Australian Government
Department of Finance

Consideration of Australian businesses for procuring officials

This guidance supports entities subject to the Commonwealth Procurement Rules (CPRs) in implementing the requirement to invite Australian business to make submissions when conducting procurements below the relevant procurement threshold.

This guidance is intended to be read in conjunction with the CPRs, Finance's Procurement Policy Website 'Buying for the Australian Government' and any other procurement policies and guidance identified in the table below.

Commonwealth Procurement Rules	Paragraphs 5.4, 5.5 and Appendix B.
Legislation & Policies of the Australian Government	Indigenous Procurement Policy
Guidance	Definition of an Australian business for Commonwealth Procurement Supplier Guidance - Consideration of Australian businesses Information for small businesses
Other relevant resources, systems or tools	AusTender Australian Business Self Declaration form BuyRight Commonwealth Contracting Suite (CCS) Digital Transformation Agency standing offers (DTA panels) Dynamic Sourcing for Panels (DS4P) (contact your entity procurement team) Management Advisory Services Panel (MAS) Other Whole of Australian Government Panel Arrangements People Panel Small and Medium Enterprises (SME) Self Declaration Form Supplier Portal Supply Nation Indigenous Business Direct Commonwealth Supplier Code of Conduct

Overview

This guidance applies to non-corporate Commonwealth entities (NCEs):

- conducting procurements valued at or above $10,000 and below the relevant procurement thresholds, or
- conducting procurements with an expected value below $125,000 from the Management Advisory Services Panel, the People Panel, or any standing offer managed by the Digital Transformation Agency (DTA).

The relevant thresholds (inclusive of GST) are as below:

a. For goods and services (excluding construction services): $125,000.

b. For construction services: $7.5 million.

Entities are encouraged to consider the benefits of disaggregating large projects into smaller packages, where appropriate to maximise competition (CPR 5.6.d). However, procurements must not be divided into separate parts solely for the purposes of avoiding a relevant procurement threshold (CPR 9.5).

Data will progressively become publicly available on contracts awarded to Australian businesses for procurements. Reporting on AusTender will become mandatory for relevant entities from 1 July 2026. This will include, where relevant, the reason as to why an Australian business or businesses were not contracted for a procurement where there was a requirement to do so.

Consideration of Australian businesses

CPRs paragraph 5.4

For procurements with an expected value at or above $10,000 and below the relevant procurement threshold, excluding procurements from a standing offer, non-corporate Commonwealth entities must invite only Australian businesses to make submissions.

a. Where relevant, the requirements under the Indigenous Procurement Policy must first be satisfied, before an Australian business is approached.

b. If there are no submissions, or no submissions represent value for money, the procuring entity may undertake a procurement using a relevant procurement method.

c. An official responsible for a procurement may determine that approaching an Australian business or Australian businesses is not appropriate for the procurement and that paragraph 5.4 does not apply. The basis for this decision must be documented.

First satisfy the Indigenous Procurement Policy, where applicable.

The Mandatory Set Aside (MSA) applies to:

- all remote procurements
- other procurement wholly delivered in Australia, where the estimated procurement value is between $80,000 and $200,000.

For more information on the application of the MSA, including what procurements the MSA does not apply to, see the Indigenous Procurement Policy | NIAA. Where it is relevant to the procurement, the MSA must be applied before the broader requirement of inviting Australian businesses is applied. Specifically, you are required to first determine whether an Indigenous enterprise is able to provide the good or service on a value for money basis before pursuing any other approach to market.

If this does not result in a value for money solution, you will need to approach an Australian business. You should document your reason as to why an Indigenous enterprise did not represent value for money.

Procuring from Australian business

Once the MSA has been considered and either does not apply, or does not represent value for money, you must then invite only Australian and New Zealand businesses to make submissions.

- Where the IPP is not required to be applied, officials are reminded that Indigenous enterprises may choose to identify as an Australian business and be included in this process.

Your approach to market (ATM)[1] documentation will need to make clear that businesses must be able to meet the definition of an Australian business to be eligible for the procurement. Clauses are included in the CCS.

Suppliers will need to declare that they meet the definition of an Australian business (or a New Zealand business) – this may include the provision of an Australian Business Declaration Form, or through the ATM itself. Entities are responsible for undertaking appropriate due diligence to verify the accuracy of these declarations.

For the purposes of CPR 5.4, a New Zealand business is included in the definition of an Australian business.

