



Australian Government

Department of Families, Housing,
Community Services and Indigenous Affairs

WORKPLACE GENDER EQUALITY

PROCUREMENT PRINCIPLES AND USER GUIDE



a strong and fair society for *all* Australians

Minister's Foreword



The Australian Government believes it is essential for all women to receive social and financial recognition for the work they do and the contribution they make to Australian society.

Gender inequality is a significant disincentive to women's workforce participation and the Government is determined to ensure both women and men are able to make genuine choices about their participation in the economy, community and at home.

The Workplace Gender Equality Procurement Principles and User Guide (the Principles) have been developed as part of the Government's commitment to fairer and more consistent measures for ensuring the Government only deals with organisations who comply with the *Workplace Gender Equality Act 2012 (Cth)* (the Act).

The Principles build upon the existing contract compliance policy which has connected the Act and its predecessors to the Commonwealth procurement framework since 1993.

The Principles formally establish the policy as well as the roles and responsibilities of those organisations required to apply the Principles. The Principles aim to support the effective and consistent application of the policy across Commonwealth procurement processes as well as provide certainty to those organisations with obligations under the Act who seek to participate in procurement processes with the Government.

The Government recognises the importance of striking the right balance between the need to drive and encourage cultural and attitudinal change within organisations and across the community, and ensure regulatory burden is effective and efficient. The revised policy signifies the Government's commitment to ensuring Australian workplaces reflect and support gender equality through the promotion of long-term and sustainable cultural change.

Improved gender equality is a central objective of the Government and these Principles will support and help drive this goal to achieve improved outcomes for women and men in Australian workplaces.

A handwritten signature in black ink, appearing to read 'Julie Collins', followed by a colon.

The Hon Julie Collins MP
Minister for the Status of Women
Minister for Community Services, Indigenous Employment and Economic Development

Workplace Gender Equality Procurement Principles and User Guide

Contents

Section 1:	Introduction	1
1.1	What are the Workplace Gender Equality Procurement Principles?	1
1.2	What are the objectives of the Principles?	1
1.3	What is the role of the Workplace Gender Equality Agency (WGEA)?	2
Section 2:	Background	2
2.1	The <i>Workplace Gender Equality Act 2012</i> (the WGE Act)	2
Section 3:	When do the Principles come into effect?	3
Section 4:	Scope of the Principles	3
4.1	Who needs to apply the Principles?	3
4.2	Do the Principles apply to overseas suppliers?	3
Section 5:	Roles and Responsibilities	4
5.1	Tenderers and suppliers	4
5.2	Australian Government agencies and officials	7
5.3	Workplace Gender Equality Agency (WGEA)	9
Section 6:	Obligations under the WGE Act for relevant employers and notice of non-compliance	10
6.1	Obligations under the WGE Act for relevant employers and consequences of non-compliance	10
6.2	Notice of non-compliance	11
Section 7:	Frequently Asked Questions	12
	For potential suppliers and tenderers	12
	For Australian Government agency officials	12
Section 8:	Model clauses for Australian Government agencies	14
8.1	Model clauses for request documentation	14
8.2	Model clauses for contracts	15
8.3	References in both request documentation and contract	15
Section 9:	Contacting WGEA	16
Section 10:	Glossary	16
Section 11:	Abbreviations and Acronyms	17

Section 1: Introduction

The Workplace Gender Equality Procurement Principles (the **Principles**) describes the Australian Government procurement connected policy associated with the Workplace Gender Equality Act 2012 Cth (WGE Act).

These Principles and supporting User Guide strengthen the former procurement connected policy (formerly called the 'Contract Compliance policy') which has been connected to the WGE Act and its predecessors since 1993.

The Principles have been developed as part of the Government's commitment to fairer and more consistent measures for ensuring the Government only deals with organisations who comply with the WGE Act.

These Principles are a procurement connected policy of the Australian Government and are therefore part of the Australian Government's financial management framework, which creates an overarching requirement to manage an agency's affairs efficiently, effectively, economically and ethically and in accordance with the policies of the Government.

This User Guide describes the roles and responsibilities of those organisations that are required to apply the Principles. It also sets out the model clauses for use by Australian Government agencies. These model clauses can be found under Section 8.

Note: The terminology used throughout the Principles and the User Guide are consistent (or have the same meaning) as Appendix C: Definitions, of the Commonwealth Procurement Rules (CPRs) or the WGE Act, where applicable. The complete glossary can be found in Section 10.

1.1 What are the Workplace Gender Equality Procurement Principles?

To be considered for Australian Government procurement contracts valued at or above the relevant procurement thresholds, all relevant employers must be able to demonstrate they are compliant with the WGE Act by supplying a letter of compliance either:

- with their submission to an approach to market issued by an Australian Government agency;
- or
- before entering into a contract with an Australian Government agency.

Letter of compliance can be obtained through the Workplace Gender Equality Agency (WGEA).

