

International Labour Organization Protocol of 2014 to Forced Labour Convention 1930 (No. 29) adopted at Geneva on 11 June 2014

Procurement ACT supports greater systematic action to address forced labour and modern slavery and is currently exploring options to minimise the exposure of the Territory's procurement processes to modern slavery.

Procurement ACT will consult on any measures that are developed and will ensure they are consistent with any international treaties to which the Territory is a party and any measures implemented by other directorates.

The current Procurement Framework already includes various measures that seek to either address or eliminate the risk of forced labour throughout the Territory's procurement processes. These include:

Government Procurement Act 2001 (Act)

Under section 22A(1) of the [Act](#), Territory entities must pursue value for money when undertaking any procurement activity. Value for money may involve considering the broader social or economic benefits to a respondent's offer. This allows Territory entities to consider, amongst other things, whether there are any forced labour risks in a respondent's offer and whether a respondent incorporates practices that combats forced labour.

Government Procurement (Charter of Procurement Values) Direction 2020 (Procurement Values Direction)

Under section 4(a) of the [Procurement Values Direction](#), Territory entities must consider the Charter of Procurement Values (Charter) in the management of their procurement activities. The Procurement Values of relevance are the:

- "Fair and Safe Conditions for Workers" which seeks to promote a fair and safe work environment for workers in businesses that are awarded Territory contracts and awarding contracts to businesses that do the right thing for their workers, and
- "Transparent and Ethical Engagement" which involves Territory entities being alert to modern day slavery and leveraging national and inter-jurisdictional initiatives to abate such practices.

Territory entities are encouraged to apply Procurement Values where possible and relevant.

The related [Procurement Values Guide](#) provides compliance guidance to Territory entities in relation to the Procurement Values Direction. The Guide provides examples of how Territory entities can address and minimise the risk of forced labour in relation to the Procurement Values such as by requiring respondents be accredited and/or certified by relevant third parties.

Training on the Procurement Values includes awareness raising of risks of modern slavery in ACT Government procurement for Government Buyers.

Government Procurement (Secure Local Jobs) Code 2020 (SLJC)

The [SLJC](#) applies to procurements related to industries that are susceptible to unfair and unsafe conditions for workers – including construction, cleaning, security, traffic management and certain services. For these procurements, respondents must hold a valid SLJC Certificate in order to submit a response.

To maintain a SLJC Certificate, a Code Certified Entity must comply with several obligations including complying with prescribed legislation relating to industrial relations, employment and workplace safety such

as the *Fair Work Act 2009* (Cth) which itself sets out obligations for employers to comply with such as the National Employment Standards and modern awards.

The SLJC also applies to subcontractors, so where a respondent must hold a SLJC Certificate during a procurement, the respondent must ensure any subcontractor(s) holds the same and complies with the SLJC in relation to the procurement.

Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021 (ETWE Direction)

The [ETWE Direction](#) applies to SLJC applicable procurements with a total estimated value of \$200,00 or more and which are conducted by public tender. It reinforces the SLJC by evaluating a respondent's compliance with their Code obligations, and whether they pose as a reputational risk to the Territory and/or Territory entity. Any findings from the evaluation are provided to the relevant Territory entity delegate to determine whether to proceed with a respondent.

In particular, the reputational risk component of the evaluation allows for the consideration of evidence of use of forced labour, as it involves considering things such as the reputation of the Territory and Territory entity as a model employer and the public interest in the Territory and/or its procurement framework, if it were to engage with a respondent.

A respondent that is exposed to or engaging in forced labour may well be a reputational risk to the Territory and/or Territory entity and provide the basis for a delegate to not proceed with such a respondent.

Tender Standard Terms and Conditions

It is the Territory's policy that it will not enter into a contract with any respondent who engages Illegal Workers.

Although not all illegal workers are necessarily victims of forced labour, they are more likely to be subject to it, especially [migrants and victims of human trafficking](#). This requirement is outlined in the Approach to Market templates for goods and services procurement (e.g., Request for Tender and Terms and Conditions). Tender documents also require compliance with the Labour Hire Licencing Scheme for labour hire procurements.

Conclusion

Procurement ACT will continue to ensure that ACT Government Procurement practices can adequately address practices of forced labour, modern slavery and human trafficking. We support a systematic approach to ensure there are effective measures to address this issue to ensure that beyond procurement action there are mechanisms to provide victims protection and access to appropriate and effective remedies, such as compensation, and to sanction all perpetrators of forced or compulsory labour, not just those engaged with government procurement.