



STANDING COMMITTEE ON ECONOMIC DEVELOPMENT AND TOURISM

JEREMY HANSON MLA (CHAIR), MICHAEL PETTERSSON MLA (DEPUTY CHAIR), MARK PARTON MLA,
SUZANNE ORR MLA

**Inquiry into referred 2016–17 Annual and Financial Reports
ANSWER TO QUESTION ON NOTICE**



Asked by MR COE MLA:

Chief Minister, Treasury and Economic Development Directorate 2016/17, Procurement and Capital Works,
Output 8.1

In relation to SMS Reforms and Annual Report Highlights:

1. Please outline the third phase of procurement reforms that will be undertaken
 - a. What initiatives will be implemented?
 - b. What are the expected savings?
 - c. Please outline any expected increases in efficiency due to the third phase of reforms.
2. What steps have been taken to improve the systems of tendering and the management of procurement?
3. Are there any instances to suggest that the Capital Framework has resulted in stronger business case submissions?
 - a. If so, please outline these instances.
4. Has the Capital Framework been independently reviewed?
 - a. If so, which body conducted this independent review;
 - b. If not, why not?
5. Please outline what a GC21 form of contract is and:
 - a. What is the training entailed?
 - b. How many contract forms are there?
6. Please provide a consolidated list of the types of contracts used by Procurement and Capital Works including:
 - a. What they are used for;
 - b. The number of times they have been used in 2016/17 and 2017/18 to date.



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Mr BARR MLA: The answer to the Member's question is as follows:—

1. a. The third phase of the SMS program announced in the 2017-18 budget represents a continuation of the SMS Program.
b. The third phase of the SMS program has an additional \$5 million savings target.
c. Each project will have a benefits realisation plan that will include savings to budget and soft savings such as efficiencies through better procurement data, and harmonisation of reporting, and reduction in manual intervention in processes.
2. During 2016-17 Goods and Services Procurement, implemented:
 - a replacement contracts register that integrates with Tenders ACT;
 - a mobile application that provides alerts of tendering opportunities to businesses;
 - a panel management facility that provides simpler mechanisms for both buyers and suppliers to place and respond to work orders for select panels and schemes; and
 - improvements to internal administrative processes for allocation, scheduling and monitoring procurement projects.
3. a. Yes. The upfront planning and project development requirements of The Capital Framework aim to significantly reduce the project variations required during the project delivery stage. As such, a lower proportion of the project's contingency allowance is required due to risks being mitigated prior to the delivery process. This aims to reduce the overall contingency allowance expended compared to previous similar projects and the total project cost is reduced, with the savings being returned to the Budget.

The upfront planning and project development requirement of The Capital Framework is also a significant requirement of projects delivered under integrated and complex delivery models such as Private Public Partnerships, where the nature of the contractual form requires scoping and planning to be predefined in significant detail before contractual close.

4. The last review of The Capital Framework (TCF) was an early review conducted by RSM Bird Cameron in Sept 2015. The outcomes of this review were administrative in nature, aimed at driving effective management of TCF rather than being major alterations to the guidance documentation and processes. The key outcomes included a re-labelling of Tiers, inclusion of a Cost-Effectiveness Assessment as an option for social infrastructure projects, consolidation of the various templates, consideration of the incorporation of the budget Concept Brief stage into the framework's Early Presentation Overview. The Capital Framework is scheduled for its next review in 2018.

The ACT Capital Framework has been listed by the Auditor General for a potential audit in his 2018-19 program (released by the Auditor General in June 2017). Potential areas for audit are the implementation of the Capital Framework, including its effectiveness in aiding capital works project decision-making. The audit may also compare outcomes under The Capital Framework to those under older delivery models such as Construction Only or Project Management Agreements, and examine whether the anticipated financial and other benefits of the Capital Framework are being achieved.



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5. The ACT uses an amended version of the GC21 (Edition 1) General Conditions of Contract with the permission of the NSW Construction Agency Co-ordination Committee.
The NSW Government developed this form of contract following a review of the learnings available from Agencies and on other contract forms in use at the time. It is based on the C21 form of contract which started in NSW in 1996.

