



Australian Government

Australian Government Response to the Australian Small Business and Family Enterprise Ombudsman

**Procurement Inquiry Final Report reviewing the implementation of
the 1 July 2022 changes to the Commonwealth Procurement Rules**

APRIL 2024

Foreword

The Australian Government procures on average around \$70 billion each year in goods and services, helping to drive economic, social and sustainability outcomes for Australia. Small and medium enterprises (SMEs) represent a significant amount of that expenditure, with over 85 per cent of government suppliers being SMEs. SMEs are the engine room of our economy, and increasing their participation in Government procurement will support more prosperity for all Australians.

The Australian Small Business and Family Enterprise Ombudsman's (ASBFEO) Procurement Inquiry has highlighted the challenges for SMEs in navigating the Commonwealth's procurement process.

The Commonwealth Procurement Rules provide the foundation of the Commonwealth procurement framework. The Rules are supported by a range of tools, guidance material and templates to provide assurance, accountability, and transparency into Government procurement, and make it easier for businesses to contract to the Australian Government. The Government is working to ensure that our procurement rules and settings are fit for purpose for all suppliers, including SMEs.

The Government's Buy Australian Plan commits to open the door to more government work for SMEs by simplifying procurement. The Government has increased the target for procurements by value to be sourced from SMEs to 20 per cent. This target was exceeded in 2022-23.

Procurement is just one way that the Government is supporting small businesses. The Government is increasing pressure on big businesses to pay small businesses on time through reforms to the Payment Times Reporting Scheme. The Government is also investing in programs and resources to support the resilience of small business owners through cyber security support, and financial and mental health counselling support programs.

This Government response will support the reforms we have underway and demonstrates our commitment to SMEs by realising the full benefits of participating in Commonwealth procurement.

Katy Gallagher

Minister for Finance

Julie Collins

Minister for Small Business

Introduction

The Australian Government welcomes the opportunity to respond to the report from the Australian Small Business and Family Enterprise Ombudsman (ASBFEO) reviewing the implementation of the 1 July 2022 changes to the Commonwealth Procurement Rules (CPRs), as well as the impact of these changes on small business participation in Commonwealth procurement. The report was provided on 15 December 2023 to Senator the Hon Katy Gallagher, Minister for Finance, Women and the Public Service, and the Hon Julie Collins MP, Minister for Housing, Homelessness and Small Business.

In 2022-23 the Australian Government spent \$74.8 billion on goods and services. Through the Buy Australian Plan, the Government intends to leverage this purchasing power to contract with ethical businesses, build local industry capability, strengthen our supply chains, and support well-paid local jobs, consistent with our international trade obligations.

The Buy Australian Plan aims to maximise the opportunities for Australian businesses, especially regional businesses, Indigenous-owned businesses, and small and medium enterprises (SMEs) to participate in Government procurement, through:

- decoding and simplifying procurement processes;
- maximising opportunities in major infrastructure projects;
- providing more opportunities for Indigenous-owned businesses;
- supporting industry sectors;
- strengthening defence industries and capability; and
- ensuring national partnership agreements with the states and territories maximise opportunities for local businesses.

The Government, via the Department of Finance (Finance) regularly reviews the Commonwealth Procurement Framework (the Framework), including the CPRs, to ensure that the Framework continues to support the delivery of value for money for the Commonwealth.

The Government is committed to increasing the awareness of opportunities to sell to the Australian Government and uplifting the capability of businesses, including SMEs to compete for government contracts. Finance is improving the information on the Selling to Government website and raising the profile of the procurement and contract management profession through a range of initiatives aimed at building capability across the Australian Public Service. These activities include the Commonwealth Procurement and Contract Management Awards for Excellence, the Commonwealth Procurement Self-Assessment Capability Survey, the Commonwealth Procurement and Contract Management Community of Practice, the Procurement Bulletin, and procurement and contract management training.

Finance is also responsible for developing and implementing the Commonwealth's central procurement information system, AusTender. The core purpose of AusTender is to connect procuring entities with suppliers through business opportunities and to provide transparency of contracts awarded. Finance commenced implementing a number of enhancements to the AusTender platform, which will increase the information provided on contracts awarded, improve efficiencies in the use of panel arrangements, and implement a supplier portal that can be regularly updated with information about businesses that are supplying to the government. These enhancements are in response to recommendations from recent Australian National Audit Office and Joint Committee of Public Accounts and Audit reports.

