

Department of Finance

Response to Question on Notice

JOINT STANDING COMMITTEE ON TREATIES

Revised Agreement on Government Procurement (Annex to the Protocol Amending the Agreement on Government Procurement, adopted on 30 March 2012 (GPA/113))

Monday, 11 February 2019

SPECIFIC QUESTIONS ON NOTICE

Question 1 (Proof Hansard, Page 12)

Mr JOSH WILSON: Chair, thank you for helping to clarify that. Other than the Modern Slavery Act and the obligations that that puts in place, it's my understanding that we don't have some separate and dedicated debarment framework or apparatus that looks to the wider kind of corporate conduct that might not be acceptable from an Australian point of view, in terms of participation in procurement or other kinds of government sanctioned contracts. So I'm asking: am I right in that assumption? I know that jurisdictions like Canada do have dedicated legislative and administrative processes in place. My understanding is that we don't and, if I'm wrong, I'd be happy to be corrected. But, if I'm right, I'd be glad to know that. Is that clear enough, Chair?

CHAIR: I'm happy if you pursue what you're doing. I just want the response.

Mr Hunt: We can provide some advice on notice about what other mechanisms might be in place.

Response

In 2018 the Government announced a new procurement-connected policy, which will require all businesses tendering for Commonwealth contracts valued over \$4 million to provide a satisfactory Statement of Tax Record from the Australian Taxation Office. This policy will take effect from 1 July 2019 and will effectively debar firms with non-compliant tax behaviour. The Treasury is presently consulting on the criteria that will be used.

The Department of Home Affairs controls the import and export of certain goods to and from Australia. These controls prohibit the import or export of certain goods and provide restrictions on other goods.

The Workplace Gender Equality Agency (WGEA) is responsible for the Workplace Gender Equality Procurement Principles and User Guide, which require Australian Government agencies to obtain a letter from tenderers with 100 or more employees indicating their compliance with their obligations under the *Workplace Gender Equality Act 2012*. A list of non-compliant employers is published on the WGEA website.

The *Modern Slavery Act 2018* establishes a Modern Slavery Reporting Requirement, which applies to businesses with annual revenue over \$100 million, including foreign businesses, and the Commonwealth Government. Annual reporting by Commonwealth entities will identify possible modern slavery risks and actions taken to address these risks.

The Commonwealth operates a devolved procurement framework, with individual Commonwealth agencies responsible for managing procurement processes to meet their business needs, in accordance with the Commonwealth Procurement Rules (CPRs). This framework, and the Resource Management Framework more broadly, ensures the efficient, effective, economical and ethical use of public resources.

Under the CPRs, procuring officials are able to determine appropriate eligibility criteria for a particular procurement and to request relevant information to assess the suitability of a potential supplier. Agencies are able to request and consider information from tenderers on any convictions and to exclude a potential supplier from consideration on various grounds, including if the supplier's practices are dishonest, unethical or unsafe.