1.2 What are the objectives of the Principles?

The Principles form one component of ensuring compliance with obligations imposed on relevant employers covered by the WGE Act.

The Principles and User Guide have been developed to assist:

- **potential suppliers/tenderers** and **relevant employers** – to understand the Australian Government's expectations and requirements for making submissions and/or being awarded Australian Government contracts
- **officials** – to perform their procurement related duties in accordance with Australian Government policies
- **Australian Government agencies** – to ensure the effective and consistent application of this procurement connected policy.

1.3 What is the role of the Workplace Gender Equality Agency (WGEA)?

WGEA is an Australian Government statutory authority which aims to improve gender equality in Australian workplaces.

WGEA is responsible for administering the WGE Act which puts a focus on promoting and improving gender equality outcomes for women and men in Australian workplaces.

A light-touch regulator, WGEA works collaboratively with employers, business and industry offering advice and assistance, including access to training, online tools and resources, to promote and improve gender equality in their workplaces. WGEA also works collaboratively with professional associations, academics and researchers, equal opportunity networks and women's groups. WGEA presents at workshops (face-to-face and online), conferences, industry forums and networking events and webinars.

The Agency was formerly known as the Equal Opportunity for Women in the Workplace Agency.

Under the direction of the Minister with portfolio responsibility for the operations of WGEA, WGEA has responsibility for promoting and facilitating the implementation of the Principles.

For information on how to contact WGEA, refer to section 9.

Section 2: Background

2.1 The Workplace Gender Equality Act 2012 (*the WGE Act*)

The WGE Act received royal assent on 6 December 2012.

The WGE Act provides a regulatory framework for the Australian Government to assist employers to improve gender equality outcomes within their workplaces. Relevant employers failing to comply with their obligations under the legislation may not be eligible for Government contracts under the Australian Government procurement framework.

The WGE Act and its predecessors, the *Equal Opportunity for Women in the Workplace Act 1999* and the *Affirmative Action Act 1986* have formed important components of Australia's approach to removing obstacles to women's employment for over 25 years.

Section 3: When do the Principles come into effect?

The Principles apply to any approach to market issued by Australian Government agencies which is at or above the relevant procurement threshold on or after **1 August 2013 (the Date of Effect)**.

The Principles do not require Australian Government agencies to amend existing contracts or deeds of standing offer with suppliers or any multi-use list that is in place prior to the Date of Effect.

Section 4: Scope of the Principles

4.1 Who needs to apply the Principles?

The Principles apply to:

- all approaches to market undertaken by Australian Government agencies at or above the relevant procurement threshold; and
- suppliers and their subcontractors covered by the WGE Act (relevant employers).

*If you are not sure whether an organisation is a relevant employer, please contact WGEA.

Note: Suppliers' obligations arising from the Principles apply to the legal entity responding to the approach to market.

4.2 Do the Principles apply to overseas suppliers?

The Principles do not require overseas-based suppliers to comply with Australian laws that would otherwise not apply to them.

The Principles do not apply to suppliers who do not have a commercial presence in Australia unless they employ 100 or more staff (through either employment contracts or subcontracting arrangements) within Australia and qualify as a relevant employer under the WGE Act.

Section 5: Roles and Responsibilities



5.1 Tenderers and suppliers

A simplified diagram of the procurement process for tenderers and potential suppliers under the Principles is provided at section 5.1.4.

5.1.1. Determine whether your organisation is a 'relevant employer'

Prior to making a submission in response to an approach to market, potential suppliers must determine whether they are covered under the WGE Act. If the potential supplier is covered under the WGE Act, it is a relevant employer.

Tenderers must indicate whether or not they are a relevant employer in their submission.

5.1.2. Submit a letter of compliance to the Australian Government agency issuing the approach to market

A letter of compliance certifies that a relevant employer is compliant with the WGE Act and is available from WGEA.

All tenderers who are relevant employers must provide a letter of compliance either:

- A. with their submission in response to an approach to market issued by the Australian Government agency; or
- B. before entering into a contract with the Australian Government agency.

The letter of compliance must be submitted to the Australian Government agency who issued the approach to market.

As detailed in section 5.3 of this User Guide, WGEA can only issue a letter of compliance to an organisation that is compliant with the WGE Act.

A summary of the main obligations of a 'relevant employer' are set out at section 6.1 of this User Guide. The list is not exhaustive and these requirements apply over time.

In most cases, in the first instance, an organisation becomes compliant with the WGE Act simply by registering with WGEA. The timing of reporting for those relevant employers reporting for the first time will vary from between six and eighteen months dependent upon the time in the reporting cycle.

If at any time an organisation becomes compliant with the WGE Act, WGEA can issue a letter of compliance (in most cases, within two business days of the organisation being found to comply with the requirements of the WGE Act). This applies where the organisation is registered with WGEA but non-compliant under the WGE Act and subsequently becomes compliant or where an organisation becomes compliant by registering with WGEA.