Recommendations and Response

Recommendation 1: Enhance and elevate the Future Made in Australia Office

To ensure accountability, integrity and the successful realisation of procurement policy objectives while facilitating increased competition and innovation in the business sector, the Future Made in Australia Office should become an independent body reporting to the Minister for Finance.

The Government **notes** this Recommendation.

The Future Made in Australia Office was established in the Department of Finance in September 2022 to coordinate the delivery of the Buy Australian Plan.

The Buy Australian Plan contains an ambitious set of reform objectives which aim to maximise opportunities for businesses, especially regional businesses, Indigenous-owned businesses, and SMEs to participate in Government procurement. The broader policy objectives of the Buy Australian Plan are to make it easier to do business with the Australian Government, by breaking down barriers, increasing the capability of businesses to submit competitive tenders, and for the Australian Public Service (APS) to better engage with industry.

The Future Made in Australia Office is well positioned within Finance, given the department's role as steward of the Public Governance, Performance and Accountability Act and the Commonwealth Procurement Framework, to facilitate increased competition and innovation in the business sector to support better procurement outcomes for the Australian Government. Finance and the Future Made in Australia Office provide a range of tools and resources to raise awareness of opportunities to sell to the Australian Government and uplift the capability of businesses to compete for government contracts. This includes:

- managing the Selling to Government website, which provides information on Australian Government procurement processes and requirements,
- delivering workshops to educate suppliers on how to participate and be successful in Commonwealth procurement processes, and
- direct engagement with businesses at trade shows and industry events.

The Minister for Finance, Senator the Hon Katy Gallagher, and the Minister for Industry and Science, the Hon Ed Husic MP, co-chair the Ministerial Roundtable on Procurement, with representatives from peak industry bodies and regional businesses, First Nations businesses and SMEs, unions and academia. Discussions have covered a wide range of areas, including the key barriers for Australian businesses when bidding and winning contracts. The insights and feedback from these roundtables are informing the ongoing delivery of the Buy Australian Plan and accountability in the Framework.

Finance also leads the delivery of training packages and resources to uplift procurement and contract management capabilities across the APS to achieve more successful procurement policy objectives. These training packages target the whole of the APS, from those who undertake procurement on an infrequent basis to experienced practitioners, as well as procurement decision makers and delegates, to ensure Government procurements are conducted by a highly competent and ethical workforce. Value for money remains the core rule of the CPRs, however training courses will also include

modules on evaluation methods, integrity and probity to ensure tender responses are properly evaluated on their merits and not prior relationships with suppliers. The training courses also include modules on engaging with business and suppliers before, during and after a procurement, as well as throughout the period of the contract. These modules will be included in a range of in-person and online training materials to ensure all APS officials are properly supported to engage with business.

The Commonwealth Resource Management Framework, led by Finance, governs how officials in the Commonwealth public sector use and manage public resources. The Resource Management Framework is an important feature of an accountable and transparent public sector and informs the Australian people of the daily work of Commonwealth entities and their employees. The framework is given effect by the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The Framework is a subset of the Resource Management Framework related to the procurement of goods and services. Separating the administration of procurement from the broader policy instrument management arrangements could undermine effective procurement policy changes.

There are a range of broader Government policy objectives which interact with the CPRs. The CPRs are the cornerstone of the Framework and are maintained by Finance. To maximise the realisation of intended benefits through policy commitments and mitigate the risk of duplication and regulatory burden on business and entities, Finance exercises strong leadership over how policies are implemented through the CPRs and the broader procurement framework. This leadership recognises Australia's international obligations on government procurement under the Australia and New Zealand Government Procurement Agreement (ANZGPA), the World Trade Organization Agreement on Government Procurement (WTO GPA) as well as several free trade agreements. Finance regularly reports to the Minister for Finance on policies and programs to ensure policy objectives are being delivered.

The Government has a governance policy to support choosing and maintaining the right governance structure to undertake a government activity. A governance assessment of the risks, costs and benefits of at least three alternative governance structure options is required for Government to approve the establishment of a new body. A new independent entity would come with considerable funding and resourcing requirements without realising significant benefits. A new entity would be prone to duplicate functions currently located within Finance and undermine the efficient and effective administration of the Framework and CPRs.