GC21 is based on a co-operative working approach between the parties to the contract. The Territory typically uses this form of contract for construction related projects with an estimated value of \$1million or greater.

It has the flexibility to be used for Design and Construct, Document and Construct and Construct only forms of project delivery.

- a. In house training has been provided to Territory officers by both external consultants and the ACT Government Solicitor. Introductory training typically can be for one day. Advanced training has also been provided for officers who have attended the introductory training. In addition there has been one day long course attended by Senior Executives who have, or may take on the role, of the Principal's Senior Executive as provided for by GC21. It is understood that training has been provided by other organizations for their members including the Master Builders Association (ACT).
 - b. Infrastructure Finance and Capital Works has one template form of the GC21 General Conditions of Contract available for the delivery of construction related projects. In 2017 this form of contract has had the option of the inclusion of a Special Condition of Contract clause. This clause modifies this form of contract into a two phase contract. Typically the first phase being the design with the second stage the construction phase. For projects with a value of less than \$1million there is a minor works version of GC21 – MW21 – which is in use on ACT Government construction contracts.
6. a. The Consultancy Agreements are used for the engagement of a consultant to provide professional construction related services such as architectural or engineering design. IMSA is used for infrastructure maintenance service agreements typically entered in to once construction is completed or on existing assets such as stormwater. Short Form of Contract, Work Orders and MW21 are typically used for construction related contracts of low value and lower risk. AS2124, GC21 and the PMA are used for construction contracts with a value typically exceeding \$1million with a higher risk profile. Both GC21 and the PMA have the capacity to include design, either in full or in part, as well as construction of a project. AS2124 is typically a construct only form of contract.

The following lists the types of Goods and Services Agreements currently used:

- Goods Agreement – legal document for the purchase of goods/products
- Service Agreement (Consultant) – legal document for the purchase of professional services (financial advice, planning, engineering consultancies, etc.)
- Service Agreement (Contractor) – legal document for the purchase of maintenance (cleaning, grass mowing etc.) or non-professional services.



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- Goods and Services Agreement - legal document for the purchase of goods/products and their associated maintenance (medical equipment etc.).
- Service Funding Agreement – legal document that outlines the terms, conditions and obligations for funding, service delivery and reporting (accountability) between the Territory and external organisation (generally for Human Service procurements).
- Leasing Agreement – legal document outlining the terms under which an organisation agrees to rent property own by another (building space, goods/equipment, etc.) for a defined timeframe.
- Licencing Agreement – legal document giving a person or organisation permission to use or undertake an agreed activity in a Territory owned place/asset.
- Panel Deed – legal head agreement for establishing a multiple supplier arrangement for regularly used goods or services.
- Short Form Contract – contract used for low value and low risk procurements (goods, services)
- Memorandum of Understanding – a non-binding document that sets out the terms and details of an understanding (requirements and responsibilities) make between two or more parties. Used for agreements made between government entities.
- Deed of Variation (to a contract) – formal document to vary the scope, timeframe or \$value of an existing contract.
- Vendor Agreement – where the vendor's (organisation that is providing a product/or service) contract documentation is used instead of a Territory prepared contract.
- ICT Contracts – ACTGS prepares customised ICT Contracts to the requirements/components specific to a specific procurement.

b. 2016/17 (Infrastructure/Capital Works)

Consultancies	57
AS2124	41
Shortform	42
GC21	19
MW21	35
PMA	23
Work Orders	23

2017/18 (YTD) (Infrastructure/Capital Works)

Consultancies	27
IMSA	1
AS2124	16
Shortform	8
GC21	8
MW21	9
PMA	25
Work Orders	13



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In relation to Goods and Services agreements, the Contracts Register records 977 individual contracts executed in 2016-17 and 252 individual contracts executed in 2017-18 (to 21 November 2017). A breakdown of the nature and type of contract is not readily available from the Contracts Register at this stage for Goods and Services agreements.

Approved for circulation to the Standing Committee on Economic Development and Tourism

Signature: *Andrew Barr*

Date: 29.11.2017

By the Treasurer, Andrew Barr MLA