Procuring officials should ensure that due diligence activities are commensurate with the scale, scope, and risk of the procurement, and do not impose unnecessary costs to entity and suppliers.

Should you wish to undertake an open approach to market, you will need to include the requirement to be an Australian business in the Conditions for Participation for procurements that fall within these values.

[1] This includes any notice inviting potential suppliers to participate in a procurement, which may include a request for tender, request for quote, request for expression of interest, request for information or request for proposal.

If a supplier is invited to make a submission but cannot declare its status as an Australian business, that supplier will not be eligible for participation in the procurement and, will need to be set aside from consideration.

- Should a supplier make a false declaration, you may wish to consider taking action under the Commonwealth Supplier Code of Conduct, including remedial action and/or termination in accordance with the contractual provisions. The provision of false or misleading information to the Commonwealth is also an offence under section 137.1 of the *Criminal Code Act 1995 (Cth)*.

Consistent with the core rule of the CPRs, procuring officials must be satisfied that the procurement achieves value for money. If no responses are received, or if none are received that represent value for money, you may then undertake a procurement using a relevant procurement method. This may include approaching a supplier on a panel, directly engaging a business, or if considered appropriate, undertaking an open tender.

Should an official responsible for the procurement determine that not approaching an Australian business is appropriate in the circumstances, the underlying reasons and basis for this decision must be clearly documented. Entities are responsible for determining what an 'official responsible for the procurement' means in the context of their entity. This may include the delegate responsible for the procurement, or a decision may be taken to apply this at a different level.

Commensurate with the scale, scope and risk of the procurement, the documentation to supporting the decision to not approach an Australian (or New Zealand) business should include evidence, such as:

- market analysis demonstrates that no Australian business has the capacity to deliver the requirement/s,
- market analysis demonstrates that the requirements are highly specialised and not identified as available from an Australian business, and/or
- it is not considered appropriate to approach an Australian business, for instance, the entity is procuring goods and services outside Australian territory for consumption outside Australian territory) and wants to engage an SME in the location of the procurement.

Market analysis should be evidence-based and impartial. Considerations may include the number of Australian businesses identified, capabilities and limitations of those suppliers, comparative cost, quality, and/or delivery timelines.

- The documentation should also include any risk considerations, such as reputation or strategic risks associated with not engaging Australian businesses and explain how these were mitigated.
- Ensure the documentation is stored in a way that supports future audits or reviews.

Consideration of SMEs for certain panel procurements

CPRs paragraph 5.5

For procurements with an expected value below $125,000 from the Management Advisory Services Panel, the People Panel, or any standing offer managed by the Digital Transformation Agency (DTA), non-corporate Commonwealth must invite only Small and Medium Enterprises (SMEs) on the relevant standing offer to make submissions.

a. With respect to standing offers managed by the DTA, where relevant, the requirements under the Indigenous Procurement Policy must first be satisfied, before an SME is approached.

b. If there are no submissions, no submissions represent value for money, or the relevant standing offer does not include an SME, the procuring entity may invite other suppliers on the relevant standing offer to make submissions.

c. An official responsible for a procurement may determine that approaching an SME, or SMEs, is not appropriate for the procurement and that paragraph 5.5 does not apply. The basis for this decision must be documented.

Procuring from the Management Advisory Services (MAS) Panel, People Panel or standing offers managed by the DTA (DTA panels)

When undertaking a procurement with an expected value of below $125,000, and procuring from the MAS Panel, People Panel, or any standing offer managed by the Digital Transformation Agency, you must invite only SMEs on the relevant panel to make submissions.

When procuring from any DTA panel, where relevant, the requirements under the Indigenous Procurement Policy must first be satisfied (refer to relevant section above). Once the MSA has been considered and either does not apply, or value for money is not found to be delivered, then you must approach an SME, or SMEs, on the panel.

Entities should follow guidance provided by the relevant panel, in relation to identifying SMEs. The Supplier Portal (further information below) is also being introduced to bring this into a centralised location, with suppliers on the MAS and People Panels included in the first cohort being onboarded.

Your ATM documentation will need to make clear that businesses must be able to meet the definition of an SME to be eligible for the procurement. Clauses are included in the CCS.

Suppliers may need to declare that they meet the definition of an SME – this may include the provision of an SME Declaration Form, or through the ATM itself. Entities are responsible for undertaking appropriate due diligence to verify the accuracy of these declarations.

