



Standing Committee on Economy and Gender and Economic Equality

Inquiry into Annual and Financial Reports 2022-2023 **ANSWER TO QUESTION TAKEN ON NOTICE**

Asked by Peter Cain MLA on 15 November 2023: Sanaz Mirzabegian took on notice the following question(s):

Reference: Hansard Proof Transcript, 15 November 2023, P22

In relation to:

MR CAIN: What guidelines are given to members to say, “Here is where you would need to declare a conflict of interest”?

Ms Konti: Those guidelines exist.

Ms Mirzabegian: Yes, they do exist—

MR CAIN: They are publicly available?

Ms Mirzabegian: Each member is also provided with a briefing when they first become a board member. Abuse of position is also covered in the act as an item— abuse of position by board members. The board members are aware of their responsibilities as board members and, to the extent that we can see, are complying with those.

MR CAIN: But are the guidelines available publicly? Could the guidelines and any instructions to members about their duties be made available and be provided to this committee? **Ms Mirzabegian:** I do not think they are available publicly, but they can be provided

Ms Mirzabegian: I do not think they are available publicly, but they can be provided.

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

Attached is a copy of the Government Procurement Board (GPB) Induction Pack at [Attachment A](#) and Terms of Reference (ToR) at [Attachment B](#). Appendix E of the GPB Induction Pack outlines the Board Code of Conduct including the requirement that Members should declare any conflicts of interest. The GPB Induction Pack and ToR is provided to new Members during the onboarding process. All Members are required to read, agree and sign the Board Code of Conduct prior to commencing as a Member. Section 20 of the Government Procurement Act 2001 prescribes the Members' responsibilities in relation to conflicts of interests.

Approved for circulation to the Standing Committee on Economy and Gender and Economic Equality

Signature: 

Date: 24/11/23

By the Special Minister of State, Chris Steel MLA



ACT
Government

GOVERNMENT PROCUREMENT BOARD

Induction Package

Chief Minister, Treasury and
Economic Development Directorate

CONTENTS

INTRODUCTION 3

APPENDIX A – ROLE OF THE ACT GOVERNMENT PROCUREMENT BOARD 4

APPENDIX B – BOARD PROCESSES AND ADMINISTRATION 5

 Functions of the Board 5

 Board Quorum 5

 Meeting logistics 6

 Meeting papers 6

 Reviewing proposals 6

 Promulgation of meeting decisions 7

 Electronic consideration 7

APPENDIX C – PROCUREMENT LEGISLATION 8

APPENDIX D – BOARD MEMBERS CONTACT LIST AND WEBSITE LINKS 9

APPENDIX E – BOARD CODE OF CONDUCT 11

APPENDIX F – THE BOARD’S ANNUAL REPORT 12

INTRODUCTION

Welcome to the Government Procurement Board (the Board). I hope you find your time on the Board interesting and fulfilling.

The Board is tasked with overseeing procurement practice in the ACT on behalf of the ACT Government. The Board is governed by the *Government Procurement Act 2001* (the Act). Part of the Board's role is to consider and endorse procurement plans according to the *Government Procurement Regulation 2007* (the Regulation). The website links to the Act and Regulation are at [Appendix C](#).

The membership contact list, including the Board Secretariat, is at [Appendix D](#).

The Board Secretariat is provided by Procurement ACT, a division within the Chief Minister, Treasury and Economic Development Directorate. Any questions relating to administration for the Board should be directed to the Secretariat.

The Board has Standing Proposals Meetings for the consideration of procurement plans scheduled for 8.00 am every Tuesday. The Board are meeting electronically via Teams.

On occasion a Proposals Meeting will be called at another time in order to accommodate an urgent proposal.

All members are asked to read the Board's Code of Conduct and agree in writing to the Code. The Code of Conduct for your signature is at [Appendix E](#).

Also attached for your information is the website [link](#) (page 306-317) to the 2021-22 Annual Report for the Government Procurement Board [Appendix F](#).