Recommendation 2: Establish an active and independent Procurement Commissioner

Abolish the Procurement Coordinator function and establish an independent Procurement Commissioner to lead the Future Made in Australia Office and engage in active stewardship of the procurement framework by:

- driving the Commonwealth to be a model customer that is timely, respectful, and responsive in its dealings with suppliers
- supporting the implementation of the CPRs by enhancing the transparency, fairness, and efficiency of procurement processes
- instituting independent, responsive, and consequential complaint resolution mechanisms and remedies to raise issues (and potentially have issues addressed) during procurement processes
- embedding a small business champion within the Office, which directly reports to the Procurement Commissioner and has authority to:

- engage directly with the Commissioner on matters relating to small businesses (including women-owned/women-led, First Nations and culturally and linguistically diverse business participation), similar to the Small Business Advocacy Team in Defence
- report on the observations and experience of small business suppliers
- contribute a small-business commercial lens to the work of the Office and Commissioner in overseeing the enactment of the CPRs and implementing reforms
- assist small businesses in navigating the procurement framework, processes, and dispute-resolution channels
- act as the 'complainant' where an aggrieved small business seeks to remain anonymous
- continually engaging and encouraging SMEs, culturally and linguistically diverse businesses, First Nations businesses and women-owned/women-led businesses
- developing and providing effective decision-support tools for officials and guidance material on the CPRs
- providing appropriate information and guidance to businesses on Selling to Government, including fact sheets for responding to tenders and opportunities to engage with Commonwealth entities
- working closely with state and territory governments to deliver economic, social, and environmental benefits to regions, industry sectors and communities
- systematically measuring and assessing the achievement of policy objectives
- reviewing and implementing (where appropriate) the recommendations of independent reviews and audits.

The Government **does not agree** to abolish the Procurement Coordinator function but notes feedback from small businesses about the procurement complaints process.

Finance has recently strengthened guidance available to both businesses and entities to support them in the process of making and considering procurement complaints. Guidance for businesses that are seeking to make a procurement related complaint has been improved, including in relation to what information a business should provide to support their complaint, what business should expect in return, and the different complaint avenues available to a business. The guidance also clearly sets out escalation points for a business. The entity specific guidance recognises themes that emerged through the Australian National Audit Office's *Procurement Complaints Handling* Audit (Audit report No. 19 of 2022-23) and includes guidance for entities to consider before a procurement is undertaken, as well as steps to undertake and matters to consider when assessing a complaint. The refreshed website also provides tailored guidance for different complaint categories (for instance, when a complaint is covered by the *Government Procurement (Judicial Review) Act 2018* (the GP(JR) Act), and when a complaint is not).

In addition to the above, a review of the GP(JR) Act and Complaints Handling Process is currently underway, with consideration being given to further increasing guidance and support to both businesses and entities regarding complaints subject to the GP(JR) Act. As part of this review, the Government will consider streamlining existing complaints processes to remove potential confusion for suppliers in where to submit complaints and the rectifications available.

The GP(JR) Act provides an independent complaint mechanism for government procurement processes. The GP(JR) Act applies to contraventions of the relevant CPRs relating to covered procurements by relevant Commonwealth entities, and applies to procurements underway, as well as those that have been completed. Under the GP(JR) Act, suppliers and potential suppliers can make a written complaint to the accountable authority of the relevant Commonwealth entity about contraventions that affect the supplier's and/or potential supplier's interests. The GP(JR) Act also allows suppliers to make an application to the Federal Circuit and Family Court of Australia or the Federal Court of Australia, where a supplier's interests are affected by contraventions or proposed contraventions of the relevant CPRs. Procurement complaints can also be submitted to the Commonwealth Ombudsman. The Ombudsman is able to investigate matters relating to Commonwealth Government entities, including their actions and decisions, independent of Finance.

Finance is committed to supporting a positive procurement culture centred on fostering competition, efficiency and accountability across the Commonwealth. Finance undertakes various activities to support businesses to be competitive in public procurement, Commonwealth officials undertaking procurement, and to ensure the Framework is fit-for-purpose and meeting the Government priorities.

Activities to support businesses include:

- liaising with sectoral and national networks to target engagement with regional, SMEs, and Indigenous-owned businesses;
- consulting with businesses, industry associations and peak bodies to identify and reduce potential barriers for businesses to participate in Commonwealth procurement;
- designing and delivering learning content to uplift the capability of SMEs, Indigenous-owned businesses, and regional businesses, and drive a better understanding of Commonwealth procurement policies and processes;
- developing and maintaining contemporary web-based guidance through the Selling to Government website to educate suppliers about the Framework; and
- attending industry events to promote these resources and gain feedback to improve our support.

