



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

23 July 2021

Mr John Alexander OAM MP
Chair
Standing Committee on Infrastructure, Transport and Cities

via email: ITC.reps@aph.gov.au

Dear Mr Alexander

Inquiry into procurement practices for Government-funded Infrastructure

We welcome the inquiry into procurement practices for government-funded infrastructure. We believe that the government can do more to involve small businesses in Commonwealth procurement opportunities, and have been engaging with our colleagues at the Department of Finance to examine ways in which government procurement as a whole can be made more 'small business friendly'. As such, we offer the following comments:

- 1. Commonwealth procurement is complex, costly and time consuming for small businesses and the government should do more to streamline and simplify procurement processes.** We have heard from small businesses that have spent time and resources applying for various Commonwealth panels and complying with panel requirements only to find out that major Commonwealth agencies are using different, yet similar panels to procure the same goods and services. At the time of writing there are 374 Commonwealth procurement panels across 45 different agencies, including panels that deliver similar or duplicate products and services¹. This creates a complex web of procurement panels that is hard for small businesses to navigate without having prior knowledge to the inner workings of Commonwealth procurement.

Further, there is little transparency around the use of panel suppliers. Especially those small businesses that spend time and money gaining entry to procurement panels and receiving little to no work as a result of their efforts. Consideration should be given to reporting on panel member utilisation.
- 2. Duplication of qualifying requirements adds additional burdens.** Small businesses report that requirements to access Government procurement often duplicate or closely align with other industry standards or already existing requirements. An example recently raised with my office is the overlap between the Work Health and Safety Accreditation Scheme, and International Standard ISO 45001:2018, Occupational Health and Safety Management Systems. We understand that there is significant overlap between the two regimes, and removing the requirement to comply with either one would give small businesses greater access to government procurement while continuing to protect worker's health and safety. For this reason, consideration should be given to reviewing, removing or harmonising requirements where duplication or overlap is found.
- 3. Right-sizing requirements throughout the supply chain is also critical.** Many small businesses working on large infrastructure and mining projects are required by prime contractors to set aside up to 10% of the contract value by way of surety bonds or bank guarantees. As such, many small businesses seek loans to meet their contractual requirements, further reducing their capacity to engage in building projects.

¹ AusTender Standing Offer Notice List, Retrieved 22 July 2021

- 4. Government should do more to unbundle procurement contracts into more manageable components for small businesses.** Large contracts are a deterrent to small businesses who do not have the capacity to deliver every aspect of complicated and large contracts. These contracts prohibit small business engagement, but given the widespread use of sub-contractors to deliver components of government infrastructure projects, it is evident that these contracts could be broken into smaller parts that are more manageable for small businesses. These smaller contracts would benefit from being managed by appropriately skilled procurement and contract management officials.
- 5. Procurement panels should be refreshed more regularly to include newer businesses.** Government agencies do not provide sufficient opportunities for new businesses to join already established panels. We often hear from innovative small businesses that are unable to access procurement opportunities because they are 'locked out' of procurement panels. Government agencies that do not regularly refresh the suppliers on their procurement panels are excluding innovative small businesses, restricting competition and decreasing opportunities for innovation. The government should adopt a procurement panel policy similar to the Digital Transformation Agency's (DTA) Digital Sourcing for Panels Policy which requires the DTA's panels to be 'open at least annually for sellers to join'.
- 6. Government should provide greater transparency around procurement activities conducted through limited tender.** Small businesses often report finding out about procurement activities once the contract has been awarded and published on AusTender, effectively removing their capacity to tender for the work. Small businesses have raised concerns about limited tenders being used to approach repeat suppliers and exclude new entrants. To ensure that there is an incentive for procuring officers to approach a diverse pool of business for limited tenders, the government should publish the details of limited tender procurement activities and the details of the businesses who have been approached.
- 7. Changing the focus of 'value for money' to place greater importance on the economic benefits of contracting small businesses.** The government's definition of 'value for money' should consider the direct and indirect economic benefits of awarding contracts to small businesses. We recognise that price is not the sole factor for determining 'value for money' in the Commonwealth Procurement Rules. However, small businesses often report procuring officers favouring suppliers with the lowest price contract.
- 8. Consideration should be given to the Industry Advocate model from South Australia.** The Industry Advocate works to ensure local businesses can make the most of South Australian procurement opportunities. The Industry Advocate work to ensure that procurement opportunities are segmented into portions that are more suitable for small businesses tenders. It also ensures that businesses bidding for work are in fact small businesses and not a wholly owned and operated subsidiary of a larger firm. The Industry Participation Policy should be considered for Federal Government Procurement activities as it would ensure that capable small businesses based in Australia are being given full, fair, and reasonable access to procurement opportunities.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Mr Paul Buckingham on 02 6243 7821 or at Paul.Buckingham@asbfeo.gov.au.

Yours sincerely



The Hon. Bruce Billson
Australian Small Business and Family Enterprise Ombudsman