For more information on how to become compliant with the WGE Act, please contact WGEA.

5.1.3. Meet ongoing compliance requirements

A. Ongoing compliance

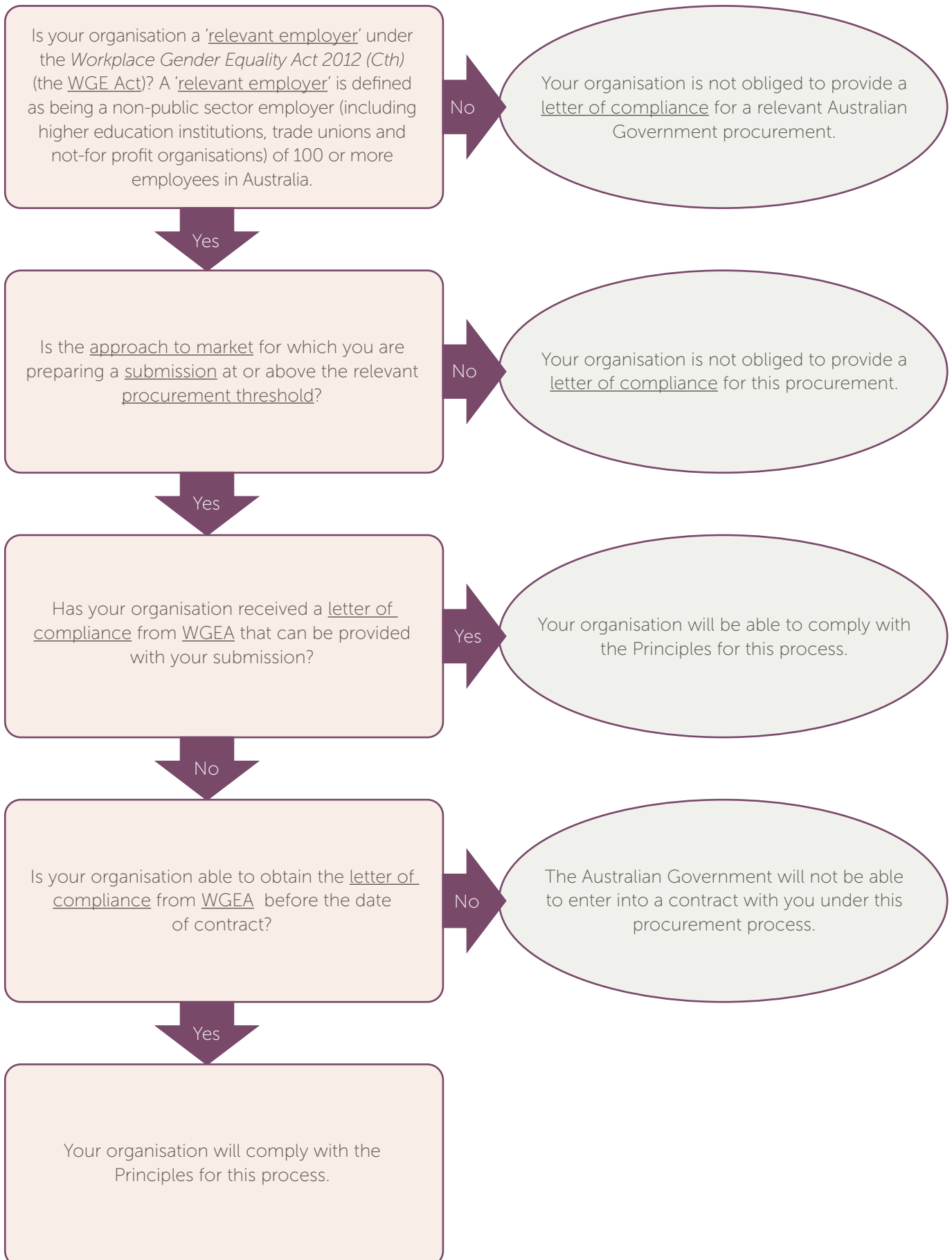
If a relevant employer who is the recipient of an Australian Government contract becomes non-compliant with the WGE Act during the term of a contract, it should notify the nominated Departmental contact officer. The relevant employer should then contact WGEA for information on the steps to become compliant.

B. What is the renewal process for the letter of compliance?

After a relevant employer has reported for the first time, a letter of compliance can be issued annually each time it submits a compliant report to WGEA.

5.1.4. A simplified flowchart of the procurement process for potential suppliers and tenderers under the Principles

Note: The following flow chart assumes that the Model Clauses are used and that compliance with the Principles is not a Condition of Participation.





5.2 Australian Government agencies and officials

A simplified flowchart outlining the key steps to be taken by Australian Government agencies and officials is provided at section 5.2.4. These steps are addressed in greater detail below.

5.2.1. **Determine whether the Principles apply to the procurement when preparing procurement documentation including request documentation**

Prior to preparing procurement documentation, officials must firstly determine whether the Principles apply to the procurement. The Principles apply where:

- the procurement is at or above the relevant procurement threshold; and
- the procurement is being carried out by an Australian Government agency.

