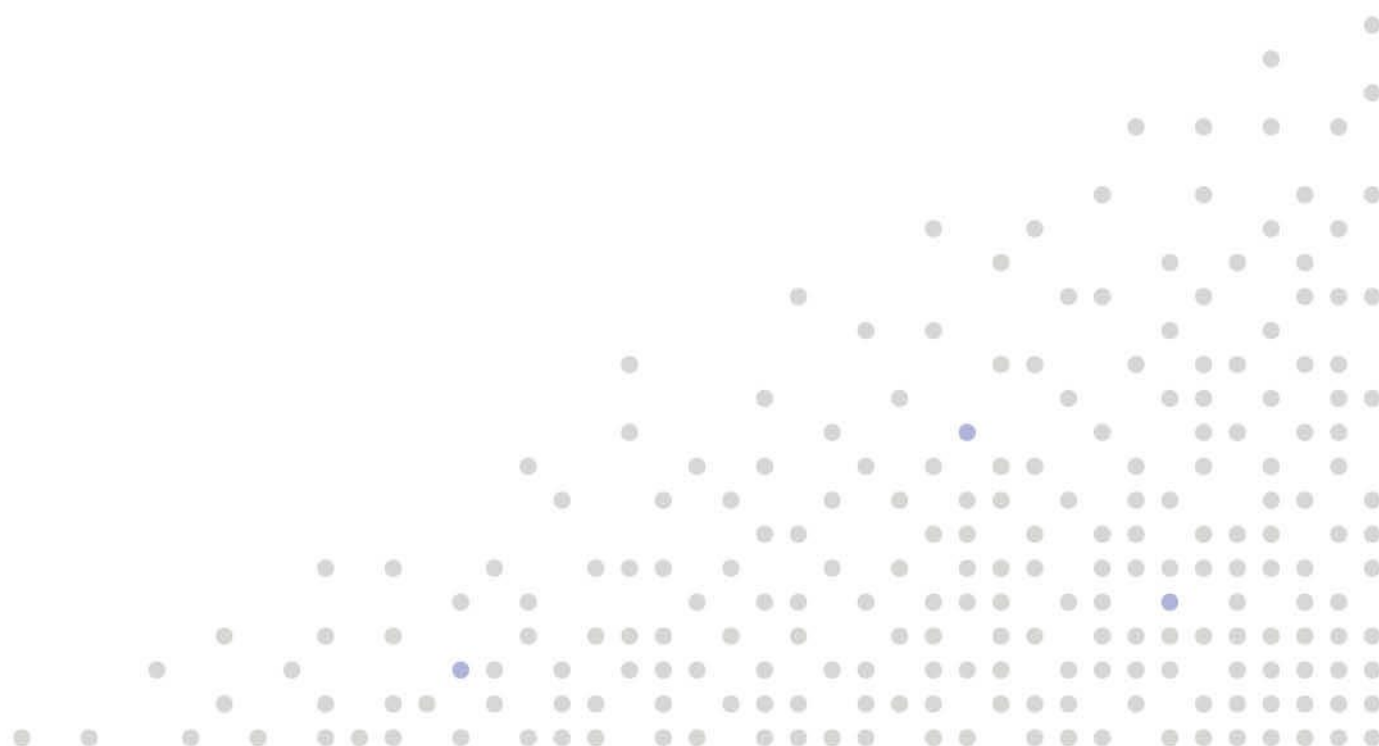




**Australian Government**  
**Department of Finance**



**Department of Finance**

**Submission to the  
Joint Committee of Public Accounts and Audit  
Commonwealth procurement: Inquiry into Auditor-General  
Reports 6, 15, 30, 42 (2021-22) and 5 (2022-23)**

**November 2022**

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# 1. Introduction

The Department of Finance (Finance) was requested by the Joint Committee of Public Accounts and Audit (JCPAA) to make a submission to the inquiry 'Commonwealth procurement: Inquiry in to Auditor-General Reports 6, 15, 30, 42 (2021-22) and 5 (2022-23)'.

Finance acknowledges the Auditor-General's audit report findings at the centre of the inquiry. The audits noted to be in scope of the inquiry identified a number of procurement and contracting issues amongst a small number of Commonwealth entities. Key themes identified by Finance from the relevant audits include:

- demonstrating value for money and embedding competition;
- planning contract management and performance management when contracting;
- equitable and consistent treatment of potential suppliers and their submissions;
- maximising competition when sourcing from panels;
- risk management in procurements and contracting;
- ethical and transparent behaviour, reporting and documenting in procurements and contract management, including the active management of probity related issues such as conflicts of interest;
- conducting appropriate due diligence in procurements and contract management,
- procuring official capabilities and training; and
- supporting small and medium enterprises (SMEs).

