

10 July 2024

Government Procurement Trade Policy Team  
Department of Finance

via email: [gptrade@finance.gov.au](mailto:gptrade@finance.gov.au)

Dear Sir/Madam,

### **Broader Economic Benefits in Procurement**

The Australian Small Business and Family Enterprise Ombudsman (ASBFEO) welcomes the opportunity to provide feedback to the Department of Finance on the *Consideration of Broader Economic Benefits in Procurement* guidance.

Recommendation 10 of the ASBFEO's review of the implementation of the 1 July 2022 changes to Commonwealth Procurement Rules (CPRs) urged the Australian Government to decode rules and guidance, including by introducing a new 'sourcing strategy checklist' and an 'assessment outcomes checklist' to supplement existing guidance for procurements valued up to \$20 million, which is the threshold for Australian Industry Participation Plans.<sup>1</sup>

The ASBFEO is encouraged by the government's decision to consider the potential for use of a 'sourcing strategy checklist' and 'assessment outcomes checklist' as part of ongoing resource development.<sup>2</sup> Capturing broader value-for-money considerations through these checklists will encourage more consistency in procurement deliberations across departments and more transparent and comparable reporting within government.

The ASBFEO also notes the heightened importance of a clear, quantifiable method of formulating and assessing broader benefits to the Australian economy, following the government's announcement on 17 June 2024 to reduce the threshold for procurements that require an economic benefit assessment from \$4 million to \$1 million (with the threshold for construction services remaining at \$7.5 million).

The ASBFEO Procurement Inquiry found that smaller businesses without experience in engaging with government struggle to understand what they need to do and what will persuade officials, especially regarding broader economic and social contributions.

In its submission to the Inquiry, the Department of Industry, Science and Resources observed that businesses are not confident that the broader components of value for money are informing procurement decisions:

'A common pinch point reported by businesses across sectors is the perceived lack of effective value for money assessments undertaken as part of government tender

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<sup>1</sup> Australian Small Business and Family Enterprise Ombudsman (ASBFEO), *Procurement Inquiry Final Report*, ASBFEO, Australian Government, December 2023, accessed 4 July 2024

<sup>2</sup> Department of Finance, *Australian Government Response to the Australian Small Business and Family Enterprise Ombudsman Procurement Inquiry Final Report*, Department of Finance, Australian Government, April 2024, accessed 4 July 2024



evaluations. Although the CPRs require value for money assessments that go beyond seeking the lowest cost option, industry feedback indicates a strong view that, in practice, tender assessments do not sufficiently address the broader economic, environmental, and social benefits of proposals.<sup>3</sup>

While existing guidance (*Consideration of broader domestic economic benefits in procurement*) canvasses a range of factors relevant to demonstrating and assessing domestic economic benefit, not all of these are directly quantifiable and codifiable. While it is straightforward to measure the employment of workers or apprentices in Australia, or purchases from small-and-medium sized businesses or First Nations businesses, the sharing of knowledge or development of industrial capabilities must be measured by proxy.

Further, the checklist for officials sets out broad rules of procedure, rather than a method for selecting and weighting relevant variables. This approach entails a high degree of subjective evaluation by procuring officials, and therefore a low prospect of consistent decision-making between them.

This is why the ASBFEO continues to advocate an alternative approach that adapts the successful South Australian model. The South Australian Advocate's Industry Participation Plan template could be modified to clarify all requirements under the CPRs – including the multiple dimensions of the 'value for money' consideration – in a concise and commercially relevant form (see Figure X below).

Similarly, highlighting broader value-for-money considerations in a 'sourcing strategy checklist' and a corresponding 'assessment outcomes checklist' (like that of the South Australian Industry Advocate) would encourage more consistency in procurement deliberations across entities and more transparent and comparable reporting within government (see Figures Y and Z below).

We also see merit in the government using a 'retained economic benefit' framework. This would capture, but not prescribe, the contributions of procurements to domestic employment, labour market participation, productivity, innovation, small and First Nations businesses, national resilience, and sovereign capability.

These contributions can be quantified as:

- value of goods and services supplied by domestic enterprises, including SMEs, First Nations businesses, start-ups, or suppliers of innovative goods and services
- value of labour/services provided by Australian residents and First Nations Australians
- amount of expenditure on capital goods and social infrastructure in Australia.<sup>4</sup>

The advantages of this approach include:

- conveying in efficient, commercial terms what prospective suppliers need to offer and what requirements they need to satisfy to be eligible and competitive

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<sup>3</sup> ASBFEO, *Procurement Inquiry Final Report*, ASBFEO, Australian Government, December 2023, p. 58

<sup>4</sup> South Australian Government Industry Advocate, *South Australian Industry Participation Policy (SAIPP): Measuring Economic Benefit through Jobs, Investment and Supply Chain Opportunities*, South Australian Government Industry Advocate, 2023, accessed 10 November 2023.