If the Principles apply, officials refer to Section 8 for advice on what model clauses to include in procurement documentation.

If the Principles **do not** apply, officials are not required to include any additional clauses in the procurement documentation.

5.2.2. **Once submissions responding to an approach to market have been received, the official should identify whether or not the tenderer is required to supply a letter of compliance**

After submissions responding to an approach to market have been received, the official who is processing submissions should identify those tenderers that have indicated in their submission that they are a relevant employer under the WGE Act. Only those tenderers who have indicated they are relevant employers in their submissions are required to supply a letter of compliance.

If the tenderer has indicated in their submission:

(a) "Yes, I am a relevant employer. I have attached a current letter of compliance as part of this submission which indicates my compliance with the *Workplace Gender Equality Act 2012*."

The official will need to check whether the tenderer has provided a letter of compliance with their submission.

If a letter of compliance has not been submitted as part of the submission, the official will need to seek guidance from the relevant procurement area of the Department. The official will also need to refer to Departmental guidelines for advice on the appropriate steps for contacting tenderers during a tender process.

(b) "Yes, I am a relevant employer. I will be providing a letter of compliance prior to contract."

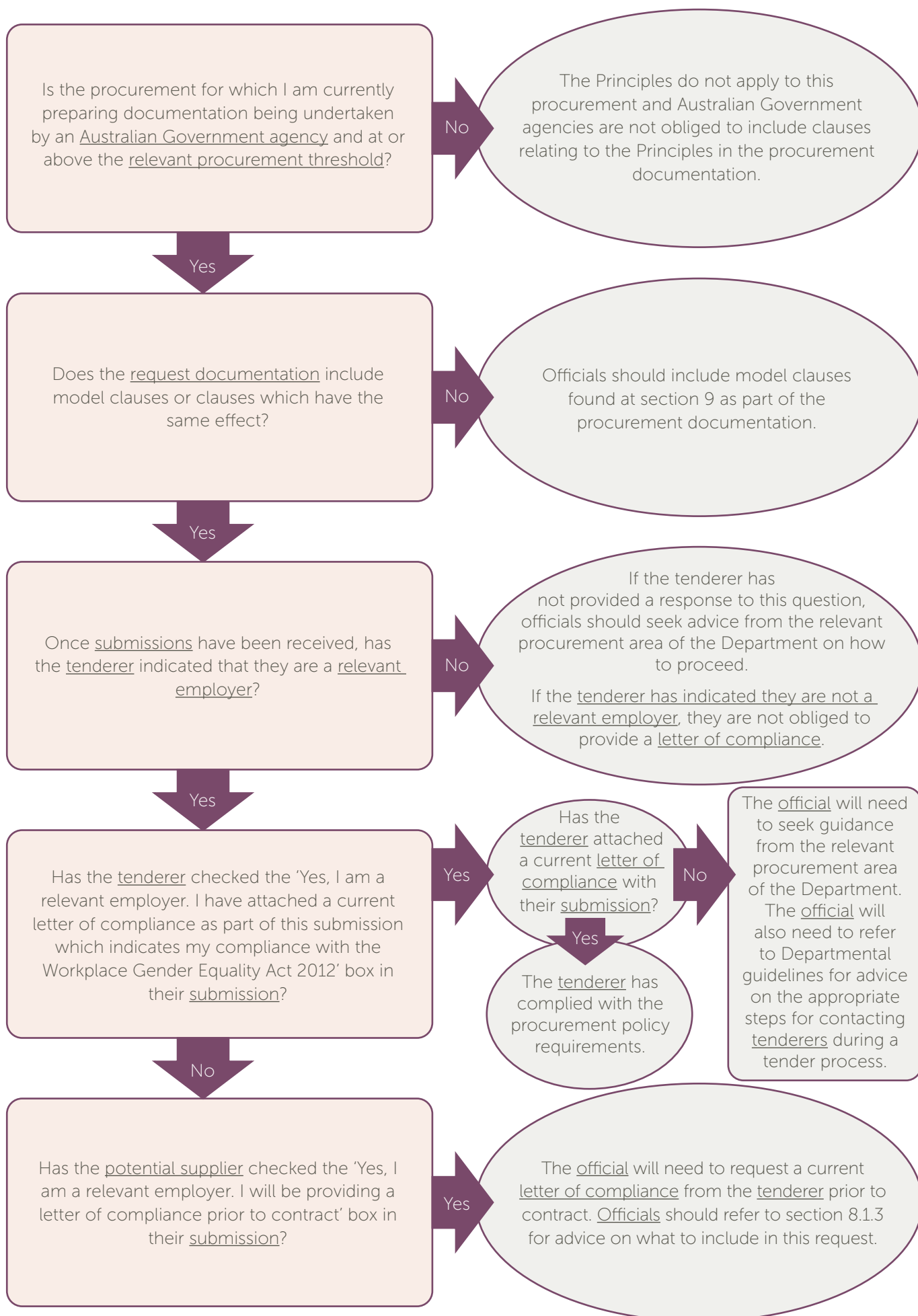
The official will need to request a letter of compliance from the tenderer prior to contract. Officials can refer to section 8.1.3 for advice on what to include in this request.