Finance, as policy steward of the Commonwealth Procurement Framework, is committed to supporting the development of a positive procurement culture centred on fostering competition, efficiency and accountability across the Commonwealth.

Finance undertakes various activities to support Commonwealth officials undertaking procurement, and ensure that the Commonwealth Procurement Framework is fit-for-purpose and meeting the Government's priorities. Key activities include:

- policy stewardship of the Commonwealth Procurement Rules (CPRs), including advising on the development of new procurement policies;
- collaborative engagement with procuring entities to support best practice and identify potential areas of future focus;
- management of various procurement guidance, advice and requirements on Finance's website;
- management of AusTender and other tools, templates and systems that support Commonwealth procurement activities; and
- procurement and contract management capability uplift and support through the Centre of Procurement Excellence and external engagement across the Commonwealth.

In addition, the Future Made in Australia Office was recently established within the Department of Finance to deliver the Government's Buy Australian Plan. Initiatives being implemented through the Future Made in Australia Office are outlined in section 3 of this submission.

With support and advice from Finance, Commonwealth entities manage their procurements in a manner that ensures the efficient, effective, economical and ethical use and management of public resources.

Finance welcomes the opportunity to make a submission to the inquiry and having relevant officials appear before the committee, if relevant, at a future public hearing.

## 2. Commonwealth Procurement Framework

Procurement is the expenditure of public money to obtain goods or services for Government or third party use. It enables Commonwealth entities to acquire the goods and services needed to deliver the Government's policies, programs and services. Government procurement achieves value for money through competitive, open, transparent, efficient, ethical and publicly-accountable processes.

Commonwealth procurement under the CPRs is both expansive and diverse. It is utilised to source the broad range of goods or services required to support administration of Commonwealth entities and deliver outcomes and services to the Australian public. In 2021-22, there were 92,303 contracts awarded to 12,901 unique businesses, with a combined value of \$80.8 billion.<sup>1</sup> By volume, this equates to approximately 369 procurement contracts being awarded each working day.

Finance is responsible for policy stewardship of the Commonwealth Procurement Framework, which forms part of the wider Resource Management Framework. The Resource Management Framework governs how officials in the Commonwealth public sector use and manage public resources, including proposals to spend relevant money. The Commonwealth Procurement Framework is a key enabler for the Government to achieve its priorities in support of Australian citizens and Australian national interests. It applies to all non-corporate Commonwealth entities (NCEs) and those prescribed corporate Commonwealth entities (CCEs) listed in section 30 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