- prompting officials to consider all the components of value for money and to seek further guidance as required
- enabling key procurement information to be codified and compared across entities, including the rationale for engaging or not engaging SMEs and First Nations businesses
- going beyond an Australian Business Number as an indicator of domestic enterprise
- identifying weaknesses in domestic economic capability or social performance over time
- assessing the effectiveness of the Buy Australian Plan, including with regard to strengthening Defence industries and capability to advance sovereign capability.

The ASBFEO is not recommending that officials give precedence or a heavier weighting to businesses that are Australian-owned or based. This would be contrary to Australia's international obligations and the CPRs that embed them.

Rather, the intent of the retained economic benefit approach is to further the aims of the Future Made in Australia agenda and Buy Australian Plan to maximise opportunities for small and First Nations businesses, strengthen sovereign capability and national resilience, and develop priority industries. All of Australia's international trading agreements include procurement exemptions for preferencing SMEs and advancing the health and socio-economic position of First Nations people (upon which the Indigenous business and small business exemptions in the CPRs depend).

As a small open economy and net capital importer, Australia's growth and development depends on attracting and realising the benefits of international investment, technology, and expertise. Greater participation by Australian industries, small businesses and First Nations businesses can be facilitated by foreign or domestic firms undertaking work for the Australian Government – where there is a sincere commitment to pursuing these objectives.

The key is ensuring that the procurement incentives of officials are aligned with this objective and that there are means of assessing progress across government.

**Recommendation 1: The Australian Government should:**

- **clarify all requirements and process steps for suppliers under the CPRs – including the multiple dimensions of the 'value for money' consideration – with a concise and commercially relevant decision support tool**
- **introduce a new 'sourcing strategy checklist' and an 'assessment outcomes checklist' to supplement existing guidance to advance the Buy Australian Plan, for procurements valued up to \$20 million, which is the threshold for Australian Industry Participation Plans**
- **before a procurement is undertaken, ask officials via the sourcing strategy checklist to indicate whether they have considered:**
  - **engaging a First Nations business before approaching the market**
  - **engaging an SME**
  - **engaging an Australian business**
  - **disaggregating a large project into smaller packages to maximise competition**



- any barriers to entry, such as costly preparation of submissions, that may prevent small or First Nations businesses from competing, increasing scale, or advancing priority industries, national resilience, or sovereign capability
- environmental sustainability and use of recycled content
- broader domestic economic or social benefits
- require the sourcing strategy checklist to include an ‘if no, please indicate why’ response, which could include three closed answers of ‘price’, ‘capability’ and ‘capacity’, and one open answer of ‘other’ to detail any considerations
  - the sourcing strategy checklist should be reviewed by a senior executive under the Public Governance, *Performance and Accountability Act 2013*
- require delegates for contracts (other than those requiring an Australian Industry Participation plan) to complete a corresponding ‘assessment outcomes checklist’ to:
  - monitor compliance
  - inform any complaints or investigations
  - generate comparable data over time to inform the effectiveness of procurement policy objectives, including the Buy Australian Plan
- use a ‘retained economic benefit’ framework to capture, but not prescribe, the contributions of procurements, which can be quantified as:
  - value of goods and services supplied by domestic enterprises, including SMEs, First Nations businesses, start-ups, or suppliers of innovative goods or services
  - value of labour/services provided by Australian residents and First Nations Australians
  - amount of expenditure on capital goods and social infrastructure in Australia.

**Recommendation 2: Conduct a targeted education and awareness campaign to clarify and promote 1 July 2024 changes to Commonwealth Procurement Rules to small businesses, as well as any revised guidance to the determination and assessment of broader domestic benefits.**

The government should conduct a targeted education and awareness campaign to raise small business understanding of how broader economic benefits are considered and evaluated throughout the procurement lifecycle. The ASBFEO would welcome the development of a series of short videos for the Selling to Government website, aimed at small businesses and First-Nations-owned businesses, to supplement existing guidance and to promote the 1 July 2024 changes aimed at creating more opportunities for businesses contributing to Australia’s economy.

An appropriate, focused communications strategy to increase small business engagement and awareness of the resources available may include:

- developing appropriately targeted information for small businesses in a range of formats to explain the updated procurement process under the new CPRs and how to navigate AusTender successfully, accessible on both the Selling to Government and AusTender websites



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- refining the search and notification functions to enable small businesses to identify business opportunities that are suited to their capabilities.