Activities to ensure the Framework is fit-for-purpose and that Commonwealth procurers have the capability to effectively apply the Framework include:

- advising on the development of new procurement policies;
- collaborative engagement with entities to support best practice and identify potential areas of future focus. This includes close collaboration with the Digital Transformation Agency, who is responsible for whole-of-government ICT procurement policies;
- management of procurement guidance, advice, and requirements on Finance's website;
- management of AusTender and other tools, templates and systems that support Commonwealth procurement activities;
- procurement and contract management capability uplift and support through the Centre of Procurement Excellence; and
- fosters ongoing multilateral engagement with the states and territories to identify and share better practice in procurement, and to support economic, social and environmental outcomes delivered through Commonwealth-funded public sector procurement and contracting.

Finance is focussed on the Whole of Australian Government panels being more inclusionary for SMEs, including frequent refreshes, encouraging competition and broader use of all suppliers.

Finance will continue to review the Framework and its program of activities to meet the Government's operational requirements and ensure that the Framework continues to support the delivery of value for money outcomes for the Commonwealth. Enhancements are under consideration following recommendations from recent Australian National Audit Office and Joint Committee of Public Accounts and Audit reports.

Recommendation 3: Continue to improve Defence procurement

The ASBFEO encourages the Department of Defence, which is the largest and most complex procurer in the Commonwealth, to:

- progress initiatives of Capability Acquisition and Sustainment Group (CASG 2.0) to upskill its workforce, increase understanding of industry's capability and capacity, and minimise the burden of working with Defence, particularly for SMEs
- institute early and targeted engagement with prospective SME suppliers, as well as more responsive complaints processes, to reflect the recalibration of Defence procurement processes with the shift to 'speed to capability'.

The Government **notes** this Recommendation.

The Department of Defence (Defence) is a significant buyer from SMEs, with over \$8 billion in goods and services contracted from SMEs in 2022-23, the largest value of any Commonwealth entity.

In 2024, Defence released the Defence Industry Development Strategy (Strategy) which will simplify Defence's approach to contracting, balancing risk appetite with delivering capability, and shorten the time it takes to receive project and contract approvals. The Strategy also streamlines industry engagement by removing redundant or unnecessarily burdensome requirements during engagement, solicitation and selection processes, such as repeated requests for documents.

Defence is building its industry and market intelligence, which will offer greater insights into the capability and capacity of defence industry. Defence will implement several initiatives by end 2024 to increase market and business intelligence and professionalise its workforce to make Defence a smarter buyer, including a professionalisation framework in commercial acumen, an enhanced Industry Intelligence Capability and better digital engagement opportunities with and between industry.

Chapter 5 of the Strategy outlines the procurement reforms that will support Defence in establishing several enduring strategic partnerships with industry, to provide long-term opportunities to work with Defence on progressive capability development and innovation. These long-term partnerships will be underpinned by contractual obligations placed on strategic partners to help build a stronger and enduring industrial base comprised of SMEs that enhances sovereign, resilient supply chains. This includes commitments to:

- Nurture SMEs to grow an enduring and resilient industrial base, including supporting access to capital market funding sources.

- Manage and oversee the security, cyber-worthiness and resilience of SMEs.
- Invest in Australian innovation, pulling it through to Defence capability and leveraging this into export opportunities.
- Demonstrate Environmental, Social and Governance (ESG) and corporate responsibility.
- Play an active role in helping to build business acumen in small and medium businesses that are part of the industrial base.

Relevant procurement reform initiatives from the Capability Acquisition and Sustainment Group reform program, CASG 2.0, will be included as part of implementation of the Strategy. Finance will continue engaging with CASG and the Office of Defence Industry Support to ensure that Defence provides additional engagement and supports SME suppliers with participation in Defence procurement activities.

Recommendation 4: Support procurement officials

Finance to:

- ensure procuring officials have access to relevant training, resources, and tools to develop professional procurement and contracting specialists across the APS with a deep understanding of the CPRs, the Buy Australian Plan and broader procurement policy objectives
- work with the Office and the APSC to develop a procurement professional stream strategy similar to that of the Data, Digital and Human Resources Professional Stream Strategies.

The Government **agrees** with this Recommendation.