APPENDIX A – ROLE OF THE ACT GOVERNMENT PROCUREMENT BOARD

The ACT Government Procurement Board (the Board) was established on 1 August 2001 by the *Government Procurement Act 2001* (the Act). The Board's functions, as specified under section 6 of the Act, are:

- > to review, and give advice to territory entities on, procurement issues;
- > to review, and give advice on:
 - procurement proposals and activities referred to the board by a Minister or responsible Director-General officer; or
 - Procurement proposals for procurement matters declared by the Minister;
- > to review procurement proposals of territory entities in accordance with the relevant regulation;
- > to consider, advise on and, if appropriate, endorse procurement practices and methods for use by territory entities;
- > to provide advice to the Minister on any issue relevant to the procurement activities of territory entities or the operation of this Act; and
- > to exercise any other function given to the board under this Act or any other Territory law.

Regulations under the Act prescribe that the Board must review procurement proposals with an estimated value of \$5 million or more, or \$1 million or more for procurements being undertaken by a Territory entity other than an administrative unit, or for procurements involving system development or redesign of information and communications technology, or for disposals.

The Board's purpose, to advise Government on practices and processes that will deliver better procurement outcomes for the Territory, is underpinned by the principle prescribed in section 22A of the Act: *'A territory entity must pursue value for money in undertaking any procurement activity'*. In pursuing value for money, the entity must have regard to probity and ethical behaviour; management of risk; open and effective competition; optimising whole of life costs; and anything else prescribed by regulation.

The Board seeks to ensure that processes for major procurements comply with the Government's procurement framework, which includes the legislation and policies as outlined in Procurement Circulars.

As the Board does not set policy, it views itself as supporting the Government through Procurement ACT in the Chief Minister, Treasury and Economic Development Directorate, whose role is to provide procurement and project delivery services to directorates. The Board's work on individual procurements seeks to support Government by ensuring that procurement and project management risks are appropriately treated.

The Board is not responsible for procurement decisions. This responsibility rests with Directors-General, who are responsible for all operations associated with the running of their directorates, and the heads of non-directorate Territory entities.

APPENDIX B – BOARD PROCESSES AND ADMINISTRATION

Functions of the Board

Under section 6 of the *Government Procurement Act 2001* the functions of the Board are:

- > to review, and give advice to territory entities on, procurement issues;
- > to review, and give advice on—
 - procurement proposals and activities referred to the Board by a Minister or responsible Chief Executive Officer; or
 - procurement proposals for procurement matters declared by the Minister;
- > to review procurement proposals of territory entities in accordance with the regulations;
- > to consider, advise on and, if appropriate, endorse procurement practices and methods for use by territory entities;
- > to provide advice to the Minister on any issue relevant to the procurement activities of territory entities or the operation of this Act; and
- > to exercise any other function given to the Board under this Act or any other Territory law.

Under the *Government Procurement Regulations 2007* (1) The following procurement proposals of territory entities 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; and
- > a disposal that has a total estimated value of \$1 million or more.

Board Quorum

Under section 19A of the *Government Procurement Act 2001*:

- > Business may be carried out at a meeting of the Board only if four members are present, including one non-public employee member.
- > However, the review of a prescribed procurement matter [that is, a procurement plan] may be carried out at a meeting of the Board consisting of the Chair, or the Deputy Chair, and one non-public employee member, OR two public employee members and one non-public employee member.

Meeting logistics

The Board has a meeting scheduled for each Tuesday morning from 8.00am via Teams. However, a meeting will only be held if there are procurement proposals to be considered or other business, such as a progress report on a project. The Secretariat will advise you on a week-by-week basis if a meeting will be held by close of business on the preceding Thursday.

The length of a meeting will be determined by the number and complexity of proposals being considered, but meetings are usually scheduled to conclude by 10.00 am.

Meeting papers

The Secretariat will circulate the meeting papers electronically by close of business on the Thursday in the week before the meeting.

Papers relate to tenders that have not yet been released to market and, as such, they are to be treated as confidential. If papers are printed, they must be stored and disposed of securely.

