



Application and verification of standards

1. Paragraphs 10.10 and 10.11 should be read in conjunction when prescribing standards for a procurement and determining whether to use an international standard or an Australian standard. Paragraph 7.26 applies to all standards prescribed in a procurement.
2. Technical specifications must be based on international standards, when they exist and apply to a procurement, except when the use of international standards would fail to meet the relevant entity's requirements.
3. An Australian standard is applicable when a standard is required, an Australian standard exists, and an international standard does not exist, or would fail to meet the requirements of the procuring entity.

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| CPRs Paragraph 7.26 | For procurements valued at or above the relevant procurement threshold, where applying a <i>standard for goods</i> or services, <i>relevant entities must</i> make reasonable enquiries to determine compliance with that <i>standard</i> , including: <ol style="list-style-type: none">a. gathering evidence of relevant certifications; andb. periodic auditing of compliance by an independent assessor. |
| CPRs Paragraph 10.10 | In prescribing specifications for goods and services, a <i>relevant entity must</i> , where appropriate: <ol style="list-style-type: none">a. set out the <i>specifications</i> in terms of performance and functional requirements; andb. base technical <i>specifications</i> on international standards, when they exist and apply to the relevant <i>procurement</i>, except when the use of international standards would fail to meet the relevant <i>entity's</i> requirements. |
| CPRs Paragraph 10.11 | Where an Australian standard is applicable for goods or services being procured, tender responses must demonstrate the capability to meet the Australian standard, and contracts must contain evidence of the applicable standards (see paragraph 7.26). |

What is the purpose of the rules?

4. These rules highlight common best practice for applying and monitoring standards in government procurement contracts. Where an official determines, due to the nature of the procurement, that a specific standard applies, suppliers must be capable of meeting the standard throughout the life of the contract. Officials must also ensure

supplier compliance with the standard, including through gathering evidence of relevant certification and independent compliance auditing.

What is the definition of standard?

5. For the purposes of the CPRs, a standard is defined as a document, approved by a recognised body such as Standards Australia, the International Organization for Standardization, the International Electrotechnical Commission or the International Telecommunication Union, that provides, for common and repeated use, rules, guidelines or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory, unless the goods or services are subject to regulation by government.

What is meant by independent compliance auditing?

6. The appropriate method of independent compliance auditing will vary on a case-by-case basis, depending on the standard that is being applied to the procurement. Entities may choose to complete an independent audit of compliance with relevant standards by using:
 - a. third party specialists (e.g. specialist auditor or assessor);
 - b. an employee or contractor within the entity (who may be able to complete relevant testing): or
 - c. an employee who is not otherwise involved in the procurement (i.e. an internal audit or WHS team).

What do the rules mean for suppliers and procuring officials?

7. The requirement at paragraph 10.11 of the CPRs places an onus on suppliers to demonstrate, in their tender responses, the capability to meet applicable standards. This allows potential suppliers who may not have a certification (for example) at the time of tendering, but can demonstrate the capability to obtain it if they are selected as the preferred supplier. This reduces the cost and burden for potential suppliers, who may not ultimately be awarded a contract.
8. Compliance with Australian standards is normally voluntary, unless the goods or services are subject to regulation by government. Examples of mandatory, legislated Australian Standards include electrical safety (see www.erac.gov.au), consumer product safety standards (see www.productsafety.gov.au), and building and plumbing standards (see www.abcb.gov.au).
9. Voluntary standards included in request documentation and contracts should be commensurate with the scope of the procurement, and necessary to ensure that the goods and services meet the intended outcomes of the procurement.
10. Paragraph 7.26 of the CPRs sets the requirement for relevant entities to make reasonable enquires to determine compliance with any prescribed standards. This includes gathering evidence of relevant certifications, in accordance with the contract requirement at paragraph 10.11 of the CPRs, and periodic auditing of compliance with prescribed standards by an independent assessor.
11. Paragraph 7.26 of the CPRs sets the expectation for the level of verification. When applying a standard, a relevant entity must make reasonable enquiries to determine

ongoing compliance with the standard specified in the contract, throughout the term of the contract. This is particularly relevant where a contract term is for multiple years.

Note - entities will be responsible for bearing the cost of engaging an independent auditor and keeping internal records as part of their contract management responsibilities.

12. Depending on the nature of the procurement, periodic auditing of compliance may not be required, for example, where officials are procuring goods only at a point in time or the contract is for only a short term.

What do procurement officials need to do?

13. Entity procurement officials should:
 - a. consider and identify if a standard is to be applied to the goods and/or services being procured;
 - o As part of planning, consideration should be given to whether the inclusion of standards is necessary to meet the requirements of the procurement, and whether this outweighs the additional burden imposed on suppliers.
 - b. ensure that standards included in request documentation are reasonable, commensurate with the scope and requirements of the procurement, and do not unnecessarily exclude potential suppliers who have the capability to provide the goods or services.
 - c. include information on the applicable standard within request documentation (where known) when approaching the market and make tenderers aware that they need to demonstrate the capability to meet the standard;
 - d. consider how the evaluation of this information will be conducted and incorporate it into the tender evaluation plan;
 - e. evaluate responses, taking into account the extent to which the tenderer has demonstrated their capability to meet the standard;
 - f. include clauses in the resulting contract that contain evidence of the standard and allow for compliance auditing (where relevant);
 - g. conduct reasonable enquires to ensure the standard is being met throughout the term of the contract (where relevant); and
 - h. document decisions made and actions taken on standards applicable to the procurement throughout the whole procurement life cycle (procurement planning and scoping to contract management).
14. Where procuring officials are not familiar with the relevant standards for goods or services being sourced, it is recommended that they seek advice. This could be from subject matter experts internally and externally, or from procuring officials in other entities sourcing similar goods and services.
15. Reasonable enquiries made to determine compliance with a particular standard should be considered in conjunction with the relevant risks and costs. Reasonable enquiries for a low risk procurement with a term of 3 months will vary significantly from that of a high risk contract with a 5-year term.

Example

Entity A needs to procure a widget.

During the planning and scoping phase, including seeking external advice, Entity A determines that the widget needs to meet a particular standard. The standard is necessary, to ensure that the widget works effectively and meets the intended outcomes of the procurement.

When setting out the specifications in the statement of requirements, Entity A includes a requirement in the approach to market documentation that the widget should meet this standard, and that tenderers need to show in their response that they can meet the standard.

Note - this could be in the form of a certificate, listing how the product proposed by the tenderer meets particular requirements of the standard, or the tenderer detailing how, if successful, it intends to meet the requirements of the standard.

Entity A clearly includes in their request documentation that the ability of the tenderer to demonstrate their capability to meet the standard forms part of the evaluation criteria.

As part of tender evaluation, Entity A considers the capability of tenderers to meet the standard. Entity A checks tenderers' claims and collects relevant information to determine the extent of compliance, or the ability to comply, with the standard.

Entity A includes relevant clauses in the contract that provides for:

- Evidence of compliance with the applicable standard – such as referencing certification by an accredited body.
- Periodic auditing by an independent assessor – either to be organised by the supplier or by the entity, allowing for compliance checks at relevant points of the contract term, such as annually.