The Government has already acted on a number of fronts since ASBFEO commenced its review in February 2023. Finance is leading several initiatives to build capability in procurement and contract management across the APS and encourage innovation and best practice in public sector procurement. The Centre of Procurement Excellence has been expanded beyond procurement to now include contract management, with regular meetings held for practitioners through the Community of Practice to embed better understanding of the CPRs, the Buy Australian Plan and policy objectives.

Finance is delivering comprehensive procurement and contract management training to uplift the capability of procurement and contract management officials across the APS. The training includes procurement and contract management courses that will cover ethical behaviour, conflict management and performance management for contract managers. This training program will be regularly delivered to all APS staffing levels and offered in a range of formats, both in-person and online, to address different learning and development needs of officials.

The 2023-24 Budget Measure *Buy Australian Plan* included funding for Finance to deliver this work and to extend the scope and reach of the training, which is being rolled out in partnership with the APS Academy. Finance is raising awareness of the Buy Australian Plan objectives through the provision of training, resources and tools.

Finance is working with the Australian Public Service Commission to formally establish an APS Profession for Procurement and Contract Management, which will see an appropriately skilled and

qualified senior executive become the “Head of Profession” for Procurement and Contract Management. The Head of Profession will champion growth in procurement and contract management capability development in the APS and foster strong partnerships across entities to enable the professionalisation of the workforce. Finance’s Secretary has agreed an Initial Profession Strategy.

Recommendation 5: Make AusTender fit for purpose

Finance should modernise and improve the functionality and accessibility of information available through the AusTender and Selling to Government websites by providing:

- clear and actionable guidance for SMEs about the process for:
 - searching AusTender for approaches to market
 - evaluating tender responses
 - engaging relevant entities undertaking procurement through AusTender
- an effective contemporary search capability that enables SMEs to discover opportunities relevant to their capabilities
- an effective notification capability that enables SMEs to monitor the progress of procurement processes
- notice of intention to conduct a limited tender under the prescribed conditions of Division 2 subsection 10.3
- clear communication and guidance material for officials to assist with preparing an ATM documentation that will not impede small business from participating in Procurement opportunities.

The Government **agrees-in-principle** with this Recommendation.

The Government committed to providing accessible and relevant information through appropriate channels to assist SMEs engage with Commonwealth procurement opportunities, Finance has introduced a range of public analytical reports that provide greater transparency of the Australian Government’s procurement activities. Finance releases regular updates to these reports, which are available at: [Information Made Easy](#), including easily searchable links on current approaches to market and future planned procurements.

In the 2023-24 Budget measure *Buy Australian Plan*, funding was provided to Finance to improve AusTender by increasing transparency and establishing a supplier portal for panels. Finance is expanding AusTender and streamlining the collection and use of supplier information, commencing with panel suppliers. The supplier information will be centrally collected and be made available for re-use across the Commonwealth, reducing the need for suppliers to provide and maintain their business information across multiple entities.

AusTender is regularly updated to ensure it meets the needs of suppliers and procuring officials and is fit for purpose. From 1 July 2024, AusTender will be updated to increase transparency on contracts awarded by including the number of suppliers approached on a panel, and providing greater transparency on extension options within a contract.

Finance is also managing an upgrade to improve and expand AusTender's panel procurement functionality, through the development of the GovPanels system. GovPanels will include improved guidance with workflows to support suppliers and procuring officials as they progress through the panel procurement processes. GovPanels will include a mechanism for suppliers to provide information that will better promote their business, for example their business type, size, capabilities and locations. The upgraded panel procurement system is scheduled to be launched in mid-2025.

Finance is developing a series of short videos for the Selling to Government website, aimed at SMEs and Indigenous-owned businesses, to supplement existing guidance available on the website. Finance also delivers webinars and in-person workshops to educate potential suppliers about opportunities to sell to the Australian Government, and how to participate in Government procurement. These sessions cover:

- Why you may want to sell to the Australian Government
- What the Australian Government buys and how Procurement methods and industry engagement
- How to start the process to sell
- Responding to an approach to market
- What to expect if you win a contract
- What to expect if you do not win a contract.

As at 15 April 2024, Finance has delivered 22 workshops and webinars to over 550 business and industry stakeholders this financial year.

Clear and actionable guidance for SMEs and procuring entities is provided through the Help and Information site of the AusTender Help and Information Centre (<https://help.tenders.gov.au/>).