Officials should note that if at any time a tenderer becomes compliant with the WGE Act, WGEA can issue a letter of compliance.

(c) "No, I am not a relevant employer."

No further action is required by the official.

5.2.3. A simplified flowchart outlining the key steps for consideration in procurement processes undertaken by Australian Government agencies and officials





5.3 Workplace Gender Equality Agency (WGEA)

5.3.1. WGEA will issue a letter of compliance to:

A. Newly registered organisations

WGEA will supply a letter of compliance to organisations that have registered with WGEA for the first time, usually within two business days of registration.

The letter of compliance will specify a date by which the organisation must submit a report to WGEA for review. The timing of reporting for those relevant employers reporting for the first time will vary from between six and eighteen months dependent upon the time in the reporting cycle. The organisation may be found non-compliant with the WGE Act following review of the report or by failing to submit a report to WGEA within the agreed time.

B. Compliant organisations

WGEA will supply all reporting organisations that are compliant with the WGE Act with an annual letter of compliance.

C. Organisations that are non-compliant under the WGE Act that subsequently become compliant

Where an organisation that is registered with WGEA is non-compliant under the WGE Act and subsequently becomes compliant, WGEA will make the letter of compliance available to the organisation within two business days of the organisation being found to comply with the requirements of the WGE Act.

Section 6: Obligations under the WGE Act for relevant employers and notice of non-compliance

6.1 Obligations under the WGE Act for relevant employers and consequences of non-compliance

The table below summarises the main obligations and circumstances where an organisation may be non-compliant with the WGE Act. This list is not exhaustive and potential suppliers are obliged to ensure they are compliant with the WGE Act.

Section 19 of the WGE Act invests WGEA with the power to conduct checks to ensure relevant employers are complying with the WGE Act. This may be done on a random basis, or in response to information (or lack of) provided in a report.

Obligations for relevant employers	Circumstances where an organisation may be non-compliant
To lodge a public report with <u>WGEA</u> by 31 May.	The reporting period ends on 31 March each year. If a <u>relevant employer</u> lodges the public report after 31 May, it may be non-compliant.
To have the public report signed by the chief executive officer - subsection 13(5).	Report is not signed by the chief executive officer.
The report to contain information relating to the <u>employer</u> and to the gender equality indicators and details of any matters specified in an instrument under subsection 13 (3).	A <u>relevant employer</u> provides false or misleading information in the report, or does not provide the required information.
To inform, as soon as practicable after lodging a report, the <u>employees</u> of the <u>employer</u> , and any shareholders or members, that: <ul style="list-style-type: none"> the <u>employer</u> has lodged the public report with <u>WGEA</u>; and the way in which the report may be accessed (See subsection 16(1)).	A <u>relevant employer</u> , as soon as practicable after lodging a report, fails to inform the <u>employees</u> of the <u>employer</u> , and any shareholders or members, that: <ul style="list-style-type: none"> the <u>employer</u> has lodged the public report with <u>WGEA</u>; and the way in which the report may be accessed.
To take all reasonable steps to inform, within seven days, each employee organisation that has members who are <u>employees</u> of a <u>relevant employer</u> , that a report has been lodged.	A <u>relevant employer</u> fails to, within seven days, take all reasonable steps to inform each employee organisation that has members who are <u>employees</u> of the <u>employer</u> , that a report has been lodged.
To provide <u>employees</u> and any shareholders or members of the <u>employer</u> , with access to the report of an <u>employer</u> , as soon as practicable - subsection 16(2).	A <u>relevant employer</u> fails to make the report accessible to <u>employees</u> , shareholders or members of the <u>employer</u> within a reasonable timeframe.
To inform <u>employees</u> and each employee organisation that has members who are <u>employees</u> of the <u>employer</u> , as soon as reasonably practicable after lodgement, that comments on the report may be given to the <u>employer</u> or to <u>WGEA</u> (16B).	A <u>relevant employer</u> fails, to inform <u>employees</u> , and each employee organisation, that has members who are <u>employees</u> of the <u>employer</u> , as soon as reasonably practicable after lodgement that comments on the report may be given to the <u>employer</u> or to <u>WGEA</u> (16B).

