2016* and ACT Public Sector Code of Conduct;
 - b. ACT Public Service values and signature behaviours;
 - c. applicable ACT Government policies or procedures; and
 - d. the Board's ToR and Strategic Direction as amended from time to time.
- 1.3.4. The Board must manage conflicts of interest and conflicts of duties as specified in Appendix A.
- 1.3.5. The requirements in this ToR are in addition to public employee Board members' obligations under broader employment-related legislation, policies and procedures that apply with respect to their duties on the Board.

1.4. Probity

- 1.4.1. The Board must consider probity in the exercise of its functions, including:
 - a. any conflicts of interest or conflicts of duties declared by Board members;
 - b. whether a Territory entity has appropriately considered probity risks in a procurement reviewed by the Board and has implemented appropriate risk treatments;
 - c. whether security (including protective security) and confidentiality considerations are required, and if so, whether proposed measures are adequate; and
 - d. whether engagement of a probity advisor or auditor should be considered by the Territory entity with regard to the risk of the procurement assessed by the Territory entity.
- 1.4.2. The Board's review of a procurement does not outsource a Territory entity's accountability for probity. The Territory entity remains responsible for assessing and managing probity risk in a procurement.

2. Operations

2.1. Meetings and out of session considerations

- 2.1.1 In addition to meeting at least once each financial year under section 19 of the Regulation, the Chairperson may call a meeting with one or more members in relation to any matters relevant to the Board's exercise of its functions. A meeting may occur:
- a. regularly (noting that the Board will typically meet once per week to consider procurement proposals and other business);
 - b. at any time provided that sufficient and reasonable notice is given to Board members regarding the time and place of the meeting; and/ or
 - c. on the request of by the Minister or at least three other Board members.
- 2.1.2 The Chairperson may invite an ACT public servant to attend a meeting to provide advice, present on a topic, or answer any questions.
- 2.1.3 To reach agreement on any matter discussed at Board meetings, the Board may agree to vote or reach decision by consensus. In this instance, each Board member has one vote to decide on each matter. Board agreement must be reached by a majority vote of all Board members present who have not otherwise recused themselves. Where votes are tied, the Chairperson (and in the absence of the Chairperson, the Deputy Chairperson) has the casting vote.
- 2.1.4 Where decisions are made by consensus, all Board members who have not made their objection clear or recused themselves will be taken to have voted in the affirmative.
- 2.1.5 Board decisions and votes are reflected in written minutes and approved at the following meeting or by an out of session resolution. Where decisions are made by consensus, all present Board members who have not recused themselves will be taken to have voted for that decision.
- 2.1.6 If the minutes are considered out of session, Board members should provide comments/endorsement of the minutes within the required timeframe. If a Board member does not provide a comment within the required timeframe, the Board member is taken to endorse the minutes.
- 2.1.7 The Board may also agree on recommendations and observations out of session. If the recommendations and observations are considered out of session, Board members should provide comments or endorsement within the required timeframe. If a Board member who has not otherwise recused themselves does not provide a comment by the required timeframes, the Board member is taken to have endorsed the relevant recommendations without further observations. Any recommendations and observations endorsed out of session must be recorded in writing and detail the:
- a. rationale for the recommendations and observations;
 - b. associated key risks and concerns;
 - c. Board members who agreed (or were taken to agree) with the recommendations, advice and observations;
 - d. Board members who did not agree with the recommendations, advice and observations; and
 - e. Board members who recused themselves from a decision where a conflict of interest or conflict of duties was declared, and the nature of that conflict.

2.2. Board quorum

- 2.2.1. As a matter of better practice, and where decisions are required, the Board must endeavour to undertake a meeting where at least five Board members are present, including:
 - a. at least three attendees who are non-public employee members (which may include the Chairperson); and
 - b. at least two attendees who are public employee members (which may include the Deputy Chairperson).
- 2.2.2. The Board may agree that routine or minor business is carried out on behalf of the Board by:
 - a. the Chairperson and one public employee member (which may include the Deputy Chairperson); or
 - b. the Deputy Chairperson and one non-public employee member (which may include the Chairperson).
- 2.2.3. The Board will have regard to the advice schema at Appendix B in the exercise of its functions.

