



Western Australia

Procurement Act 2020

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Defined terms



Western Australia

Procurement Act 2020

An Act to modernise the processes for Government procurement of goods, services and works.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Procurement Act 2020*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Objects of Act

The objects of this Act are as follows —

- (a) to promote best value for money in government procurement so as to deliver sustainable economic, social and environmental benefits to Western Australians;
- (b) to reduce barriers to the participation of small and medium businesses in government procurement by streamlining procurement procedures;
- (c) to strengthen integrity in government procurement and to promote ethical and accountable practices so as to provide confidence that government procurement is conducted fairly;
- (d) to enable coordinated government procurement strategy, governance and leadership and devolved accountability and decision-making;
- (e) to provide a legislative scheme that is responsive to changing community expectations and that supports innovation in the Western Australian economy.

4. Terms used

(1) In this Act —

authorised body means an entity (or an entity of a kind) that is declared to be an authorised body under section 6(1);

common use contractual arrangements means contractual arrangements established under section 25 by the Department CEO;

Department means the department of the Public Service principally assisting the Minister in the administration of this Act;

Department CEO means the chief executive officer of the Department;

entity includes any corporation, unincorporated body, statutory officer or other person;

goods, services or works means goods, services or works of any kind, including the following —

- (a) community services;
- (b) information and communications technology;
- (c) construction work as defined in the *Construction Contracts Act 2004* section 3;
- (d) things of a kind prescribed by the regulations to be included in this definition;

procurement includes —

- (a) obtaining goods, services or works by purchase, lease, licence, public private partnerships or other means; and
- (b) disposing of goods or works;

procurement activities means decisions or other things done in the course of, or as a result of, a process to procure goods, services or works;

procurement direction means a general procurement direction or an agency specific procurement direction issued by the Minister under Part 4;

Procurement Executive Body means the body corporate of that name established by section 18(1);

State agency has the meaning given in section 5(1);

supplier means a person who directly or indirectly supplies, or proposes to directly or indirectly supply, goods, services or works to State agencies.

- (2) A reference in this Act to goods, services or works includes a reference to goods, services and works.
- (3) A reference in this Act to compliance with this Act includes a reference to compliance with regulations, procurement directions or other instruments under this Act.
- (4) A reference in this Act to the Department CEO, a State agency or an authorised body procuring goods, services or works on behalf of a State agency or authorised body includes a reference to —
 - (a) the Department CEO, agency or body acting as agent in connection with the procurement; or
 - (b) the Department CEO, agency or body acting as principal in connection with the procurement with a view to the goods, services or works being transferred to or used by the relevant agency or body.

5. State agencies

- (1) Subject to subsection (2), each of the following is a **State agency** for the purposes of this Act —
 - (a) an agency as defined in the *Financial Management Act 2006* section 3 other than a university listed in Schedule 1 to that Act;
 - (b) an entity controlled by a Minister, or by an agency referred to in paragraph (a), through which that Minister or agency procures goods, services or works for the performance of the functions of that Minister or agency;

- (c) an entity (or an entity of a kind) that is established for a public purpose or is funded by the State and that is prescribed by the regulations to be a State agency.
- (2) The following are not State agencies for the purposes of this Act —
 - (a) a body established by or under the *Electricity Corporations Act 2005* section 4, the *Port Authorities Act 1999* section 4, the *Water Corporations Act 1995* section 4 or the *Western Australian Land Authority Act 1992* section 5 or a subsidiary of any such body;
 - (b) an entity (or an entity of a kind) that is prescribed by the regulations not to be a State agency.

6. Authorised bodies

- (1) Subject to subsection (2), a procurement direction may —
 - (a) declare an entity (or an entity of a kind) specified in the direction to be an authorised body for the purposes of this Act; or
 - (b) provide that the Department CEO may, in accordance with the procurement direction, declare an entity (or an entity of a kind) to be an authorised body for the purposes of this Act.
- (2) The entities that may be declared to be authorised bodies are as follows —
 - (a) a body (whether incorporated or not), or the holder of an office, that is established or continued for a public purpose under a written law or a law of another State, a Territory or the Commonwealth;
 - (b) a local government or a regional local government or a similar local government authority of another State or a Territory;
 - (c) a university;
 - (d) a charitable body;

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- (e) an entity (or an entity of a kind) prescribed by the regulations.
- (3) In this section a reference to an entity is a reference to an entity other than a State agency.

7. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

[Parts 2-10 have not come into operation.]



Notes

This is a compilation of the *Procurement Act 2020*. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Procurement Act 2020</i> Pt. 1	24 of 2020	19 Jun 2020	19 Jun 2020 (see s. 2(a))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
<i>Procurement Act 2020</i> Pt. 2-10	24 of 2020	19 Jun 2020	To be proclaimed (see s. 2(b))

Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
authorised body	4(1)
common use contractual arrangements	4(1)
Department.....	4(1)
Department CEO.....	4(1)
entity	4(1)
goods, services or works	4(1)
procurement	4(1)
procurement activities	4(1)
procurement direction	4(1)
Procurement Executive Body.....	4(1)
State agency	4(1), 5(1)
supplier	4(1)