Obligations for relevant employers	Circumstances where an organisation may be non-compliant
<p>The <u>relevant employer</u> to provide information to <u>WGEA</u> which has been requested under section 19A.</p> <p>This may include, for example:</p> <ul style="list-style-type: none"> • information that sufficiently addresses the matters in the written notice given by <u>WGEA</u> • true and accurate information or documents in response to the notice given by <u>WGEA</u> • information that substantiates claims made in a public report 	<p>The <u>relevant employer</u> fails to provide sufficient information as requested in writing by <u>WGEA</u> following review of the <u>relevant employer's</u> compliance with the <u>WGE Act</u>.</p>
<p>Where a <u>relevant employer</u> has failed to meet a minimum standard set by the Minister in relation to a base reporting period then the <u>relevant employer</u> must improve, over a comparison period of time (two reporting periods), against the base standard of that minimum standard.</p>	<p>A <u>relevant employer</u> fails to improve against a minimum standard set by the Minister, over a comparison period of time (two reporting periods).</p>

Following the appropriate notice period as required by section 19(2) of the WGE Act, non-compliant organisations will continue to be named in Parliament and more widely. For example, WGEA may name the employer as having failed to comply with the WGE Act and set out details of the non-compliance on WGEA's website or in a newspaper.

6.2 Notice of non-compliance

If a recipient of an Australian Government contract becomes non-compliant under the WGE Act and it is a relevant employer during the term of a contract, it is obliged to notify the nominated Departmental contact officer.

Section 7: Frequently Asked Questions

For potential suppliers and tenderers

Question 1: *My organisation had 100 or more employees for a period of five months last year, does my organisation need to supply a letter of compliance as part of a submission or prior to entering a contract?*

Answer: No. Under section 13A of the [WGE Act](#), if the organisation had the status of [relevant employer](#) for less than 6 months of a particular reporting period, the organisation does not need to report to [WGEA](#) for that period. The organisation is therefore not required to supply a [letter of compliance](#) as part of their [submission](#) or prior to entering into a contract for that particular procurement process.

Question 2: *How do I obtain a replacement letter of compliance?*

Answer: If a [letter of compliance](#) is lost or damaged, replacement [letters of compliance](#) can be obtained by [contacting WGEA](#).

For Australian Government agency officials

Question 3: *Do the Principles apply retrospectively?*

Answer: No. The Principles apply only to all [approach to market](#) at or above the [relevant procurement threshold](#) that has been released on or after the Date of Effect. (User Guide Section 3).

The Principles do not require [Australian Government agencies](#) to amend existing contracts with [suppliers](#) or the terms of any standing offer or [multi-use list](#) that is in place prior to the Date of Effect.

Question 4: *I am an Australian Government agency official and I have received submissions responding to an approach to market. How do I know whether the tenderer should have supplied a letter of compliance with their submission?*

Answer: [Australian Government agency officials](#) must identify whether [tenderers](#) are required to supply a [letter of compliance](#) as part of their [submission](#). The Principles require [Australian Government agencies](#) to include a declaration in their [request documentation](#) that requires [tenderers](#) to identify whether or not they are a '[relevant employer](#)'.

If a [tenderer](#) has indicated 'Yes, I am a relevant employer, I have attached a current letter of compliance as part of this submission which indicates my compliance with the Workplace Gender Equality Act 2012', the [submission](#) should include a [letter of compliance](#) to be eligible to be considered for Australian Government contracts.

If a [tenderer](#) has indicated 'Yes, I am a relevant employer. I will be providing a letter of compliance prior to contract', the [official](#) will need to request a current [letter of compliance](#) from the [tenderer](#) prior to contract. Refer to section 8.1.3 for advice on what to include in this request.

Question 5: *Are Australian Government agency officials still required to check the list of non-compliant organisations listed on the WGEA website?*

Answer: No. [Australian Government agency officials](#) must identify whether [tenderers](#) are required to supply a [letter of compliance](#) as part of their [submission](#). The Principles require [Australian Government agencies](#) to include a declaration in their [request documentation](#) that requires [tenderers](#) to identify whether or not they are a '[relevant employer](#)'.

If a [tenderer](#) has indicated 'Yes, I am a relevant employer, I have attached a current letter of compliance as part of this submission which indicates my compliance with the Workplace Gender Equality Act 2012', the [submission](#) should include a [letter of compliance](#) to be eligible to be considered for Australian Government contracts.

If a [tenderer](#) has indicated 'Yes, I am a relevant employer. I will be providing a letter of compliance prior to contract', the [official](#) will need to request a current [letter of compliance](#) from the [tenderer](#) prior to contract. Refer to s8.1.3 for advice on what to include in this request.

Question 6: *If the tenderer has made a submission without supplying a letter of compliance and/or have not specified whether they are a 'relevant employer', can an Australian Government agency official exclude that submission from any further consideration?*

Answer: The official will need to seek assistance from their internal procurement area or seek legal advice on whether the tenderer has made an incomplete submission and whether further consideration of the submission is necessary. For specific information concerning the Australian Government procurement connected policy associated with the WGE Act, contact the Australian Government Office for Women on 1300 653 227.

Question 7: *Do the Principles apply to Deed of Standing Offer arrangements?*

Answer: Yes. The Principles apply to all deed of standing offer arrangements. Model clauses can be found at Section 8 however these clauses have been drafted specifically for contracts. These clauses will need to be amended accordingly for deed of standing offer arrangements.

