Frequently asked question – business (update February 2023)

**Aboriginal Economic Participation Framework**

The Aboriginal Economic Participation Framework (the Framework) is designed to support Aboriginal employment and business opportunities through new and existing initiatives, including changes to government procurement activities and grants programs.

Supporting Aboriginal employment opportunities will benefit the Territory by growing the local economy, increasing business and regional development and building the local Territory workforce.

The Framework was developed using a co-design approach that involved extensive stakeholder consultation and participation from Traditional Owners, Aboriginal and non-Aboriginal businesses, Industry and non-government organisations from across the Northern Territory.

The Framework will also support non-Aboriginal Territorians and businesses to provide employment, training and education, and to develop partnerships and joint ventures, to assist building the capacity and capability of Aboriginal employees and Aboriginal business enterprises.

In November 2020, the Territory Economic Reconstruction Commission Final Report recommended Government finalise and implement the Framework to both encourage and promote increased Aboriginal participation in the Territory economy as well as support enhanced social inclusion for all Territorians.

Development of the Framework has brought together existing and new NT Government policies with a common vision. Two new supplementary policies will also be available to assist in supporting Aboriginal business and workforce growth, the Aboriginal Procurement Policy which will commence on 1 July 2022, and an Aboriginal Grants Policy, which will be released later this year.

**Aboriginal Procurement Policy**

The NT Government’s Aboriginal Procurement Policy commenced 1 July 2022, providing a step change in the advancement of Aboriginal employment and business opportunities through government contracting activities.

This policy is a key enabler to create more opportunities for Aboriginal Territorians to participate in and be part of the upward swing in the NT’s economic growth.

The Aboriginal Procurement Policy will increase equitable access to procurement activities for Aboriginal business enterprises. Through identifying opportunities to engage Aboriginal Business Enterprise (ABE) as head contractors, and identification in the supply chain as subcontractors, suppliers and employment opportunities.

The Aboriginal Procurement Policy will apply to all Territory Government contracts with an estimated value of $15,000 or greater and it will be up to the agency to determine the most appropriate mechanism for procurement. There will still be opportunities for all businesses.

Access the [Aboriginal Procurement Policy](https://nt.gov.au/industry/procurement/how-to-tender/tendering-with-government).

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**Frequently asked questions**

## Aboriginal Business Enterprise

### What is an Aboriginal Business Enterprise?

For NT Government procurement purposes, an Aboriginal Business Enterprise is a business or community organisation that meets all of the following criteria:

* is 51 per cent or more Aboriginal owned
* Is operating as a business, includes companies, incorporated association, sole traders, partnerships, trusts and social enterprises or registered charities if they are operating as a business
* can demonstrate Aboriginal and Torres Strait Islander people are involved in the daily operation of the Enterprise and have effective control at least equal to the degree of ownership; and
* is registered with a certifying authority as meeting the above definition.

### What is an Aboriginal Business Enterprise certifying authority?

A certifying authority is an organisation which provides services to confirm the Aboriginal and Torres Strait Islander ownership and control of Aboriginal and Torres Strait Islander Enterprises.

The certifying authority processes are recognised by the NT Government as suitably robust to assure the Territory of the integrity of its certified Aboriginal Business Enterprise list.

The NT Indigenous Business Network (NTIBN) is recognised by the NT Government as the peak body for Aboriginal Business Enterprises in the Northern Territory, and the primary certifying authority.

Other approved certifying authorities are:

* Supply Nation
* Office of the Registrar of Indigenous Corporations (ORIC)

### Why should my business/organisation become a certified Aboriginal Business Enterprise?

Being a Certified as an Aboriginal Business Enterprises will provide the maximum opportunity for your business to benefit from the Aboriginal Procurement Policy.

### Is there a transition period for the existing Aboriginal businesses to become a certified Aboriginal Business Enterprises?

Yes, there is a transition period of up to 18 months, which commenced on 1 July 2022 and will cease 31 December 2023. To access this transitioning arrangement Aboriginal entities must engage with and register their intent to transition with NTIBN, the registration period ceases 31 March 2023.

After this date, Aboriginal entities will no longer be accepted into the transitioning arrangement, and will be required to be fully certified through one of the certifying authorities to continue to be treated as an ABE under the Policy.

Whilst entities are transitioning they will hold “Provisional certification” status, this can be revoked if the entity does not complete the transition plan and actively work towards certification before 31 December 2023.

The below table outlines how an Aboriginal entity can be provisionally recognised as An Aboriginal Business Enterprise.

| **Period** | **Arrangement**  |
| --- | --- |
| 1 July 2022 to 31 March 2023 | Agencies may recognise non-certified entities as ABEs if they meet the following criteria: * minimum 50% Aboriginal ownership; evidence can include proof of registration with Supply Nation or NTIBN ally membership;
* being a Territory Enterprise (i.e. operating in the NT) on or before 30 June 2022.