Recommendation 6: Making 'panels' more transparent, accountable and conducive to competition

Finance should reform 'coordinated procurement arrangements', commonly known as panels, to increase opportunities and reduce costs for SMEs participation by:

- enabling procurement officials to apply Appendix A Exemptions for SMEs to procurements undertaken through coordinated procurement arrangements
- requiring coordinated procurement arrangements to be refreshed regularly to provide opportunities for new SMEs to participate in procurements
- including standard evaluation criteria that considers SMEs status during establishment and refresh of coordinated procurement arrangements
- limiting the creation and use of department specific panels and increasing use of coordinated procurement arrangements
- emulate the best practice of the Management Advisory Services panel by making provision for all panel suppliers to briefly describe their value proposition and area of expertise.

The Government **agrees in-part** with this Recommendation.

Finance regularly engages with stakeholders, including SMEs, Indigenous-owned businesses, and industry groups, to gain insights into suppliers' experiences of participating in Australian Government procurement, including prior to the establishment of a new Whole of Australian Government panel, or the refresh of a Whole of Australian Government panel.

A recent examination on the operation and effectiveness of approximately 600 panels across the Commonwealth has determined that greater efficiencies for both government and industry can be realised through new guidance material, an improved understanding of procurement terminology, and more consistent processes for establishing and managing panels.

In response, Finance will be developing new guidance that outlines best practice considerations for establishing panels and encourages procuring officials to structure arrangements which promote ongoing competition. The new guidance material will also include recommended minimum requirements for refreshing panels and the importance of regularly monitoring and reviewing their arrangements.

As the contract manager of 2 services-based Whole of Australian Government Arrangements, Finance has committed to regular refreshes of the service categories under the Management Advisory Services and People Panels every 2 years. Finance is also delivering capability uplift activities for officials (and relevant delegates) undertaking procurements through panel arrangements, to maximise competition and encourage SME participation.

The Digital Transformation Agency (DTA) has worked to reduce barriers to entry for under-represented digital and ICT suppliers in government procurement. It has achieved this by consolidating the number of panels, removing the requirement for previous government experience, and creating BuyICT.gov.au. Over the past 12 months, the DTA has focused on the design of the new Digital Marketplace panel, which aims to provide more equitable practices to support SMEs and Indigenous-owned businesses, improving the way government buys digital and ICT services and labour.

Finance is developing a solution that empowers suppliers to manage their business profile in a central system designed to support engagement through procurement. There are multiple occasions where supplier information, such as contact details, business names or even the continued trading of the business, becomes inaccurate.

The Supplier Portal will allow suppliers to maintain their own information, ensuring they remain active and visible on panels and, based on agreed criteria, businesses can choose to apply for business identifiers.

This will reduce red-tape, enabling suppliers to update information once and store commonly used documents, as opposed to having to contact many entities to provide the same information on a regular basis as their business details change.

Recommendation 7: Ready and reliable identification of small businesses

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 Government **agrees in-principle** with this Recommendation.

While Government agrees to ready and reliable identification of small and medium business is necessary to ensure the effective application of the CPRs, Finance has reviewed the SBI Tool and has concluded it would not provide the required functionality to accurately support the SME identification process.

Instead, Finance will implement and maintain a centralised, voluntary registration process for suppliers to self-identify as a SME and/or women-owned and led business with appropriate compliance checking to ensure confidence in the self-identification process.

Finance also plans on implementing a solution that empowers suppliers to manage their business profile in a central system designed to support engagement through procurement. There are multiple occasions where supplier information, such as contact details, business names or even the continued trading of the business, becomes inaccurate.

The Supplier Portal will allow suppliers to maintain their own information, ensuring they remain active and visible on panels, based on agreed criteria, businesses can choose to apply for business identifiers.

This will reduce red-tape, enabling suppliers to update information once and store commonly used documents, as opposed to having to contact many entities to provide the same information on a regular basis as their business details change.

The portal will seek to re-use information that the government already holds, for example the requirements of other relevant policies (such as *Workplace Gender Equality Act 2012* and the Statement of Tax Record to meet the requirement of the Shadow Economy Procurement Connected Policy).

The *Payment Times Reporting Act 2020* (the Act) requires large businesses, known as reporting entities, to report on their payment times to small businesses. Reporting entities use the Small Business Identification (SBI) Tool to identify their small business suppliers. The SBI Tool does not contain any information on small businesses; it only identifies them by exclusion via comparing them against a list of large businesses contained on the SBI Tool.