2.3. Proposed leave for more than three consecutive meetings

- 2.3.1. Section 36(3)(b)(ii) of the Act relevantly provides that the Minister may end the appointment of any member if the member is absent, other than on leave approved by the Minister, from three consecutive meetings of the Board.
- 2.3.2. If a Board member proposes to take leave for a period of more than three consecutive meetings, that member should, prior to the proposed commencement date of that leave, inform the Chairperson and Secretariat, and follow the protocol specified by the Chairperson and Secretariat to obtain approval for such leave.

2.4. Secretariat and other support

- 2.4.1. Procurement ACT within the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) provides secretariat and other support for the Board, by:
 - a. preparing and distributing agendas, documents, and meeting materials;
 - b. keeping minutes and recording decisions and votes;
 - c. in consultation with the Board Chairperson, setting timeframes for out of session endorsement of minutes, recommendations and observations;
 - d. maintaining appropriate records of all declared conflicts of interest and conflicts of duties raised for a procurement, as well as how conflicts were considered and managed, in a conflict register;
 - e. advising as to Board processes and procedures to be followed by Board members;
 - f. communicating with Territory entities on behalf of the Board;
 - g. facilitating training for Board members;
 - h. issuing and maintaining a record of documents that Board members must complete on commencement and on an annual basis;

- i. subject to the reasonable requirements of the Board, making available real time reporting to the Board on the number of procurements and/or applications for accreditation reviewed by the Board, formal complaints received in respect of procurements reviewed by the Board, and the number of recommendations made by the Board in respect of reviewed procurements;
 - j. preparing templates for Board members' use (for example, relating to a conflict of interest declaration);
 - k. facilitating the provision of Anticipated Procurement Activity reports to the Board in accordance with the *Government Procurement Rules 2024*;
 - l. maintaining and managing a record of information, discussions and decisions that will inform the Board's reporting obligations;
 - m. preparing early drafts of periodic reporting to be provided by the Board, based on the records for the relevant financial year, and providing this to the Board for consideration;
 - n. updating the Procurement ACT website to detail membership of the Board; and
 - o. in consultation with the wider Procurement ACT, providing advice to the Board on the ACT Government Procurement Framework and undertaking other tasks.
- 2.4.2. The Secretariat will accept documents submitted by a Territory entity where the documents relate to the exercise of one or more functions of the Board.

2.5. Accreditation Program - Goods and Services

- 2.5.1. This ToR establishes the Board as the governance body under the Accreditation Program - Goods and Services (Accreditation Program).
- 2.5.2. To exercise this function, the Board evaluates and confirms the accreditation level for Territory entities or business units within Territory entities, having regard to recommendations provided by Procurement ACT's Accreditation team.
- 2.5.3. Procurement ACT's Accreditation team supports the Board to perform its function as the governance body for the Accreditation Program, including by:
- a. reviewing each Territory entity's (or business unit's) accreditation application and recommending an accreditation level to the Board;
 - b. conducting periodic assurance processes; and
 - c. notifying Territory entities or business units of the accreditation level determined by the Board.

2.6. Appropriate security and confidentiality arrangements

- 2.6.1. Confidential information includes information about a procurement or a potential supplier/s in written, digitised, spoken or any other form, which has not been authorised for release as public information by the relevant Territory entity.

