



STANDING COMMITTEE ON PUBLIC ACCOUNTS

Elizabeth Kikkert MLA (Chair), Michael Pettersson MLA (Deputy Chair),
Andrew Braddock MLA

Inquiry into Auditor-General's Report 7 of 2021: *Procurement Exemptions and Value for Money*
ANSWER TO QUESTION TAKEN ON NOTICE
8 December 2021

Asked by Mr Pettersson on 8 December 2021: Mr Steel took on notice the following question(s):

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In relation to:

MR PETERSSON: It seems like quite a tight-knit relationship, with information going in both directions between the board and Procurement ACT. Would there be any benefit in providing a clearer separation of the roles and the independence of those two entities?

Mr Bain: There are certainly a number of models in other jurisdictions that do not have quite the same relationship as envisaged in our act or in practice. It is probably not really for me to comment on what might be a better version, but there certainly are other models around.

Mr Steel: It might be helpful, on notice, to provide a diagram of the structure. I think the important thing to note is that the way that the Government Procurement Act is structured, the delegate in each directorate signs off on procurements. So the Procurement Board is part of the governance framework for procurements taking place, whereby certain procurements go to that board so that there is an external oversight of what is actually happening in relation to a procurement, and so any further advice that needs to be given can be given.

So the board itself is part of providing that independence. Procurement ACT is involved in that—not directly as part of signing-off on the procurement but providing advice so that that procurement can occur in the best way. So, yes, we can provide that type of diagram if that suits the Auditor-General and yourselves, to understand the role of the board.

Mr Chris Steel MLA: The answer to the Member's question is as follows:–

Attachment A provides an overview of the entities involved in the procurement process, including the Board.

Attachment B provides an overview of the standard process and responsibilities for proposals going to the Board for review.

The Government Procurement Board (the Board) was established on 1 August 2001 by the *Government Procurement Act 2001* (ACT) (the Act). The Board's functions and purpose are outlined in section 6 and section 22A of the Act, as well as the Government Procurement Regulation 2007 (Regulation).

The Board was created with responsibility for the ongoing improvement of procurement practices and purchasing skills in Government agencies. The Board's functions as outlined in section 6 of the Act are as follows:

- Give advice on procurement issues to Territory entities;
- Give advice on procurement proposals required by regulation, referred to the Board by a Minister or responsible Chief Executive Officer;
- Consider, advise on and, if appropriate, endorse procurement practices and methods for use by territory entities;
- Provide advice to the Minister on any issue relevant to the procurement activities of territory entities or the operation of the Act.

While advice is provided to the relevant delegate, the Board does not approve or otherwise endorse individual procurement proposals that come before it.

Section 11 of the Regulation states that the following types of procurement proposals must be reviewed by the Board:

- a procurement proposal that has a total estimated value of \$5 million or more, unless the proposal is covered by an endorsed strategic procurement plan;
- a procurement proposal of a territory entity (other than an administrative unit) that has a total estimated value of \$1 million or more, unless the proposal is covered by an endorsed strategic procurement plan;
- a procurement proposal in relation to information and communications technology that includes an element of system development or redesign and has a total estimated value of \$1 million or more;
- a disposal that has a total estimated value of \$1 million or more.

The 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.

Under the Act, each Board Member must exercise the degree of honesty, care and diligence required of a director of a company, when exercising their functions. The Board's Code of Conduct embodies principles that should be observed by all members. The Code of Conduct is formally accepted by each Board Member. To ensure the probity and independence of the Board is maintained, amongst other items, the Code of Conduct states that members should declare any conflicts of interests and subject to Board processes, they will then be requested to abstain from discussion and voting on relevant issues. Declaring conflicts of interest is also a standing agenda item in Board meetings.

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.

Approved for circulation to the Standing Committee on Public Accounts.

Signature:



Date:

13/1/22

By the Special Minister of State, Mr Chris Steel MLA