Section 8: Model clauses for Australian Government agencies

8.1 Model clauses for request documentation

8.1.1. Australian Government agencies are required to include the following statements and declaration (or statements and clauses which have the same effect) in all request documentation at or above the relevant procurement threshold.

[Note: These model clauses are drafted for contracts and will need to be amended accordingly for deeds of standing offer arrangements.]

X.1 Workplace Gender Equality Act 2012 (Cth)

- X.1.1 Commonwealth policy prevents the Commonwealth from entering into contracts with suppliers who are non-compliant under the Workplace Gender Equality Act 2012 (Cth) (the WGE Act). The Draft Contract requires that, in performing any contract, a successful tenderer must:
- comply with its obligations, if any, under the WGE Act; and
 - if the Term of the Contract exceeds 18 months, the successful tenderer must provide a current letter of compliance within 18 months from the Contract Commencement Date and following this, annually to the *[Department Contact Officer or insert other position]*.
- X.1.2 Successful tenderers should note that if during the term of the Contract, the Supplier becomes non-compliant with the WGE Act, the Supplier must notify the *[Department Contact Officer or insert name of other position]*. For further information about coverage of the WGE Act, contact WGEA on (02) 9432 7000.
- X.1.3 Tenderers must indicate as part of the tenderer's response at *[Schedule 9 – Tenderer's Declaration or insert reference of where the Tenderer's declaration will be made in the request documentation]*, whether or not the organisation is a 'relevant employer' under the WGE Act and, if applicable, provide a current letter of compliance as part of their Tender submission, or prior to entering into contract.

8.1.2. Australian Government agencies are also required to include a yes/no box as part of request documentation for procurements at or above the relevant procurement threshold, which will enable the potential supplier to indicate whether or not they are a 'relevant employer' under the WGE Act (for example, as part of the Tenderer's Declaration).

Workplace Gender Equality Act 2012 (Cth)

Under Australian Government procurement policy, you are obliged to indicate whether or not your organisation is covered by the *Workplace Gender Equality Act 2012 (Cth)* (the WGE Act). Your organisation is covered by the WGE Act if it is a 'relevant employer', defined as being a non-public sector employer (including higher education institutions, trade unions and not-for-profit organisations) of 100 or more employees in Australia. For information about the coverage of the WGE Act, contact the Workplace Gender Equality Agency on (02) 9432 7000.

- ☐ (a) Yes, I am a relevant employer. I have attached a current letter of compliance as part of this submission which indicates my compliance with the *Workplace Gender Equality Act 2012*.
- ☐ (b) Yes, I am a relevant employer. I will be providing a current letter of compliance prior to contract.
- ☐ (c) No, I am not a relevant employer.

8.1.3. If the tenderer has indicated in their submission they are '(b)' a relevant employer but will be providing a letter of compliance prior to contract, the official must contact the tenderer and seek a letter of compliance before entering into a contact with the tenderer. The notification to the tenderer should include the following points:

- You have indicated in your submission for *[insert details of request documentation]* with the *[insert name of Department]* that your organisation is a 'relevant employer' for the purposes of the *Workplace Gender Equality Act 2012 (Cth)* (the WGE Act).
- Under the WGE Act and the associated Workplace Gender Equality Procurement Principles and User Guide, relevant employers are required to supply a letter of compliance with their submission in response to an approach to market issued by Australian Government agencies.
- Letters of compliance are available from the Workplace Gender Equality Agency (WGEA). For further information on the coverage of the WGE Act, contact WGEA on (02) 9432 7000.
- Please provide a current letter of compliance to *[insert name of officer]* by close of business *[insert date]*.

8.2 Model clauses for contracts

8.2.1. Australian Government agencies are required to include the following clauses, or clauses which have the same effect as the following clauses, in all contracts with Suppliers.

X.1 Workplace Gender Equality Act 2012 (Cth)

X.1.1 This clause X.1 applies only to the extent that the Supplier is a 'relevant employer' for the purposes of the *Workplace Gender Equality Act 2012 (Cth)* (the WGE Act).

X.1.2 The Supplier must comply with its obligations, if any, under the WGE Act.

[Note: We note clause X.1.2 may be omitted from this model clause if the terms and conditions contract otherwise requires compliance with the WGE Act.]

X.1.3 If the Supplier becomes non-compliant with the WGE Act during the Term of the Contract, the Supplier must notify the *[Department Contact Officer or insert other position]*.

X.1.4 If the Term of the Contract exceeds 18 months, the Supplier must provide a current letter of compliance within 18 months from the Contract Commencement Date and following this, annually, to the *[Department Contact Officer or insert other position]*.

X.1.5 Compliance with the WGE Act does not relieve the Supplier from its responsibility to comply with its other obligations under the Contract.