- 2.6.2. Board members must implement appropriate measures of security for all information, documents, devices and systems which contain confidential information. Appropriate information-handling processes may include:
- a. requesting access to confidential information only as necessary to perform the Board's role;
 - b. adhering to any directions from Procurement ACT regarding electronic document management;
 - c. keeping hard copies of confidential information in locked offices or locked filing cabinets when the confidential information is not in use; and
 - d. not allowing confidential information to be displayed at times or in places where the information could be read by unauthorised persons.
- 2.6.3. Board members must treat all records relating to their Board functions, including all documents which include a decision record, in accordance with any directions from the Secretariat and otherwise in accordance with any Territory legislation (as applicable to CMTEDD) for the maintenance and disposal of records, or with other Territory security and disposal instructions.
- 2.6.4. Misuse of information gained through membership of the Board may constitute an offence under the Act (for example, see section 35).

3. Performance and reporting

3.1. Annual report

- 3.1.1. The Board's annual report must comply with the *Annual Reports (Government Agencies) Act 2004* and accompanying directions.
- 3.1.2. The Board's annual report must include:
- a. information setting out the Board's performance, including procurements reviewed, recommendations provided, procurement practices reviewed and/or endorsed; and
 - b. a summary of how conflicts of interest and conflicts of duties were managed.

3.2. Reporting to the Minister

- 3.2.1 The Board must report from time to time to the Minister in relation to its purpose and the exercise of its functions, including:
- a. relevant performance and conflict of interest matters;
 - b. opportunities and challenges in discharging the Board's functions to inform the review of the legislative amendments that commenced on 1 July 2024;
 - c. outcomes of the Board's strategic planning meetings that require Ministerial consideration;

- d. specific or systemic procurement risks identified by the Board, and recommendations for addressing those risks; and
- e. proposed amendments to this ToR and the Strategic Direction.

Appendix A

1. Managing conflicts of interest

- 1.1 As public officials, Board members must act with the highest standards of ethical conduct including in relation to managing conflicts of interest.
- 1.2 Conflicts of interest can arise during the Board's consideration of a procurement when a Board member has an affiliation or interest through their associations, or through circumstances that might prejudice or be perceived to prejudice their impartiality.
- 1.3 It is the responsibility of each Board member to declare their own conflicts of interest, and to manage any such conflicts of interest appropriately. Neither the Secretariat nor Procurement ACT is responsible for doing so.
- 1.4 If a Board member has signed any other confidentiality agreement in relation to their responsibilities outside of the Board, compliance with this ToR and associated applicable legislation does not necessarily require the Board member to breach those confidentiality requirements. In some instances, the confidentiality agreement may give rise to a disclosable interest that requires appropriate declaration and management by the Board member.
- 1.5 The ACTPS Conflict of Interest Policy² provides additional guidance on conflicts of interest, including what may constitute a conflict and appropriate management strategies.
- 1.6 As soon as a Board member becomes aware that they may have a conflict of interest, they must disclose the conflict to the Chairperson, including the nature and potential risks associated with the conflict of interest. Members must operate based on 'if in doubt, declare the interest.'
- 1.7 Where the Chairperson has a conflict of interest, this must be declared to the Executive Group Manager, Procurement ACT.
- 1.8 If a Board member is concerned about another Board member's conflict of interest, this must be raised with the Chairperson, or if it relates to the Chairperson, the Executive Group Manager, Procurement ACT.³
- 1.9 The Board may seek probity or legal advice (as appropriate) on appropriate management of a conflict of interest (including conflicts arising for the Chairperson) as required through the Executive Group Manager, Procurement ACT.
- 1.10 If a Board member has a conflict of interest in respect of a particular matter, that member must recuse themselves from the matter until the Board has decided how the conflict will be managed. The Board member may be requested to leave the meeting when the Board is deciding how the conflict must be managed. Board meeting minutes must detail:
 - a. the nature of the conflict;
 - b. how the Board decided the conflict was to be managed; and

² Policy number: 10/2021, as updated from time to time.

³ A disclosure may also be made under the provisions of the *Public Interest Disclosure Act 2012* where the conduct constitutes 'disclosable conduct'. If a Board member has a reasonable suspicion that a Board member has engaged in corrupt conduct, then the matter should be reported to the ACT Integrity Commission.