**Please note: recognition by Agencies ceases 31 March 2023.** |
| To continue to be recognised as an ABE after 31 March 2023 entities **must have:*** registered for membership with NTIBN
* signed a declaration with NTIBN that you intend to become a certified organisation by 31 December 2023
* obtained provisional certification from NTIBN
 |
| 1 April to 31 December 2023 | * develop a transition plan to become a certified entity with NTIBN
* actively work to becoming a certified entity by 31 December 2023

**Please note: transitioning arrangements under the policy cease 31 December 2023.**  |
| From 1 January 2024 | Be certified as an Aboriginal Business with a NT Government recognised certifying authority. The current recognised certifying authorities are:* NT Indigenous Business Network (NTIBN)
* Supply Nation
* Office of the Registrar of Indigenous Corporations (ORIC).
 |

### What if my organisation can’t complete the transition to being certified by 31 December 2023?

Where an organisation can reasonably demonstrate that it is impractical or impossible to transition by 31 December 2023, longer transition periods may be approved by agreement from NTIBN and the agency responsible for Aboriginal Procurement Policy being DITT. Continued recognition will require demonstrated commitment and progress towards accreditation.

### Will new entities (starting after 1 July 2022) be eligible for the 18 month transitional arrangement?

New entities that start after 1 July 2022 will not be eligible for transitioning arrangement and must be certified by one of the three certifying authorities to be considered an ABE under the Policy.

## Scenarios

***Tom’s Building Company operates in Katherine. Tom is concerned he will no longer be eligible for NT Government work because his company is not a certified Aboriginal business.***

*Tom’s company will still be eligible to apply for NT Government work and tender or bid for work as he has been doing.*

*The Aboriginal Procurement Policy is designed to be incorporated into the existing procurement framework and all contracts will follow the Value for Territory model.*

*Tom’s business will continue to be eligible to apply for all open tender contracts. Dependant on the contract and the local content requirement, Tom may need to include additional information in his response on how the business includes Aboriginal participation. Aboriginal participation may include subcontracts, the supply chain or employment of Aboriginal staff.*

*Opportunities where Tom’s business can increase Aboriginal participation will be encouraged and may advantage him if he’s bidding for work. There are also opportunities for Joint Ventures and partnerships.*

***Sarah is an existing business partner in an Aboriginal business enterprise, but the business is not certified as 51 per cent or more Aboriginal owned and managed. Sarah is concerned that the company will not be eligible for NT Government work because it is not certified.***

*Existing Aboriginal entities like Sarah’s can apply to be recognised as an Aboriginal Business Enterprise under a transitioning arrangement with NTIBN for a period up to 18 months (ceases 31 December 2023). Application must be received by NTIBN prior to 31 March 2023.*

*Continued recognition after 31 March 2023 will require demonstrated progress towards certification in accordance with the Aboriginal Policy Guidelines and NTIBN Aboriginal Business Enterprise certification.*

*The NT Indigenous Business Network (NTIBN) is recognised by the NT Government as the peak body for Aboriginal Business Enterprises in the Northern Territory, and are the only certifying authority providing transitional certification.*

*Other approved certifying authorities are:*

* *Supply Nation*
* *Office of the Registrar of Indigenous Corporations (ORIC)*

*New entities that start after 1 July 2022 will not be eligible for transitioning arrangement.*

*Opportunities where Sarah’s business can increase Aboriginal participation will be encouraged.*

***John is the business manager for a certified Aboriginal business enterprise. He would like to understand how the Aboriginal Procurement Policy can assist his business to apply for NT Government contracts.***

*To prepare for the implementation of the new policy on 1 July 2022, John’s business should make itself known to Government by:*

* *ensuring the business is registered as a certified Aboriginal Business Enterprise with one or more of the certifying authorities;*
* *make sure that the details of the certification are easily identifiable on all businesses promotional material;*
* *recording certification details in business profile on the NT Government’s Quotes and Tenders Online system; and*
* *registering business details with the Industry Capability Network NT (ICNNT).*
* *attending information sessions on the Aboriginal Procurement Policy and other government procurement reform*

*By ensuring that John’s business is on one of the certifying authority lists, his business can be easily identified by government procurers searching for services/goods.*

*The Aboriginal Procurement Policy is designed to be incorporated into existing procurement framework.*

*From 1 July 2022 new tools that support Agencies to assess Value for Territory will become available allowing agencies through the procurement planning and market research stages, to identify opportunities for Aboriginal participation as head contractors, subcontractors, supply chain or employment.*

*Being an Aboriginal certified company is not an automatic appointment to a contract. John’s company must still demonstrate that he can deliver the best Value for Territory and meet all contract requirements.*

*Opportunities where John’s business can increase Aboriginal participation will be encouraged.*

## Tendering

### Will ABEs be given preferential treatment to NT Government contracts?

In some circumstances, Yes. It is important to note that this does not mean that ABE’s will be given preferential treatment in all contracts.