8.3 References in both request documentation and contract

8.3.1. All references to the *Equal Opportunity for Women in the Workplace Act 1999 (Cth)* in both request documentation and contracts will need to be replaced with the *Workplace Gender Equality Act 2012 (Cth)*.

Section 9: Contacting WGEA

The following are contact details for WGEA:

Level 7, 309 Kent Street
SYDNEY NSW 2000

GPO Box 4917
SYDNEY NSW 2001

Website: www.wgea.gov.au
Phone: (02) 9432 7000

Section 10: Glossary

Approach to market – any notice inviting *potential suppliers* to participate in a procurement which may include a request for tender, request for quote, request for expression of interest, request for application for inclusion on a *multi-use list*.

Australian Government agency/ies – For the purposes of these Principles, this refers to all agencies and bodies that are subject to the CPRs (including *relevant CAC Act bodies*, as defined in accordance with Appendix C of the CPRs).

CAC Act bodies – entities that are subject to the CAC Act. CAC Act bodies are legally and financially separate from the Commonwealth but can be directed by the Finance Minister under section 47A of the CAC Act to apply the CPRs in accordance with the CAC Act Procurement Directions if they are listed in *schedule 1 to the CAC Regulations*.

Employees – For the purposes of these Principles, employees are taken to mean those individuals who are employed:

- a. under a contract of service, whether on a fulltime, part-time, casual or temporary basis; or
- b. under a contract for services.

FMA Act 1997 Agencies (FMA agencies) – All Departments of State, Departments of the Parliament and prescribed agencies named in the FMA Act.

Letter of compliance – Issued by the Workplace Gender Equality Agency, this letter demonstrates that a *potential supplier* has complied with their obligations under the WGE Act. This letter is supplied at the time of registering with the Workplace Gender Equality Agency, and then annually each time the *relevant employer* submits a compliant report to WGEA.

Limited tender – Involves an agency approaching one or more *potential suppliers* to make *submissions*, where the process does not meet the rules for *open tender* or *prequalified tender*. See Division 1 and Division 2 of the CPRs for further information.

Multi-use list – A list intended for use in more than one procurement process, of pre-registered *suppliers* who have satisfied the conditions for participation on the list. Each approach to a *multi-use list* is considered a new procurement.

Official – An *employee* or official of an Australian Government agency who is responsible for performing duties relating to procurement.

Open tender – Involves publishing an open *approach to market* and inviting *submissions*.

Potential supplier – The entity or person who may respond to an *approach to market*.

Prequalified tender process – Involves publishing an *approach to market* inviting *submissions* from all *potential suppliers* on a:

- a. shortlist of *potential suppliers* that responded to an initial *approach to market* on AusTender;
- b. list of *potential suppliers* selected from a *multi-use list* established through an *approach to market*;
- c. list of all *potential suppliers* that have been granted a special licence or comply with a legal requirement, where the licence or compliance with the legal requirement is essential to the conduct of the procurement.

Procurement threshold – A procurement, other than one that is specifically exempt, where the value of the goods and services being procured exceeds the relevant procurement threshold outlined in paragraph 3.3 of the CPRs. The thresholds beyond which a procurement will be at or above the relevant procurement threshold as specified by the CPRs may be subject to change, however, as at November 2012 the relevant thresholds (including GST) are as follows:

- a. for *FMA agencies*, other than for procurements of construction services, the procurement threshold is \$80,000;
- b. for relevant CAC Act bodies, other than for procurements of construction services, the procurement threshold is \$400,000; or
- c. for procurements of construction services by *FMA agencies* or *CAC Act bodies*, the procurement threshold is \$9 million.

Relevant employers – Employers covered under the *Workplace Gender Equality Act 2012* for reporting purposes. The WGE Act applies if a non-public sector employer is a higher education institution; or a natural person, or a body or association (whether incorporated or not), that employs a total of 100 or more *employees* in Australia. For the purposes of these Principles, relevant employers are taken to mean those employers with a total of 100 or more *employees* across all subsidiaries within an organisation structure.

Request documentation – Documentation provided to *potential suppliers* to enable them to understand and assess the requirements of the procuring agency and to prepare appropriate and responsive *submissions*. This general term includes documentation for expressions of interest, *multi-use lists*, *open tender*, *prequalified tender* and *limited tender*.

Submission – Any formally submitted response from a *potential supplier* to an *approach to market*. *Submissions* may include tenders, responses to expressions of interest, applications for inclusion on a *multi-use list* or responses to request for quote.

Supplier – An entity or person who has entered into a contract with the Australian Government.

Tenderer – An entity or person who has responded with a *submission* to an *approach to market*.

Section 11: Abbreviations and Acronyms

CAC Act – *Commonwealth Authorities and Companies Act 1997*

CPRs – *Commonwealth Procurement Rules*

FMA Act – *Financial Management and Accountability Act 1997*

The WGE Act – *Workplace Gender Equality Act 2012*

WGEA – *Workplace Gender Equality Agency*