**Recommendation 3: Ready and reliable identification of small businesses through the Small Business Identification Tool**

- **The tool should have features that identify business characteristics such as indigenous, women owned/women led, and veteran owned/veteran led**

The Australian Government should consider if the Small Business Identification Tool, as used by the Payment Times Reporting Scheme, can be adapted for use by officials to easily identify SMEs when using Exemption 17 of the CPRs or for a coordinated procurement. The ASBFEO considers that clear criteria and safeguards will be necessary to ensure that the information provided is consistent and verifiable. This is especially important in light of the government's announcement on 17 June 2024 that at least one SME must be approached for every request for quote from the mandated Management Advisory Services Panel and the People Panel.

The ASBFEO maintains that those recommendations in our Procurement Inquiry, which the government has not fully embraced or will consider further, provide new thinking and approaches, based on what is working elsewhere that can help genuinely shift the dial to better realise the government's goals.

If you require any further information, please do not hesitate to contact the Policy & Advocacy team at the ASBFEO, via email at [advocacy@asbfeo.gov.au](mailto:advocacy@asbfeo.gov.au).

Yours sincerely

**The Hon Bruce Billson**

Australian Small Business and Family Enterprise Ombudsman

**Figure X: Indicative Commonwealth procurement checklist for potential suppliers**

Tender details			
Title		Purchasing entity reference number:	
Issuing entity:		Purchasing entity contact name:	
		Purchasing entity contact email:	
Business profile			
Title		Your name:	
Title		Your position:	
Title		Your email:	
Are you a First Nations business registered with Supply Nation?	Yes/No	Your telephone number:	
Are you a foreign person as defined in section 4 of the <a href="#">Foreign Acquisitions and Takeovers Act 1975</a> ?	Yes/No	Total Australian employees (full-time equivalent):	
Office location from where you will be primary servicing this contract:		Total First Nations employees (full-time equivalent):	
<b>Australian metropolitan</b>	<b>Australian regional</b>	<b>International</b>	
Is your business women-owned and women-led?	Yes/No	Is your enterprise veteran-owned AND veteran-led?	Yes/No



### Supply inputs (all values are to included GST)

Total tender value for the full term including all extension options: \$	Total value of labour/professional services: \$ Include all costs related to time spent by an employee or (sub)contractor
Total value of products: \$ Include the value of products purchased from all businesses	Number of new training contracts for Australian apprentices/trainees: Formal apprenticeship or traineeship contracts to be undertaken during the contract period

### First Nations supply inputs (all values are to include GST)

Sum of value of products purchased from any First Nations business: \$	Total value of labour/professional services by First Nations citizens: \$
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### Value-for-money considerations

Have you consulted Finance's <a href="#">guidance</a> on what constitutes value for money for the Australian Government?	Yes/No
Have you consulted the Australian Government's <a href="#">Sustainable Procurement Guide</a> ?  Recognising the Australian Government's commitment to sustainable procurement practices, the Commonwealth Procurement Rules require entities to consider the Sustainable Procurement Guide where there is opportunity for sustainability or use of recycled content.	Yes/No
Have you consulted <a href="#">Consideration of broader domestic economic benefits in procurement</a> ?  Under subsection 4.7 of the <a href="#">Commonwealth Procurement Rules</a> , officials must consider the direct benefits to the Australian economy for procurements above \$4 million (or \$7.5 million for construction services).	Yes/No

## Procurement Connected Policies

### 1. Are you bound by the [Payment Times Procurement Connected Policy](#)?

This policy requires, from 1 October 2021, large businesses (Reporting Entities under the Payment Times Reporting Act 2020) that are awarded Australian Government procurement contracts valued over \$4 million (GST inclusive) to pay their subcontracts valued up to \$1 million within 20 calendar days.

Yes/No

### 2. Are you bound by the [Shadow Economy – increasing the integrity of government procurement policy](#)?

The policy requires, from 1 July 2019, businesses seeking to tender for Australian Government procurement contracts over \$4 million (including GST) to provide a statement from the Australian Taxation Office showing they have a satisfactory tax record.

All non-corporate Commonwealth entities must comply with the policy.

Yes/No

### 3. Have you consulted the [Indigenous Procurement Policy](#)?

The Indigenous Procurement Policy, intended to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy, has three key components:

- a target for purchasing from Indigenous enterprises
- a mandatory set-aside to direct some Commonwealth contracts to Indigenous enterprises
- minimum Indigenous participation requirements for certain Commonwealth contracts.

Yes/No

### 4. Are you bound by the [Workplace Gender Equality Procurement Principles and User Guide](#)?

To be considered for Australian Government procurement contracts valued at or above the relevant procurement thresholds, certain tenderers (employers with 100 or more employees in Australia) must be able to demonstrate they are compliant with the Workplace Gender Equality Act 2012 by supplying a letter of compliance either with their submission to an ATM or before entering into a contract.

Yes/No

### 5. Are you required to prepare an [Australian Industry Participation Plan](#)?

The Australian Industry Participation (AIP) National Framework applies to major Commonwealth Government procurements (\$20 million or more). Successful tenderers for certain Commonwealth procurements are required to prepare and implement an AIP Plan.