The Aboriginal Procurement Policy will apply to all NT Government contracts with an estimated value of $15,000 or greater (including GST).

NT Government agencies through the procurement planning and market research stages will identify whether there is opportunity for Aboriginal participation as head contractors, subcontractors, supply chain or employment.

Where opportunities are identified, Agencies may use one or more of the following procurement approaches when increasing Aboriginal participation in tenders:

* Set-asides
* Unbundling of large contracts or carve-outs
* Select tender
* Open tender preferencing.

Where tenders are released using one of the above methods, tenderers must still demonstrate capability and capacity and value for Territory before being awarded a contract. Being an ABE is simply not enough.

### Will my business joint venture be recognised?

The NT Government recognises ABE incorporated joint ventures that have been certified through one or more of the certifying authorities as having at least 51% Aboriginal ownership and control.

Unincorporated joint venture arrangement will be recognised between two or more Aboriginal Business Enterprises.

Unincorporated joint venture arrangements between Aboriginal Business Enterprises and other business are encouraged to build Aboriginal participation and capability, though will not be counted towards the Aboriginal Procurement Policy targets, unless majority control sits with the Aboriginal Business Enterprise.

### How will Aboriginal Business Enterprises be preferenced in NT Government tendering?

NT Government agencies through the procurement planning and market research stages will identify whether there is opportunity for Aboriginal participation as head contractors, subcontractors, supply chain or employment.

Agencies may use one or more of the following procurement approaches when increasing Aboriginal participation in tenders:

* Set-asides
* Unbundling of large contracts or carve-outs
* Select tender
* Open tender preferencing.

### Who decides which tenders will have Aboriginal Business Enterprise preferencing?

The NT Government established an agency-led procurement operating model to ensure agencies are accountable for their own procurement activities within a whole-of-government framework of legislation, procurement-related policies and standards.

Understanding the capability of local Aboriginal businesses and workers is a key to planning procurements that most effectively utilise local Aboriginal businesses and workers.

Agencies will ensure staff with knowledge of local or regional Aboriginal Business Enterprise capability and capacity, have input into the identification of opportunities in their regions and/or contract delivery locations to contribute to increasing Aboriginal participation as head contractors, in the supply chain or through employment opportunities.

Regional procurement committees will also be established under the Aboriginal Economic Participation Framework (as a sub-committee of the Regional Coordination Committees) comprised of senior staff from relevant government departments with a regional presence.

The role of the regional procurement sub-committees is to provide local and regional information to procuring agencies should agencies seek to use this service and to assist procurers maximise opportunities for ABE’s and Aboriginal people to participate in and benefit from NT Government procurement contracts.

### My organisation has a commitment with the NT Government through Local Decision Making or other agreements what does this policy mean for us?

Where the NT government has made a commitment to an Aboriginal organisation under Local Decision Making (LDM) or other agreements, that commitment will be honoured.

There will be minor changes to the Procurement Framework to clarify support for existing practice of select tendering with organisations to implement LDM commitments. Organisations will still be required to demonstrate capability and capacity to deliver on the LDM commitments as part of an overall Value for Territory assessment of their tender in order to be awarded a contract.

### Will the Aboriginal Procurement Policy replace or impact the Procurement Framework and Buy Local Plan?

The Aboriginal Procurement Policy is designed to complement existing procurement frameworks and the Buy Local Plan. There will be minor changes to the Procurement Framework to incorporate the definition of an Aboriginal Business Enterprise and to clarify that existing practice around select tenders with Aboriginal Business Enterprises are supported by the Procurement Framework.

### Can a non-Aboriginal business still apply for an NT Government contract?

Procurement opportunities remain for all enterprises. Competitive procurement processes will continue to be assessed on a Value for Territory basis that recognises and considers a wide range of factors of which may include Aboriginal participation.

### How can all businesses help support the objectives of the Aboriginal Procurement Policy?

All business can help deliver the intent of the Aboriginal Procurement Policy by:

* employing and training Aboriginal employees in all areas of the business including apprentices and trainees
* using Aboriginal Business Enterprises in the supply chain
* partnering with an Aboriginal Business Enterprise through a joint venture arrangement to build Aboriginal Business Enterprise capacity and capability.

The Aboriginal Procurement Policy acknowledges that not all government procurement spend is in markets that are serviceable by Aboriginal Business Enterprises.

### Are there any changes to how NT Government contracts are tendered?

The process will remain the same, there is no change to the way the NT Government releases its tenders. Comprehensive guidance on this can be found at <https://nt.gov.au/industry/procurement/how-to-tender/tendering-with-government>

### What weighting will be given to ABEs during the procurement process and how does this tie in with the Value for Territory procurement framework?