For each proposal to be considered by the Board you will receive, at a minimum, the Procurement Plan Minute, risk plan and the evaluation plan. Other attachments may include a minute to the relevant Director-General providing background to the proposal and, particularly for infrastructure proposals, 'technical' information such as a site map.

Other meeting papers include an Agenda, Minutes, a running sheet of action items outstanding and a forward schedule of procurement matters booked for Board review in the future.

Papers may be returned to the Secretariat if you do not have access to secure disposal.

Reviewing proposals

Prior to the proponents being invited into the meeting, Members may feel the need to have a brief discussion of the proposal.

Proponents will include one or more representatives from the agency undertaking the procurement, at least one of whom should be at the executive level, and representatives from Procurement.

After introductions, the proponent will speak to the proposal. Generally, the presentation will include a brief summary of the proposal and background about the choice of procurement methodology, the risks involved in the project and the proposed risk mitigation and whether the project forms part of a larger overall strategy.

The Board will then ask questions based on the papers provided to the Board before the meeting and the presentation and provide advice to the proponents on better practice nuances of their procurement, help proponents maintain probity, enhance the Territory's value for money considerations and any other general advice their experience may allow for.

In total, the representation will usually take 15 to 30 minutes.

When the Board is asked to review a Strategic Procurement Proposal under S11(2) of the Regulation, a decision to endorse may be conditional. After the representation the proponents will leave the room and the Board will reach a decision about whether to endorse the proposal.

Promulgation of meeting decisions

After the meeting the Secretariat will draft the minutes and circulate a link to the minutes via email for members to review and endorse.

The Secretariat will electronically provide the proponents with the formal decision by the end of the week of the meeting once the minutes of the meeting have been accepted.

Electronic consideration

On occasion a proposal will be considered electronically.

In these cases, the Secretariat will circulate the proposal documents via email as usual, and Members share their thoughts by replying to all.

If Members require further information before deciding, the Secretariat will seek that information from the proponents and circulate this electronically to Members.

On occasion where Procurement Proposals are considered and reviewed out of session, Members indicate when they are ready to endorse the proposal and the Secretariat confirms with the Chair before advising the proponent.

APPENDIX C – PROCUREMENT LEGISLATION

The *Government Procurement Act 2001* can be viewed at:

<https://www.legislation.act.gov.au/a/2001-28/>

The Government Procurement Regulation 2007 is at: <https://www.legislation.act.gov.au/sl/2007-29/>

The Government Procurement (Secure Local Jobs) Code 2020 is at:

<https://www.legislation.act.gov.au/di/2020-278/>

APPENDIX D – BOARD MEMBERS CONTACT LIST AND WEBSITE LINKS

Member	Position	Email	Phone
Bettina Konti Chief Digital Officer, CMTEDD	Chair	<u>REDACTED</u>	<u>REDACTED</u>
Geoffrey Rutledge Deputy Director-General Environment, Water and Emissions Reduction, Environment, Planning and Sustainable Development Directorate	Deputy Chair	<u>REDACTED</u>	<u>REDACTED</u>
Sally Druhan Chief Finance Officer, Strategic Finance, CMTEDD			
Dave Gilbert Senior Director, Project Delivery, Infrastructure and Health Support Services, CHS	Public Employee Member	<u>REDACTED</u>	<u>REDACTED</u>
Ian Turnbull Chief Finance Officer, Executive Branch Manager - Strategic Finance and Procurement, Education	Public Employee Member	<u>REDACTED</u>	<u>REDACTED</u>
Coretta Bessi Non-Executive Director St John Ambulance NSW	Non-Public employee Member	<u>REDACTED</u>	<u>REDACTED</u>
Mathew Baldwin, Partner, Digital Economy Transactions, Ashurst Law Firm	Non-public employee member	<u>REDACTED</u>	<u>REDACTED</u>
Katherine McDermott Chief Product and Digital Officer, Service NSW	Non-public employee member	<u>REDACTED</u>	<u>REDACTED</u>