If, following an invitation to SMEs, there are no responses or no responses that offer value for money, or the relevant panel does not identify SMEs, you must document this outcome and may extend the invitation to other suppliers on the relevant panel to submit a response to the ATM request.

An official responsible for the procurement may determine that not approaching an SME is appropriate in the circumstances. Entities are responsible for determining what an 'official responsible for the procurement' means in the context of their entity. Should an official make this determination, the underlying reasons and the basis for this decision must be clearly documented. This may include factors such as:

- the nature, scale, or complexity of the procurement exceeds the capacity of available SMEs,
- recent previous market engagement indicates that no SME is able to meet the technical, financial, or delivery requirements, and/or
- the relevant panel does not include an SME.

The documentation should include evidence supporting the decision, such as market analysis, supplier capability assessments, or records of prior unsuccessful SME engagement.

> Where the goods or services are not available through any of the pathways proposed in this guide, follow regular procurement procedures appropriate for the goods and/or services being procured.

Supplier Portal

The Supplier Portal is a publicly searchable database of potential suppliers to government. The Supplier Portal will be in AusTender and will enable businesses to identify key characteristics such as whether they registered as an Indigenous business, or they identify as an Australian business, a New Zealand business, an SME, and/or a women-owned business. Suppliers will be able to actively manage their business information.

The Supplier Portal was launched in October 2025 and the initial rollout is focussing on suppliers on the MAS and People Panels. The rollout will be expanded to other panel arrangements, and by July 2026, the Supplier Portal will be available to all businesses, regardless of whether they are members of a panel.

Procuring entities may use the Supplier Portal to identify Australian and New Zealand businesses, and/or SMEs, to invite to make submissions. Until the Supplier Portal is open to all suppliers, entities will also need to undertake market analysis to identify relevant businesses.

For detailed information and guidance on the Supplier Portal, please visit the Supplier Portal Home page.

AusTender Reporting

Data will progressively become publicly available on contracts awarded to Australian businesses for procurements. Reporting on AusTender will become mandatory for relevant entities from 1 July 2026.

This will include, where relevant, the reason as to why an Australian business or businesses were not contracted for a procurement where there was a requirement to do so. Entities will receive separate communication from Finance on these functional changes.

FAQs

How should I determine whether a business is an Australian business?

Upcoming changes to the Commonwealth Contracting Suite (CCS), AusTender and the new Supplier Portal will affect how procurement-related business information is captured and verified across procurement platforms.

NCEs are encouraged to undertake their own due diligence regarding any information provided to them by, and about the supplier. Due diligence activities may include, but not limited to ABN Lookup, ASIC Connect, ASX/NSX/SSS listings, business websites, or checking directly with suppliers.

What steps should I take to determine whether a business is an Australian business?

You will need to undertake due diligence, even when a supplier identifies itself as an Australian business. Due diligence activities may include, checking the supplier portal, reviewing information on a business website, or asking the supplier to provide further supporting information and/or by completing the Australian Business Self Declaration form.

Can procuring entities use the Australian business definition to preference Australian businesses for procurement valued at or above the procurement thresholds?

No. Australia's international government procurement commitments, given effect through the CPRs, contain non-discrimination commitments. For procurements valued at or above the procurement thresholds, consistent with the CPRs, all suppliers are to be treated equally based on their commercial, legal, technical, and financial abilities and must not be discriminated against due to their size, location, ownership, or degree of foreign affiliation.

If, during a contract period, a business's status as an Australian business changes, should the contract be cancelled?

No. Following the initial signing of a contract, a business is not required to confirm or maintain its status as an Australian business, during the term of that contract, including where that contract is varied or an extension option has been exercised.

However, if a business falsely represents that it is an Australian business in its tendering process, the contract can be cancelled "for cause".

How does a business access the Supplier Portal and identify as an Australian business?

For detailed information on the Supplier Portal, including how to register a business and identify as an Australian business, please visit the Supplier Portal Home page.

How does the consideration of Australian businesses apply to New Zealand businesses?

The CPRs specify that references to Australian businesses in paragraph 5.4 include New Zealand businesses. In effect, procuring officials must invite only Australian or New Zealand businesses to make submissions for relevant procurements.

The definition of a New Zealand business for the purposes of the CPRs is as defined in New Zealand's Government Procurement Rules, available at www.procurement.govt.nz.

The New Zealand business definition also applies to the New Zealand element of the SME definition.

For more information on the definition of a New Zealand business, please contact the New Zealand Government through the website linked above.