The Value for Territory Assessment Framework is an across government tool to assist agencies to identify the best approach to assessing quote and tenders, and in particular how Local Content should be assessed in an objective and transparent way.

When an Agency undertakes the ‘Open tender preferencing’ procurement approach, the Value for Territory Assessment Framework will include increased weighting on Aboriginal participation (in terms of both Aboriginal People and ABE’s) as part of the Local Content Assessment; in these instances the weighting on Aboriginal participation will typically be 10%-20% depending on the nature of the procurement activity.

The NT Government has an agency-led procurement operating model to ensure agencies are accountable for their own procurement activities within a whole-of-government framework of legislation, procurement-related policies and standards. Agencies will have discretion to modify the assessment approach recommended by the Value for Territory Assessment Framework to ensure that it is appropriately targeted and fit for purpose.

### What does this mean for existing NT Government contracts?

There are no changes to existing contracts.

### What does this mean for Local Government in tendering for NT Government contracts?

While Local Government organisations are not considered an ABE, the NT Government does recognise the important role that they can play in helping to deliver on the objectives of the Aboriginal Procurement Policy.

All organisations (including Local Governments) that employ Aboriginal people and use and support ABE’s in their supply chain will benefit from preferencing in open tenders.

## Targets and reporting

### Are there any targets?

From 1 July 2022, the NT Government will aim to reach the following stretch-targets to assist with benchmarking:

* 5 per cent of the total number of NT Government contracts awarded to Aboriginal Business Enterprises
* 5 per cent of the annual total of Norther Territory Government contract value awarded to Aboriginal Business Enterprises

The above targets will be reviewed early 2023 to inform 2023-24 targets.

### How can the NT Governments performance against the targets be monitored?

All NT Government contracts awarded with an estimated value of $15,000 or more are published on the Quotations and Tenders Online system (accessible at <https://tendersonline.nt.gov.au/>). All contracts awarded after 9 July 2021 identify if the contract has been awarded to an Aboriginal Business Enterprise.

### How will the NT Government report on the success of the Aboriginal Procurement Policy?

The NT Government will publish its performance against the targets annually.

All agencies will be required to report:

* annually to the Procurement Review Board through their Agency Procurement Management Plans
* annually against milestones of the *Everyone Together - Aboriginal Affairs Strategy*

### Will government undertake a review of the policy and its targets?

A review of the Aboriginal Procurement Policy targets will commence on 1 January 2023 to inform new targets for 2023-2024.

A review of the Aboriginal Procurement Policy in its entirety will commence on 1 July 2023.

An evaluation of the Aboriginal Procurement Policy will commence 1 July 2024.

The review and evaluation processes will be co-designed and agreed with the Aboriginal sector peaks.

### Will businesses claims relating to the Aboriginal Procurement Policy be audited?

Yes. Agencies will be responsible for reviewing claims made by potential contractors, ensuring that promises and commitments made by contractors are delivered on and ensuring that appropriate contractor performance records are maintained.

All NT Government contractors are required to comply with the Northern Territory procurement code which established set of minimum standards for the conduct of business in the NT including legal compliance and ethical behaviour.

## Previous Aboriginal procurement policies

### What happened to the Aboriginal Contracting Framework?

In early 2020, it was recognised that there was a need to introduce improvements to the procurement system to ensure that any further policy development is effectively and appropriately contextualised. Additionally, it was recognised that participation by Aboriginal Territorians and businesses in the NT economy is about more than just procurement.

The Northern Territory has developed a suite of policies to activate its procurement and grants spend to create more opportunities for Aboriginal participation in the Northern Territory economy. These policies include the Aboriginal Economic Participation Framework and the Aboriginal Procurement Policy. The Framework also outlines objectives for securing private sector commitments to Aboriginal economic participation, strengthening Aboriginal business and community-controlled organisations and realising the potential of the Aboriginal workforce.

Consultations from the Aboriginal Contracting Framework have helped inform the development of these two policies.

### Is the Aboriginal Procurement Policy a new version of the Indigenous Employment Provisional Sum?

No. The Indigenous Employment Provisional Sum (IEPS) was included in the Department of Infrastructure, Planning and Logistics Tier 4 and Tier 5 construction/works tenders awarded from 30 October 2014 to 4 August 2017. The IEPS does not apply to contracts awarded after August 2017.

The Aboriginal Procurement Policy is a targeted whole of government approach to increase equitable access to procurement activities for Aboriginal Business Enterprises.

### 27. Where do I go if I require further information?

For further information about the Aboriginal Economic Participation Framework please visit [Aboriginal Affairs (nt.gov.au)](https://aboriginalaffairs.nt.gov.au/)

For further information about the Aboriginal Procurement Policy please visit [Doing business with government | NT.GOV.AU](https://nt.gov.au/industry/procurement)