- c. which Board member/s made this decision.
- 1.11 If a conflict of interest is declared, a Board member must not participate further in the matter at hand until the management of the conflict has been agreed and documented in the Board minutes and the conflicts register.
- 1.12 Conflicts of interest must be dealt with in a way that is proportionate to the risks associated with the conflict. Given the purpose, function and composition of the Board, it is expected that a conservative approach will be taken to the management of a declared conflict.

2. Managing conflict of duties

- 2.1. As public officials, Board members must act with the highest standards of ethical conduct including in relation to managing conflicts of duties.
- 2.2 A conflict of duties occurs when a reasonable person could conclude that a public official or entity has public duties that are incompatible. This includes situations where fulfilling one's public duty may compromise or favour another.⁴
- 2.3. It is important to note that all members are appointed in their individual capacity and not in a representative capacity for their employing entity.
- 2.4. A member must recuse themselves from a matter before the Board where that matter falls within their (or their subordinates') entity's responsibilities, until the Board has decided how the conflict will be managed, including where the Board member sits on steering committees or other internal governance mechanisms in relation to a procurement. The Board will follow the processes listed above in relation to the management of a conflict of Interest.
- 2.5. A member is not required to recuse themselves from Board matters which fall within their employing entity but otherwise falls outside their (or their subordinates') administrative responsibilities. Public employee members should exercise caution in performing their functions recognising the importance of perceptions. Where a public employee member wishes to speak on behalf of their entity or otherwise advocate in relation to a procurement from their agency, it is prudent that the member recuse themselves from the Board's deliberations on the matter.
- 2.6. Members must adhere to the Guidance for ACT Public Servants who are also ACT Public Sector Statutory Office Holders.⁵

3. Annual declarations

- 3.1 Prior to their appointment commencing, and thereafter annually to coincide with each financial year, Board members must declare any relevant interests in writing, including:
 - a. a pecuniary/financial interest; and
 - b. a non-pecuniary interest such as that which may arise from personal or family relationships or involvement in sporting, social, religious or cultural activities.

⁴ Managing conflicts of duties in the NSW public sector, page 3 as cited in Guidance for ACT Public Servants who are also ACT Public Sector Statutory Office Holders (Policy Number: 8/2025, current version: July 2025)

⁵ Policy number: 8/2025, as updated from time to time.

- 3.2 The annual declaration must be made in the format determined by the Secretariat from time to time.

4. Register of interests

- 4.1 Among other things, to inform annual reporting, the Board will maintain, review and regularly update through the Secretariat, a register of all declared conflicts that details:
- a. who disclosed the conflict;
 - b. the nature of the disclosed conflict; and
 - c. how the Board dealt with the conflict.
- 4.2 As a transparency measure, a summary of how conflicts were managed during the reporting period must be provided as part of the Board's annual report (see section 3 of the ToR 'Performance and reporting').

5. Gifts, benefits and hospitality

- 5.1 A gift, benefit or hospitality offered and accepted regardless of its value has the potential to give rise to a conflict of interest in and/or to damage the reputation of the Board member or the Board.
- 5.2 Board members must exercise careful judgement when deciding whether to accept gifts and hospitality from potential suppliers as this might give rise to actual, potential or perceived conflicts.
- 5.3 Board members must comply with the Gifts, Benefits and Hospitality Policy.⁶ For the purposes of the policy, the relevant delegate is the Executive Group Manager, Procurement ACT.

⁶ Policy number: 40/2022, as updated from time to time.