Member	Position	Email	Phone
Sommer Roles Chief Procurement Officer, Foxtel Australia	Non-public employee member	<u>REDACTED</u>	<u>REDACTED</u>
Executive Branch Manager, Goods & Services Procurement ACT	Procurement ACT observer	<u>REDACTED</u>	<u>REDACTED</u>
Procurement ACT	Secretariat	<u>REDACTED</u>	<u>REDACTED</u>

Procurement ACT Website: <https://www.procurement.act.gov.au/>

Government Procurement Board SharePoint site: <https://actgovernment.sharepoint.com/sites/Intranet-GPB/Shared%20Documents/Forms/AllItems.aspx>

APPENDIX E – BOARD CODE OF CONDUCT

Members of the ACT Government Procurement Board, appointed under the *Government Procurement Act 2001*, are regarded as public officials. As such they have a duty to discharge responsibilities entrusted to them according to the highest standards of conduct. The public has a right to expect that the public sector operates fairly, impartially and efficiently. Board Members may be required by the nature of their public office to accept restrictions on certain aspects of their private conduct.

The Board will meet expected standards if all members act in accordance with the principles set out in this code of conduct. The following code of conduct embodies principles that should be observed by all Members.

- > Members are to act in the public interest.
- > Members should perform their official duties honestly and impartially, uninfluenced by fear or favour.
- > Members should avoid situations in which their private interests, whether pecuniary or otherwise, conflict, or may be reasonably perceived to conflict, with their public duty.
- > Private interests of members should not be allowed to interfere with their commitment to the Board or with the proper discharge of their public duties.
- > Members should declare any conflicts of interest according to Board procedures¹ or other requirements including ethics². Subject to Board process, they will then be requested to abstain from discussion and voting on the relevant issues.
- > Members must not take advantage of their position, or of any information gained through that position, for their own gain or that of another. Confidential information received by Board members is not to be disclosed, or allowed to be disclosed, unless authorised by the Board, the agency from which the information is provided, or is required by law.
- > Members must be scrupulous in their use of public property and services and not permit their unauthorised use by other persons.
- > Members must not take any action that would be likely to dishonour the Board or the Territory.
- > Members are bound by, and committed to, decisions legitimately taken by the Board.
- > Members must be impartial in their decision making, be independent in judgement, and take all steps necessary to ensure the soundness of decisions by the Board.
- > The Chair of the Board is the spokesperson unless the Board otherwise agrees.

I, (insert name), declare that I have read and will abide by the Government Procurement Board's Code of Conduct. I declare that I do not have any conflict of interest that could arise for my appointment to the Board and should an actual or potential conflict of interest arise, I agree to disclose this immediately to the Chair.

Signature: _____

Date: _____

¹The relevant sections of the Government Procurement Act 2001 supporting this Code are:

- s.14 – Honesty, Care and Diligence of Members;
- s.15 – Abuse of Position;
- s.16 – Ending of Appointment by Members; and
- s.20 – Disclosure of Interests by Members.

²See ACT Public Service Code of Ethics (Chief Minister's Department, 2010) available at:
http://www.cmd.act.gov.au/_data/assets/pdf_file/0005/187178/codeofethics2010.pdf

APPENDIX F – THE BOARD’S ANNUAL REPORT

The Government Procurement Board’s 2021-22 Annual Report can be viewed at:

https://www.cmtedd.act.gov.au/functions/publications#annual_reports (volume 1)

https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0004/2089372/2021-22-CMTEDD-Annual-Report-Volume-1.pdf



ACT
Government

Chief Minister, Treasury and Economic Development
Directorate

TERMS OF REFERENCE AND EXISTING MEMBERSHIP/COMPOSITION OF BOARD/COMMITTEE OR POSITION DESCRIPTION

INTRODUCTION:

This document sets out the roles and responsibilities of the Government Procurement Board (Board). It provides guidance on the Board's purpose, roles, responsibilities, operations, tenure and obligations, in accordance with the requirements of the *Government Procurement Act 2001*.

ROLE OF THE GOVERNMENT PROCUREMENT BOARD

The Board is established by the *Government Procurement Act 2001* (Act). Section 6 of the Act prescribes the functions, or role of the Board.