Yes/No





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## Figure Y: Indicative sourcing strategy checklist for Commonwealth procurements up to \$20m

Project title:

Project manager:

Delegate:

Contracting entity:

1. Does the sourcing strategy include engaging First Nations businesses?

☐ Yes ☐ No

If **NO**, then indicate why:

- ☐ Price
- ☐ Capability
- ☐ Capacity
- ☐ Other \_\_\_\_\_

2. Does the sourcing strategy include engaging small or medium-sized businesses?

☐ Yes ☐ No

If **NO**, then indicate why:

- ☐ Price
- ☐ Capability
- ☐ Capacity
- ☐ Other \_\_\_\_\_

3. Does the sourcing strategy include engaging Australian businesses?

That is, not a foreign person as defined in s4 of the *Foreign Acquisitions and Takeovers Act 1975*.

Please refer to the [Buy Australia Plan](#).

☐ Yes ☐ No

If **NO**, then indicate why:

- ☐ Price
- ☐ Capability
- ☐ Capacity
- ☐ Other \_\_\_\_\_



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4. Has the sourcing strategy considered disaggregating the project into smaller packages to maximise competition?

☐ Yes ☐ No

If **NO**, then indicate why:

☐ Price

☐ Capability

☐ Capacity

☐ Other \_\_\_\_\_

5. Has the sourcing strategy considered barriers to entry, such as costly preparation of submissions, that may prevent small or First Nations businesses from competing?

☐ Yes ☐ No

If **YES**, please specify how these barriers are to be addressed: \_\_\_\_\_

\_\_\_\_\_

If **NO**, please explain why not: \_\_\_\_\_

\_\_\_\_\_

6. Does the sourcing strategy consider environmental sustainability and use of recycled content?

Please refer to the Australian Government's [Sustainable Procurement Guide](#).

☐ Yes ☐ No

If **NO**, then indicate why:

☐ Price

☐ Capability

☐ Capacity

☐ Other \_\_\_\_\_

7. Does the sourcing strategy consider broader domestic economic or social benefits?

Please refer to Finance's [Consideration of broader domestic economic benefits in procurement](#).

☐ Yes ☐ No

If **NO**, then indicate why:

☐ Price

☐ Capability

☐ Capacity

☐ Other \_\_\_\_\_

## Figure Z: Indicative outcomes checklist for Commonwealth procurements up to \$20m

Project title:

Project manager:

Delegate:

Contracting entity:

1. Did the evaluation of offers consider opportunities for First Nations business?

☐ Yes ☐ No

If **NO**, then indicate why:

- ☐ Price
- ☐ Capability
- ☐ Capacity
- ☐ Other \_\_\_\_\_

2. Did the evaluation of offers consider opportunities for small or medium-sized business?

☐ Yes ☐ No

If **NO**, then indicate why:

- ☐ Price
- ☐ Capability
- ☐ Capacity
- ☐ Other \_\_\_\_\_

3. Did the evaluation of offers consider opportunities for Australian businesses?

That is, not a foreign person as defined in s4 of the *Foreign Acquisitions and Takeovers Act 1975*.

Please refer to the [Buy Australia Plan](#).

☐ Yes ☐ No

If **NO**, then indicate why:

- ☐ Price
- ☐ Capability
- ☐ Capacity
- ☐ Other \_\_\_\_\_



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4. Did the evaluation of offers consider opportunities for disaggregating the project into smaller packages to maximise competition?

☐ Yes ☐ No

If **NO**, then indicate why:

- ☐ Price
- ☐ Capability
- ☐ Capacity
- ☐ Other \_\_\_\_\_

5. Did the evaluation of offers consider barriers to entry, such as costly preparation of submissions, that may prevent small or First Nations businesses from competing?

☐ Yes ☐ No

If **YES**, please specify how these barriers are to be addressed: \_\_\_\_\_

\_\_\_\_\_

If **NO**, please explain why not: \_\_\_\_\_

\_\_\_\_\_

6. Did the evaluation of offers consider environmental sustainability and use of recycled content?

Please refer to the Australian Government's [Sustainable Procurement Guide](#).

☐ Yes ☐ No

If **NO**, then indicate why:

- ☐ Price
- ☐ Capability
- ☐ Capacity
- ☐ Other \_\_\_\_\_

7. Did the evaluation of offers consider broader domestic economic or social benefits?

Please refer to Finance's [Consideration of broader domestic economic benefits in procurement](#).

☐ Yes ☐ No

If **NO**, then indicate why:

- ☐ Price
- ☐ Capability
- ☐ Capacity
- ☐ Other

8. Has a framework been put in place for communicating and receiving feedback?

☐ Yes ☐ No