



Australian Government
Department of Finance

Jenny Wilkinson PSM
Secretary

Our Ref: IS23-000006

Committee Chair
Foreign Affairs, Defence and Trade Committee Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Chair and Committee Members

Thank you for the invitation to provide a submission to the Inquiry into the performance of the Department of Defence (Defence) in supporting the capability and capacity of Australia's defence industry.

Commonwealth Procurement Framework

The Department of Finance (Finance) is responsible for policy stewardship of the Commonwealth Procurement Framework, which forms part of the wider Resource Management Framework, and is a key enabler for the Government to achieve its priorities in support of Australian citizens and Australian national interests.

In its stewardship role, Finance is committed to supporting the development of a positive procurement culture centred on fostering competition, efficiency, and accountability across the Commonwealth. The Commonwealth Procurement Rules (CPRs) are the core of the Commonwealth Procurement Framework, which also includes:

- web-based guidance, developed by Finance to assist entities to implement the Commonwealth Procurement Framework.
- Resource Management Guides (RMGs), which advise of key changes and developments in the Commonwealth Procurement Framework.
- templates, such as the Commonwealth Contracting Suite (CCS), which simplify and streamline processes, creating uniformity across Commonwealth contracts to reduce the burden on businesses when contracting with the Commonwealth; and
- individual entities Accountable Authority Instructions (AAIs), which include instructions that the accountable authority expects officials to follow when exercising powers and conducting functions and duties under the PGPA Act, including procurement activities under the Commonwealth Procurement Framework.

Commonwealth procurement under the CPRs is both expansive and diverse. It is used to source the broad range of goods and services required to support administration of

Commonwealth entities and deliver outcomes and services to the Australian public. In 2021-2022, Defence awarded 33,860 contracts with a combined value of \$45.6 billion, representing 57 per cent of Commonwealth contracts by value.

Devolved Framework

The Commonwealth Procurement Framework is devolved. Each entity is responsible for its own procurement processes and decisions in order to meet its purpose and objectives. The devolved nature of the framework provides Defence flexibility to implement procurement governance structures relevant to their business needs, risk, operational complexity, volume and value of procurements, and type of goods and services required.

Under the devolved framework, the Accountable Authority of relevant entities may issue AAIs to guide entities' officials in their processes and practices. The Accountable Authority of Defence can issue these instructions to set out specific operational rules to instruct officials on matters relating to the finance law and ensure compliance with the Commonwealth Procurement Framework.

Australia's Free Trade Obligations

The CPRs incorporate and implement Australia's relevant free trade obligations. Australia's trade agreements with other countries give our local businesses valuable access to overseas markets that are considerably larger than our own. A key condition of these obligations is that Australian Government procuring entities do not discriminate against suppliers based on locality, size, degree of foreign ownership, or origins of goods and services.

Commonwealth Procurement Rules

Achieving value for money is the core rule of the CPRs. When assessing value for money, price is not the sole factor, as the CPRs require the use of competitive procurement processes with consideration of relevant financial and non-financial costs and benefits.

Commonwealth agencies have flexibility in the way in which they assess value for money, including the economic benefit to Australia, depending on their business need and the nature and scope of the procurement. Paragraph 4.7 of the CPRs requires officials to assess the economic benefit of a procurement to the Australian economy, as part of determining value for money, for procurements above \$4 million for non-construction goods and services, and above \$7.5 million for construction services.

Consideration of economic benefits to the Australian Economy could include engaging under-utilised Australian resources including those who are under or unemployed or using spare industrial capacity. It could also include the provision of broader benefits that support the development and sustainment of industry capabilities, including enhancing key industry sectors through Defence's sovereign industrial capability priorities.

There are also a number of provisions in the CPRs relating to Australia's national security interests that entities can utilise where the need arises. Where an Accountable Authority deems it necessary, an exemption from the CPRs under paragraph 2.6 can be used for the maintenance or restoration of international peace and security, to protect human health and for the protection of essential security interests.

Paragraph 5.5 of the CPRs requires officials to apply procurement practices that do not unfairly discriminate against small and medium enterprises¹ (SMEs) and provide opportunities for SMEs to compete in Government procurement, including the disaggregation of large projects into smaller packages, where appropriate. Defence may consider application of this provision to design procurement processes that allow more SMEs to bid for Government work and strengthen sovereign capability.

The CPRs also provide a targeted exemption for SMEs at Appendix A (exemption 17), which can be applied to enable the direct approach of an SME for the procurement of goods and services up to the value of \$200,000 or up to \$500,000 by or on behalf of Defence. It is up to Defence to determine the best procurement approach when applying the CPRs and what will achieve the best value for money outcome.

Buy Australian Plan and the Future Made in Australia Office

The Australian Government's Buy Australian Plan (the Plan) will improve the way government contracts work and build domestic industry capability through the Australian Government's purchasing power. Commonwealth procurement is a major economic lever, and the Australian Government has committed to using its significant purchasing power to support all businesses to deliver better value for money, grow the local economy and strengthen our domestic industry and manufacturing capability. This includes an explicit commitment under the Plan to strengthen defence industries and capability.

The Future Made in Australia Office (the Office) has been established in Finance to support delivery of the Plan and actively support local industry to take advantage of government purchasing opportunities. The Office is:

- engaging directly with businesses and industry sectors to support improved industry awareness of the opportunities to sell to the Australian Government, and uplift business capability to compete for, and win, Australian Government contracts;
- strengthening engagement with states and territories to deliver economic, social and environmental benefits to regions, industry sectors and communities; and
- coordinating implementation of the Buy Australian Plan and build procurement and contracting capabilities of the Australian Public Service.

The Selling to Government website is one of the key mechanisms by which Finance provides information to businesses on Australian Government procurement processes and requirements. The Office has been refreshing existing information aimed at business on the Selling to Government website, engaging with businesses and industry, and scoping the design and delivery of complementary learning content, including learning events and workshops, to increase awareness and build capability.

The Office works closely with the Department of Industry, Science and Resources to deliver the Buy Australian Plan and better understand industry capability and capacity. The Office has also been working closely with Defence's Office of Defence Industry Support on business information and industry capability activities to ensure businesses interested in participating in the defence industry are aware of resources such as the Selling to Government website.

¹ Small and Medium Enterprises (SMEs) – an Australian or New Zealand firm with fewer than 200 full-time equivalent employees. *Commonwealth Procurement Rules 2023*.

Thank you for the opportunity to provide a submission.

Yours sincerely

Jenny Wilkinson PSM
Secretary

12 July 2023