The Government acknowledges the limitations of the the SBI Tool, noting it is the first small business look-up service of its kind. The SBI Tool also has a specific and limited purpose under the Act; to assist large businesses identify their small business suppliers for payment times reporting purposes.

Recommendation 8: Advance women's entrepreneurship

That the ASBFEO continues its work to identify credible policy actions to support women's entrepreneurship including via government procurement, by determining dependable methods to identify women-owned/women-led business for procurement purposes, possibly as an additional feature of the Small Business Identification Tool.

The Government **agrees** with this Recommendation.

The Australian Government is committed to advancing gender equality as a national priority, releasing *Working for Women: A Strategy for Gender Equality* (the Strategy) – the Government's outline of where it will focus its efforts over the next decade.

The Strategy will build on the Women's Economic Equality Taskforce final report, *Women's Economic Equality: A 10-year plan to unleash the full capacity and contribution of women to the Australian economy 2023-2033*, which was delivered to the Government in October 2023.

Consistent with the measures included in the Strategy, the Government has lent its support to the International Trade Centre and UN Women's Global Campaign on Gender-Responsive Public Procurement, submitting a pledge that Australia will, by 2025, commence collecting and reporting on its spend with women-owned and led businesses.

In addition, the Government has pledged that it will take measures to provide stronger encouragement for Government to procure from businesses taking action on gender equality. This includes through introducing the Australian Skills Guarantee targets for women in construction and ICT projects, and strengthening employer requirements as a part of the Government's response to the review of the *Workplace Gender Equality Act 2012*, to encourage relevant employers to address pay gaps and other equality measures, faster.

The Government recognises the advocacy role of ASBFEO, this includes advancing women's entrepreneurship. Finance will work with ASBFEO, the Office for Women, and other relevant entities, on further appropriate action to support gender-responsive procurement.

Recommendation 9: Institute clear and material reporting

Finance should develop quantifiable and public indicators to measure the performance and effectiveness of the procurement system including the broader procurement policy objectives, such as the Buy Australian Plan. This may include:

- expanding the reporting requirements of entities on AusTender for procurements using a panel arrangement to include the following:
 - the number and details of the suppliers, including those eligible for Exemption 16 and 17 of the CPRs who were invited to respond to a RFQ, which will reveal the spread of panel suppliers approached over the reporting period
 - the number of qualified responses
 - the time suppliers were given to respond to an RFQ
- requesting suppliers to report the time taken to prepare a tender response

- amend subsection 9.13 of the CPRs to enable officials to report the current procurement method on AusTender, rather than the original method used to establish the standing offer
- requiring entities to report on AusTender:
 - Division 2 subsection 10.3 of the CPRs Conditions for limited tender
 - Division 1 subsection 7.17 of the CPRs: Providing information
 - if a debriefing was made available to all suppliers who responded to the RFQ as required by subsection 7.17 of the CPRs
 - the percentage who accepted the debrief
- standardising reporting fields for officials to record variations to contracts on AusTender
- using a measurement framework to assess how public procurement processes and outcomes contribute to achieving strategic policy goals including the Buy Australian Plan.

The Government **agrees in-principle** with this Recommendation.

Finance has introduced a range of public analytical reports that provide greater transparency of the Australian Government's procurement activities. Finance releases regular updates to these reports, which are available at: [Information Made Easy](#), including easily searchable links on current approaches to market and future planned procurements.

The Government has already agreed that from 1 July 2024, new reporting obligations in AusTender will be introduced, requiring entities to report:

- the number of suppliers invited to participate in a procurement process (through a limited tender or panel procurement);
- improved information when entities choose to include or exercise extension options;
- improved justification reasons when amending contracts; and
- other general contracting information such as the nature of work, the delivery location for goods and/or services will be considered.

Finance has developed an Evaluation Framework, in consultation with stakeholders, for the Buy Australian Plan. This will evaluate how policies, programs and activities undertaken through the Buy Australian Plan benefit all Australians.

Recommendation 10: Decode rules and guidance

To accelerate the implementation of the Buy Australian Plan, which includes maximising procurement opportunities for small and First Nations businesses, 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' that is lodged with the Procurement Commissioner 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.

The Government **agrees in-principle** with this Recommendation.

The 2023-24 Budget Measure *Buy Australian Plan* funded Finance to increase engagement with businesses, including delivering tools to improve the ability of business to compete for procurement opportunities more effectively, improve AusTender to increase transparency and establish a Supplier Portal for panels, promote SME awareness of opportunities to sell to the Australian Government, and improve procurement and contract management capability across the APS, all of which are currently underway.