Appendix B

1. Advice schema

- 1.1. All documents presented to the Board must first be authorised by the relevant Delegate or Chief Executive Officer of the Territory entity, and contain the following minimum information:
 - a. the proposed procurement strategy, and how it achieves better value for money with regard to other potential strategies;
 - b. an appropriate evaluation of risks and the risk mitigation strategies adopted;
 - c. anticipated procurement objectives and outcomes; and
 - d. the Procurement Values that are proposed to be applied in the procurement.
- 1.2. In considering risk, the Board will, among other relevant considerations have regard to the following as relevant:
 - a. whether the requirements of the procurement are standard and commonly purchased, or one off and unique;
 - b. whether the requirements of the procurement include the provision of sensitive or confidential information to the supplier;
 - c. the degree of market concentration, or risks of anti-competitive behaviour;
 - d. the likelihood of public interest in, or media in relation to the procurement; and
 - e. the complexity of the approach to market and request type.
- 1.3. Where the Board reviews a procurement under section 14(1)(e) of the Regulation, the Board will inform the relevant Delegate or Chief Executive Officer of the Territory entity of its intention to do so.

● Strategic Direction

ACT Government Procurement Board

(Published November 2025)



Acknowledgement of Country

The Government Procurement Board acknowledges the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region.

We respect the Aboriginal and Torres Strait Islander people, particularly our Aboriginal and Torres Strait Islander staff, and their continuing culture and contribution they make to the Canberra region and the life of our city.

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1. Key concepts

1.1. Context

- 1.1.1. The ACT Government Procurement Board (Board) was established in accordance with the *Government Procurement Act 2001* (Act).
- 1.1.2. The purpose and functions of the Board are specified in section 29 of the Act, and in Part 5 of the *Government Procurement Regulation 2007* (Regulation).
- 1.1.3. This Strategic Direction forms part of a written direction given by the Minister for Finance to the Board under section 31 of the Act to define the Board's strategic priorities and support the Board's Terms of Reference.¹
- 1.1.4. The Minister may review this Strategic Direction from time to time. If the Minister determines that no changes are required, this Strategic Direction will be updated by Procurement ACT to reflect the financial year(s) to which it applies.
- 1.1.5. The Board may, in consultation with the Minister, determine focus areas for a financial year.

2. Focus areas

2.1 Strategic engagement

- 2.1.1. The Board will focus on opportunities for greater engagement with Territory entities at a strategic level, rather than in relation to a single procurement. Examples of strategic engagement include:
 - a. inviting one or more Territory entities that are directorates (or part of a directorate) to present key information about their strategic procurement plan for the 2025-26 financial year, with reference to the relevant Anticipated Procurement Activity. The Board will provide any strategic recommendations, advice or observations to presenting Territory entities (individually or collectively as appropriate), including to better leverage the Territory's collective buying power;
 - b. making contributions to Procurement ACT publications, the Procurement Community of Practice, or other cross-government forums on topics that support a more strategic approach to procurement, based on its functions or advice from Territory entities; and
 - c. meeting with a Chief Executive Officer or other senior officer of a Territory entity that is a directorate to discuss measures to lift procurement capability and better practice.

¹ The Terms of Reference also forms part of a written direction given by the Minister for Finance to the Board under section 31 of the Act.

2.2 Review of government procurement practices

- 2.2.1 To inform the exercise of its function to review government procurement practices under section 29(2)(a)(ii) of the Act, the Board will focus on the practical application of the *Government Procurement (Charter of Procurement Values) Direction 2020* (Procurement Values).
- 2.2.2 Following consultation with the relevant Territory entity, the Board may review one or more procurements from Anticipated Procurement Activity reports that are not otherwise required to be reviewed by the Board under section 14 of the Regulation and which may provide opportunities to engage suppliers based in Canberra region under one or more procurement values of:
- a. Aboriginal and Torres Strait Islander economic participation;
 - b. business development and innovation, with a focus on micro or small enterprises; or
 - c. diversity, equality and inclusion.
- 2.2.3 Following its review, the Board may:
- a. provide advice to the Minister on any issue relevant to the application of the Procurement Values (refer section 29(2)(e) of the Act); and
 - b. make any recommendations to the Minister to improve the implementation of the Procurement Values (refer section 29(2)(d) of the Act).