

Australian Capital Territory

Government Procurement (Principles) (Ethical Suppliers) Amendment Guideline 2004 (No 1)*

Disallowable Instrument DI2004-174

made under the

Government Procurement Act 2001, section 7 (Procurement Guidelines)

1 Name of Guideline

This guideline is the *Government Procurement (Principles) (Ethical Suppliers) Amendment Guideline 2004 (No 1)*.

2 Commencement

This guideline commences the day after its notification day.

Note: The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Guideline amended

This guideline amends the *Government Procurement (Principles) Guideline 2002*.

*Name amended under Legislation Act, s 60

4 Clause 3 Definitions

Insert

Act means the *Government Procurement Act 2001* (ACT).

5 Clause 6 Procurement Principles

Insert

“(g) ethical suppliers.”

6 New Clause 13

Insert

13 **Ethical Suppliers**

- (1) A Territory entity must:
 - (a) ensure that appropriate consultative mechanisms are established to consult with those bodies operating in the Territory to advocate the interests of employees, suppliers and subcontractors;
 - (b) ensure that suppliers that tender for the provision of prescribed works and services, are required to certify that they have complied with their employee and industrial relations obligations;
 - (c) ensure that contracts for the provision of prescribed works and services contain terms allowing for the verification of compliance by suppliers and subcontractors with their employee and industrial relations obligations; and
 - (d) ensure that the necessary policies and procedures exist for exercising scrutiny over the performance by suppliers and subcontractors of prescribed works and services in relation to their employee and industrial relations obligations.

(2) In this clause:

contract means a written contract for the procurement of prescribed works or services having a total consideration, or estimated total consideration, worth \$20,000 or more;

employee means a natural person who is employed under a contract of service to provide a supplier of prescribed works or services or a subcontractor with his or her labour, except for the provision of professional or information technology service;

employee and industrial relations obligations means compliance with:

- (a) prescribed legislation; and
- (b) determinations made by tribunals of competent jurisdiction in respect of the interpretation, breach or any other matter concerning any prescribed legislation;

Note: Examples of employee and industrial relations obligations may typically include payment of remuneration; training; annual holidays; long service leave entitlements; occupational health and safety; workers' compensation; injury management, (including rehabilitation); legal age of employment; discrimination; and superannuation. This list is non exhaustive.

prescribed legislation for the purpose of this clause includes:

- (a) awards or industrial agreements made pursuant to any legislation applicable to a supplier or subcontractor,
- (b) *Long Service Leave Act 1976 (ACT)*,
- (c) *Occupational Health and Safety Act 1989 (ACT)*,
- (d) *Long Service Leave (Building and Construction Industry) Act 1981 (ACT)*,
- (e) *Long Service Leave (Contract Cleaning Industry) Act 1999 (ACT)*,
- (f) *Workers' Compensation Act 1951 (ACT)*,
- (g) *Workplace Relations Act (1996) (Cwlth)*,
- (h) *Superannuation Guarantee (Administration) Act 1992 (Cwlth)*;

prescribed works or services means those works or services that will require the exertion of labour by employees in the performance of a contract; and

Note: Examples of prescribed works and services include maintenance, construction, cleaning, horticultural and gardening services. This list is non exhaustive.

subcontractor means an entity that is contracted by a supplier to provide services or works in connection with a contract between a Territory entity and the supplier.

Glen Gaskill
Chair
Government Procurement Board

2 August 2004