The functions of the board are—

- (a) to review, and give advice to territory entities on, procurement issues; and
- (b) to review, and give advice on—
 - (i) procurement proposals and activities referred to the board by a Minister or responsible chief executive officer; or
 - (ii) procurement proposals for procurement matters declared by the Minister; and
- (c) to review procurement proposals of territory entities in accordance with the regulations; and
- (d) to consider, advise on and, if appropriate, endorse procurement practices and methods for use by territory entities; and
- (e) to provide advice to the Minister on any issue relevant to the procurement activities of territory entities or the operation of this Act; and
- (f) to exercise any other function given to the board under this Act or any other Territory law.

RESPONSIBILITIES OF THE GOVERNMENT PROCUREMENT BOARD

The Board reviews procurement proposals referred to it by Territory directorates and agencies under Section 11 of the *Government Procurement Regulation 2007* (Regulation).

The Board identifies risks in procurement, both in individual proposals brought before the Board for review and provides advice to directorates and Directors-General accordingly.

The Board advises the Minister on procurement matters where the Board considers it appropriate, or on request.

POWERS OF THE BOARD

The Board is advisory and has no delegation authority or other powers.

MEMBERSHIP

Division 2.2 of the Act covers Board membership. The Act prescribes that the Board consists of nine part-time members:

- the chair
- the deputy chair
- three public employee members
- four non-public employee members.

The chair and deputy chair must both be public employees, that is, ACT Government employees. The non-public employee members must not be public employees.

Members are appointed by the Minister, for a maximum term of five years. A member may be reappointed.

The current membership of the Board:

Position	Member
Chair	Bettina Konti
Deputy Chair	Geoffrey Rutledge
Public Employee Member	Sally Druhan
Public Employee Member	Ian Turnbull
Public Employee Member	Dave Gilbert
Non-Public Employee Member	Sommer Roles-
Non-Public Employee Member	Mathew Baldwin
Non-Public Employee Member	vacant
Non-Public Employee Member	vacant

EXPERTISE

The Act does not specify the skills and expertise required of members to the Board; however, Board members are expected to have expertise in governance, risk management, and public procurement.

The Board as a whole should have skills and expertise in finance, construction, ICT, law, community and human services, civil engineering, and the private or not for-profit sector.

CHAIR

The Chair is a public employee member and is appointed by the Minister. It is usual for the Chair to be a public employee member for a period of time before being appointed as chair.

If both the chair and deputy chair are unavailable for a Board meeting, the members present at the meeting will elect a temporary Chair from the public employee members in attendance.

OPERATION OF THE BOARD

The Procurement ACT division in Treasury provides secretariat support for the Board.

Meetings to consider procurement proposals are scheduled for every Tuesday, from 8.00am to 10.00 am. If there are no proposals to be reviewed, the Chair may cancel the meeting. Papers for meetings are circulated by close of business on the Thursday of the preceding week.

Procurement proposals can be considered electronically if the Chair deems it appropriate (GP Act s19). Electronic considerations will be considered within a timely manner.

The Board may also hold business meetings, where strategic, whole of government procurement matters and Board operations and policies are discussed. These meetings are infrequent – usually no more than one per year.

The Board reaches its decisions by consensus. Board decisions are minuted and approved at the following meeting or out of session. If the minutes are considered out of session, Board members are to provide comments/endorsement of the minutes by a time set by the Secretariat. If the Secretariat does not receive comments from a Board member by this time, it is taken that the Board Member endorses the minutes.

Decisions are informally advised to the relevant directorate or agency before formal advice is provided after the minutes have been accepted.

The Act describes the conditions for calling a meeting outside the weekly scheduled meetings for the Board to review procurement proposals.

A quorum of the Board consists of four members including one non-public employee member.

REVIEW AND ASSESSMENT OF THE BOARD

The Board shall review and assess the following documents and procedures at their annual strategic planning day:

- The Board Charter
 - The Board Risk Plan
 - The Board Business Plan
 - Terms of Reference (an Attachment to the Board Charter)
-