The Selling to Government website has been updated and will be refreshed continually with resources and tools for SMEs and Indigenous-owned businesses to clarify requirements and process steps, including videos which are being developed, and will be rolled out to raise awareness and educate suppliers on how to do business with the Australian Government system.

Finance continues to engage businesses through communications, webinars, events and other partnership opportunities to accelerate implementation of the Buy Australian Plan. As part of the Government's commitment under the Buy Australian Plan to support First Nations businesses to access Commonwealth procurement opportunities, the National Indigenous Australians Agency has consulted with businesses and other key stakeholders on a number of potential reforms to the Indigenous Procurement Policy (IPP). The Government will consider this feedback and possible reforms to the IPP.

The Department of Industry, Science and Resources has carriage of Australian Industry Participation (AIP) requirements, through the the *Australian Jobs Act 2013* (Jobs Act). The AIP ensures Australian entities, including manufacturers, have full, fair and reasonable opportunity to bid for the supply of goods and services. The Jobs Act requires proponents of major public (\$20 million government investment) and private projects (\$500 million capital expenditure) to develop an AIP plan. The AIP plans outline how project proponents will ensure Australian industry is able to tender for the supply of key goods and services, including sub-contracting opportunities.

Finance will consider the potential for use of the 'sourcing strategy checklist' and 'assessment outcomes checklist' as part of ongoing resource development, giving consideration to what might be appropriate to include, while supporting Government's policy priorities.

Guidance on economic benefits, as part of broader procurement guidance updates, will be reviewed to confirm the policy is delivering as part value for money assessments and meeting the objectives of the Buy Australian Plan.

Recommendation 11: Ensure prompt payment of subcontractors participating in procurement

To facilitate prompt payments from prime contractors (engaged by government) to their subcontractors, and to protect small business from unfair business practices, the Australian Government should:

- make clear its expectations of prime contractor conduct towards subcontractors involved in fulfilling the procurement
- provide a mechanism to enable subcontractors to inform the procurement commissioner of practices that are in breach of the government's expectations
- accept the recommendation of the Statutory Review of the *Payment Times Reporting Act 2020* to make publishing the worst and best payers the explicit responsibility of a government or non-government entity separate from the Regulator (where the Review nominated the ASBFEO as a possible option).

The Government **agrees in-part** with this Recommendation.

The Government recognises the importance of ensuring prompt payment of subcontractors by prime contractors in government procurement. The Government currently does this through the [Payment Times Procurement Connected Policy](#) (PT PCP).

The PT PCP requires large businesses with an annual income of over \$100 million that are awarded government contracts worth more than \$4 million, to pay their subcontracts (up to \$1 million) within 20 calendar days or face interest payments.

The Government has committed to building on this by including prompt payment requirements in the draft Commonwealth Supplier Code of Conduct (Code). It is anticipated that the Code will come into effect in mid-2024 following endorsement by the Minister for Finance.

The inclusion of prompt payment in the Code also addresses Rec 14.1 of the Statutory Review of the *Payment Times Reporting Act 2020* by the Hon Dr Craig Emerson in June 2023 (Emerson Review).

Improving payment security for subcontractors to ensure they are paid for work they have completed or for goods and services they have supplied was a key focus of the 2018 Review of Security of Payment Laws: Building Trust and Harmony (Murray Review). The Government has committed to responding to the recommendations in the Murray Review within this term of government, because it recognises the challenges currently facing subcontractors, particularly in the construction industry, and the resulting impact on business, workers and customers.

The Government supports strengthening channels of advocacy for small business issues. For example, one way the Government will do this is through the Designated Complaints function commencing in July 2024. The function will enable designated consumer and small business advocates to lodge complaints related to systemic market issues to which the ACCC is obliged to respond.

The Government is committed to publicly reporting on worst and best payers to incentivise improved payment times as recommended by the Emerson Review. The Government is supporting the Payment Times Reporting Regulator to name large businesses that are slow small business payers by introducing statutory measures to objectively identify slow payers and giving the Regulator functions that will enable it to undertake research and publish information on poor payment practices. With its new functions, the Regulator will be able to support stakeholders that are willing advocates for better payment times for small businesses.

The Government has prepared draft legislation to implement the initiatives from the Emerson Review, expected to be introduced in the Parliament in the first half of 2024.