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FOI 26-27/057 Document 01

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Australian Government
Department of Finance

MINISTERIAL SUBMISSION

Copies to:
Secretary
Mr Windeyer
Mr Danks
Mr Sebar
Mr Webster
Mr Andreou
Ms Treneski
Mr De Re
Ms Parry

Minister for Finance

Extending the application of the Commonwealth Procurement Rules to corporate Commonwealth entities

Minister's action due by: 7 November 2025, to allow entities to transition from early 2026.

Recommendation:

That you:

i. **sign** letters to portfolio Ministers informing of your intention to prescribe all corporate Commonwealth entities (CCEs) as having to comply with the Commonwealth Procurement Rules (CPRs) (with the exception of those set out at Recommendation ii below, subject to the agreement of responsible Minister's), including CCEs established in the future, and advising either:

   a. of the process to seek an exemption to these arrangements (Attachment A); or

   b. that there are no impacts on their portfolio at this time (Attachment B).

   SIGNED / PLEASE DISCUSS

ii. s22 [redacted]

Katy Gallagher 2/11/25

Katy Gallagher

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Key Issues:

1. The CPRs apply to all non-corporate Commonwealth entities (NCEs). Additionally, 25 CCEs have been prescribed under section 30 of the *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule), as a result of the entity (or the functions of the entity) being named in our international government procurement agreements. The remaining 49 CCEs are not subject to the CPRs and there is no clear rationale for why many remain non-prescribed.

2. For a CCE to be prescribed and therefore, bound by the CPRs, you as the Finance Minister must authorise that a CCE be a prescribed entity, under section 30 of PGPA Rule.

3. Recommendation 2 of the Joint Committee of Public Accounts and Audit Report 498 *'Commitment issues' – An inquiry into Commonwealth procurement* recommended, and the Government agreed, that the onus be reversed, with you instead authorising those CCEs that should not have the CPRs applied. The intent of this approach was that all current and any newly created CCEs would automatically be required to apply the CPRs, unless exempt.

s22 [redacted]

Benefits to prescribing CCEs

5. Expanding the number of prescribed CCEs will promote consistency, transparency and improved procurement practices across Commonwealth entities, benefiting the government, entities and suppliers.

(a) The CPRs are often used to leverage and promote Government policies. With more CCEs prescribed, the ability to reach more entities to achieve the government's priorities will be improved. For example, the Environmental Sustainability Procurement Policy applies to all NCEs and prescribed CCEs. With more CCEs being prescribed, more entities will be required to adhere to this policy.

(b) Entities will have an established procurement framework, access to training and support, and a suite of guidance and support documentation. They will also receive the benefits of advertising and reporting tenders through AusTender, reducing the need for bespoke systems and streamlining some administration (such as Senate reporting).

(c) Suppliers will benefit from improved consistency in process for tenders (particularly for open tenders where minimum timeframes required by the CPRs will apply), and from improved visibility of potential opportunities through the use of a single tendering platform (AusTender). In addition, suppliers will have access to additional protections, such as ability to make complaints under the *Government Procurement (Judicial Review) Act 2018*.

s22 [redacted]

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Implementation Timeframe

19. It is proposed that all (non-exempt) CCEs would be covered by the CPRs by the end of December 2026.

20. Compliance timeframes for entities will vary depending on each entity's size, procurement activity, and current level of alignment with the CPRs. Acknowledging this, a rolling transition program by portfolio is proposed, tailored to each entity's preparedness and capacity to implement changes, including internal policies and processes.

b) A portfolio approach will also allow the portfolio department to be utilised to assist with the transition, including each entity's preparedness to transition. This will assist in determining indicative timing for each portfolio.

c) Liaison with CCEs has indicated that many voluntarily choose to apply the CPRs to the extent they are able, for their internal processes already.

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Next steps

22. Letters to your Ministerial colleagues with portfolio responsibility for CCEs that are to be impacted by these changes have been prepared (Attachment A):

a) advising of your intention to prescribe the CCEs within their remit resulting in those CCEs being covered by the CPRs for future procurements above the relevant thresholds.

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25. s22 Finance will write to affected and portfolio entities informing them of the timing of their transition to being prescribed, and will provide you with further briefing to give effect to these arrangements.

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Background:

28. The JCPAA tabled the Report on 23 August 2023, with the Government response tabled on 23 May 2024.

> ***Recommendation 2:*** *That the Department of Finance amend the Commonwealth Procurement Rules to reverse the onus such that they apply to all corporate Commonwealth entities by default, with any exceptions to be made by the Finance Minister via legislative instrument.*
>
> ***Government Response:*** *Agreed.*
> *Finance will determine the appropriate legislative approach to apply the CPRs to corporate Commonwealth entities (CCE) by default. The Government recognises that there may be limited specific circumstances that would justify an exemption from the CPRs. Finance will develop the requirements and process for seeking exemptions.*

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Attachments:
Attachment A – Letter to Ministers with impacted CCEs
Attachment B – Letter to Ministers not impacted

Approved for electronic transmission

Gareth Sebar
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Senator the Hon Katy Gallagher

Minister for Finance
Minister for Women
Minister for the Public Service
Minister for Government Services
Senator for the Australian Capital Territory

REF: MS25-000743

The Hon Mark Butler MP
Minister for Health and Ageing
Minister for Disability and the National Disability Insurance Scheme
Parliament House
CANBERRA ACT 2600

Dear Mark Minister

I am writing to advise you that, consistent with the Government Response to Recommendation 2 of the Joint Committee of Public Accounts and Audit (JCPAA) inquiry 'Report 498: 'Commitment issues' - An inquiry into Commonwealth procurement', all corporate Commonwealth entities (CCEs), unless granted an exemption, will soon be required to comply with the Commonwealth Procurement Rules (CPRs).

Within the Health, Disability and Ageing portfolio, this change will affect the following non-prescribed CCEs under your remit:

s22 [redacted]

- National Disability Insurance Agency.

s22 [redacted]

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To support this expanded coverage of the CPRs, entities will be provided with a transition period, taking into account that these timeframes will be unique to each entity and will vary depending on each entity's size, procurement activity and current level of alignment with the CPRs. It will also take into consideration factors such as changes to internal systems, processes and policies, as well as any significant planned procurements. The Department of Finance (Finance) will write to your portfolio departments and affected CCEs in early 2026 with further advice, with the expectation that all entities will have completed their transition by 31 December 2026.

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I have copied this letter to Senator the Hon Jenny McAllister, as Minister for the National Disability Insurance Scheme with joint responsibility for the National Disability Insurance Agency.

Should entities have any questions, the relevant contact within my department is Gareth Sebar, Assistant Secretary, Procurement Policy and Systems Branch (Gareth.Sebar@finance.gov.au).

Yours sincerely

Katy Gallagher

Katy Gallagher

03 NOV 2025