

**ARPC Procurement Procedure**

## Purpose

To outline the process for all ARPC procurement.

## Scope

This procedure is mandatory and applies to the ARPC Board, CEO, and all staff and contractors engaged by ARPC.

1. **Introduction**

This procedure outlines the process for procuring goods and/or services on behalf of the Australian Reinsurance Pool Corporation (ARPC). In the context of this procedure, procurement means any proposal to spend money for goods or services on behalf of ARPC. The procedure is designed so procurements are conducted:

* + to achieve value for money
  + with transparency and integrity throughout the process
  + within delegations
  + to provide efficient, effective, economical, and ethical use of public money.

This procedure also provides guidance to assist compliance with applicable legislative and policy frameworks. This includes obligations under the *Public Governance, Accountability and Performance Act 2013* (PGPA Act), the *Terrorism Insurance Act 2003* (TI Act) and the ARPC Values and Code of Conduct.

***ARPC is not legally bound by the Commonwealth Procurement Rules (CPR) because it is not a prescribed entity under s.30 of the PGPA Rule 2014. Officers involved in the conduct of APRC procurements are obliged to comply with this procedure.***

# Obligations

Anyone involved in procurement, particularly those dealing directly with suppliers, should:

* deal with suppliers and potential suppliers without bias
* comply with the ARPC Giving Official Hospitality Procedure and Receiving Gifts and Benefits Procedure or equivalent as applicable from time-to-time
* utilise ARPC’s money and property in an efficient, effective, economic, and ethical manner
* take appropriate steps to protect the Commonwealth’s confidential information and treat tenderer submissions and their evaluation confidentially.

# Delegation to approve

## Obligations of Delegates

A delegate approving a spending proposal must:

* + - check that there is an allocation within the Board-approved budget for the spending proposal,
    - only approve an expenditure amount that is within their delegation,
    - discuss the timing of the spending commitment with the CFO, and
    - be satisfied that the expenditure will represent efficient, effective, economical and ethical use of ARPC’s resources.

The delegate must obtain prior approval from the CEO for any proposed spending that is not provided within the annual budget approved by the Board.

A procurement must not be divided into separate smaller procurements to circumvent a threshold, either by dividing the procurement into its component parts or by entering into multiple contracts for shorter time periods. Limited Source Procurement and Sole Source Procurement

ARPC is a specialised provider of reinsurance cover, and as such there are generally limited known suppliers that can meet the needs of ARPC. Significant acquisitions are typically for consulting services such as reinsurance broking, actuarial services, internal audit services, research and modelling services associated with terrorism risk, recruitment of insurance specialists, and human resource management and training services. In many cases there are limited suppliers able to provide the services required by ARPC. As such the most efficient and effective and economic procurement method is generally a limited source request for proposal or a sole source procurement.

When considering sole source procurements, the following criteria may be relevant:

* When the goods and services can only be supplied by a particular business and there is no reasonable substitute.
* For reasons of extreme urgency brought about by unforeseen circumstances.
* For additional deliveries of services by an existing supplier.
* For procurements under exceptionally advantageous conditions that arise only in the very short term.

# Government Panel

ARPC can use a government panel for procurement processes . For general services, the use of a government panel may increase cost savings (due to whole-of-government negotiated rates) and efficiencies in the procurement process (no need to conduct an approach to market or can conduct a limited approach to market based on already approved capabilities). Government Panels can be found on the Department of Finance website and the AusTender website.

# Due Diligence for *Modern Slavery Act 2018*

ARPC is dedicated to acting ethically, honestly, and with integrity in all business relationships and expect our supply chain to comply with similar values. As part of ARPC procurement process, risk-based due diligence is to be conducted on all new vendors/ suppliers to make sure that ARPC’s operations and supply chain is free from modern slavery practices.

If concerns emerge during the due diligence process regarding any vendor/ supplier, ARPC will discuss this with the supplier with a view to them adjusting their approaches to modern slavery risks by implementing best-practice approaches. If the supplier chooses not to engage in corrective measures being implemented or assurance being provided, ARPC may consider discontinuing the relationship with the supplier.

ARPC’s contract template and accompanying information sheet also requires suppliers to comply with the Modern Slavery Act.

# Intellectual Property (IP)

Procurement processes may require decisions to be made regarding the management of intellectual property (IP) which:

* is already in existence (background IP) and required for the procurement; and
* may be created during performance of a contract (foreground IP).

In accordance with the ‘Intellectual Property Principles for Commonwealth entities’ (Sept 2016) published by the former Department of Communications and the Arts, ARPC should maintain a flexible approach in considering options for ownership, management and use of IP.

Appropriate IP ownership will depend on the nature of the procurement. For example, with information and communication technology contracts for software, the default position should be that the supplier owns the IP in the software developed under the procurement contract and that ARPC is granted a permanent, irrevocable, worldwide, royalty free, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt, modify, distribute and communicate but not commercially exploit. In relation to other procurements, it may be more appropriate for ARPC to hold IP ownership and grant the contractor a licence. Advice should be sought from the General Counsel if it is not clear how IP should be managed in relation to a procurement.

# Complaints

The CFO is responsible for the management of any procurement-related complaints directed to ARPC.

If a complaint about procurement is received, ARPC should apply timely, equitable and non-discriminatory complaint-handling procedures, including providing acknowledgement soon after the complaint has been received. Where possible, the process is to be managed internally through communication and conciliation.

The CFO is to consult ARPC’s General Counsel about handling a complaint.

A complaint that is a public interest disclosure must be handled in accordance with the Public Interest Disclosure Policy and Procedure.

# Conflict of Interest

If a procurement official becomes aware of any conflict of interest (real or apparent) that could arise during a procurement process, they must declare it immediately to their manager or CEO who will make a decision on the matter.

For a more detailed discussion of conflicts of interest and how they might arise, please refer to ARPC’s Conflict of Interest Procedure.

# Breach of procedure

Breaches of this procedure by ARPC staff or contractors may be investigated under the provisions of ARPC’s Values and Code of Conduct in the first instance but may also be investigated in accordance with the Fraud Rule under section 10 of the PGPA Rule 2014.