

Complying with GIPA contract requirements

The *Government Information (Public Access) Act 2009* (GIPA Act) requires all contracts the department enters into with the private sector valued at more than \$150,000 to be recorded in the register of government contracts, which is published on the Department of Education (DE) section of the [NSW eTendering](#) website.

[Contracts register](#)

The details of each contract is required to be entered into the register within 60 days of the contract coming into effect, and must remain on the register for 30 days or until the contract is complete, whichever is longer.

* Class 3 contracts

The [GIPA Act](#) requires the publication of a copy of the contract document (minus commercial-in-confidence content) for all Class 3 contracts on the department's website.

The [GIPA Act](#) defines contracts to be class 3 where:

- there has not been a tender process, the proposed contract has not been made publicly available and the terms and conditions of the contract have been negotiated directly with the contractor;
- the proposed contract (whether or not made publicly available) has been the subject of a tendering process and the terms and conditions of the contract have been substantially negotiated with the successful tenderer;
- the obligations of one or more parties under the contract to maintain or operate infrastructure or assets could continue for 10 years or more;
- the contract involves a privately financed project as defined by [guidelines published by the Treasury](#);
- the contract involves a transfer of a significant asset of the agency concerned to another party to the contract in exchange for the transfer of an asset to the agency; and
- is valued at more than \$5 million.

Contract Clauses

- When DE enters into a contract with a private-sector vendor to provide services to the public on its behalf, DE must have a contractual right to immediately access certain information in the contractor's records.
- The Information and Privacy Commission (IPC) has developed two template [clauses](#) for agencies to insert into their private-sector contracts. Not all private-sector contracts are required to include the access to information clause.



- Access to Information Clause (GIPA Act, s. 121)
Consultation Clause (GIPA Act, s. 54)
 - The clauses are available from the [Information and Privacy Commission's](#) website.

ANY QUESTIONS?

- General procurement and contract queries:
[DE's Procurement Directorate](#)
EDConnect
1300 32 32 32 (option 4)

If you require more advice about the impact of the GIPA Act, visit the department's Information Access Unit website <https://education.nsw.gov.au/about-us/rights-and-accountability/information-access> or contact the unit on (02) 9561 8100 or via email: iaunit@det.nsw.edu.au.

- * **Class 3 contracts** are published both through the contract register on the [NSW's eTendering](#) website and [DoE's Contract](#) internet site.