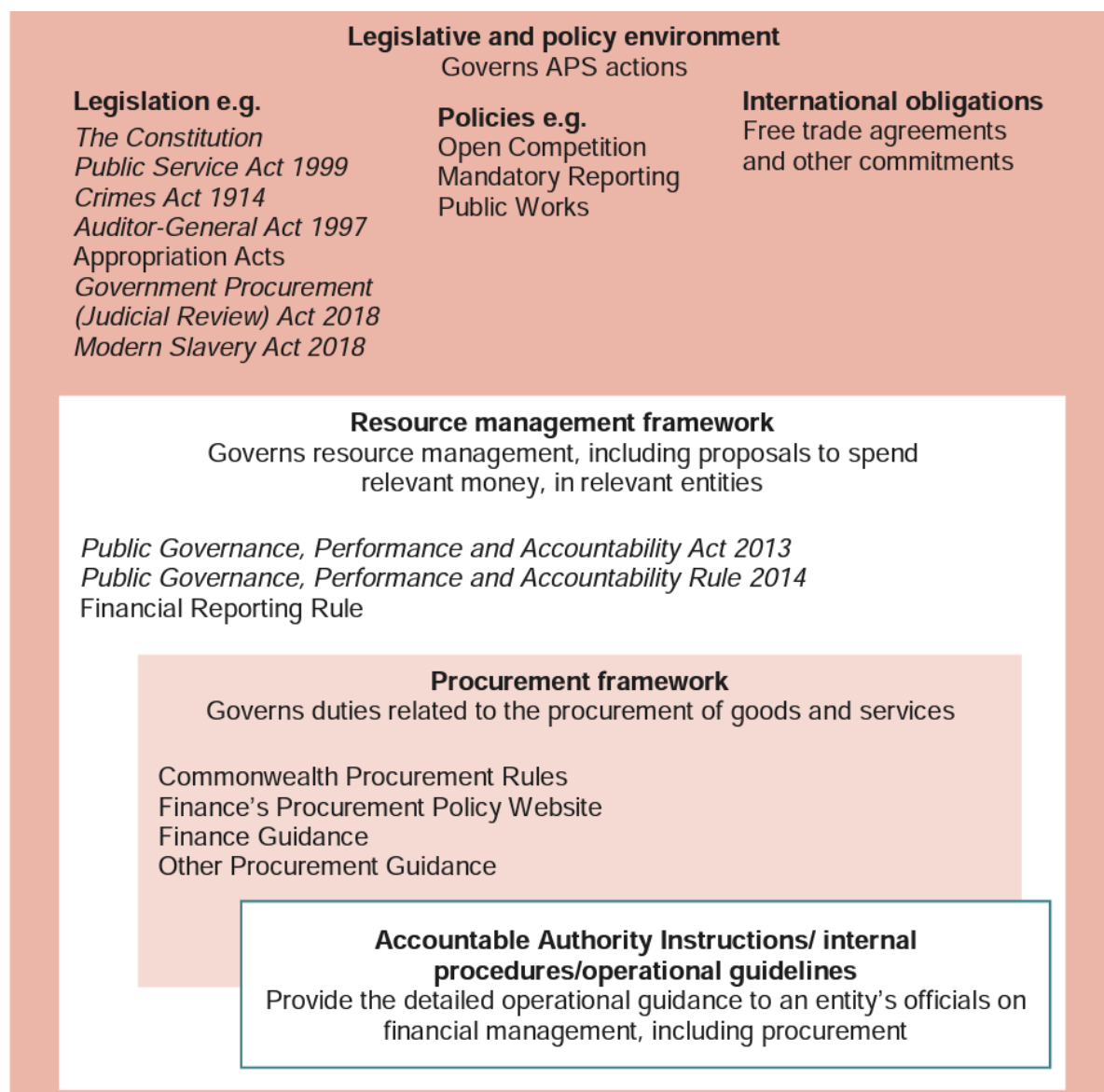
The CPRs are the core of the Commonwealth Procurement Framework. Figure 1 below sets out the environment in which the Commonwealth Procurement Framework operates, including the main elements of the Framework:

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

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<sup>1</sup> Contracts valued under \$10,000 are not required to be reported on AusTender. In addition, there may be other contracts that are exempt from reporting on AusTender, due to national security or other exemptions, such as those reasons outlined in the *Freedom of Information Act 1982*.

**Figure 1 – Legislative and policy environment of the Commonwealth Procurement Framework**



Source: *Commonwealth Procurement Rules*, 1 July 2022

## 2.1 Devolved Framework

The Commonwealth Procurement Framework is devolved. Each relevant entity is responsible for its own procurement processes and decisions in order to meet its own business needs.

The devolved nature of the framework provides entities the flexibility they need to meet their business needs. As a result, entity procurement governance structures and the operations of their central procurement teams vary widely amongst entities. Procurement governance varies from decentralised models, where individual business areas have more responsibility for procurements and central procurement teams conduct more supporting activities such as providing guidance, advice and conducting assurance activities, to more centralised procurement models where the central procurement teams have responsibility for conducting

most of the procurements. The appropriate procurement model is adopted by the Accountable Authority (the person or group of persons responsible for, and having control over, a Commonwealth entity's operations) based on various factors such as entity size, remit, business needs, risk, operational complexity, volume and value of procurements, and the type of goods and services required by the entity.

The Accountable Authority of relevant entities may issue AAls to guide entities' officials in their processes and practices. These instructions set out entity-specific operational rules to instruct officials on matters relating to the finance law and ensure compliance with the rules of the procurement framework.

## 2.2 Commonwealth Procurement Rules

The CPRs are a non-disallowable legislative instrument issued by the Finance Minister under section 105B(1) of the PGPA Act.

The CPRs are mandatory for all NCEs and prescribed CCEs. State and Territory governments have their own procurement frameworks separate to the Commonwealth.

The CPRs incorporate Australia's international obligations from a range of arrangements that provide Australian businesses guaranteed access to government procurement markets of trading partners under fair and transparent conditions. Compliance with the CPRs ensures officials are undertaking procurements in a manner that is in accordance with these international agreements.

Achieving value for money is the core rule of the CPRs. This requires consideration of not just price but the relevant financial and non-financial costs and benefits of each submission including, but not limited to, the:

- quality of the goods and services;
- fitness for purpose of the proposal;
- potential supplier's relevant experience and performance history;
- flexibility of the proposal (including innovation and adaptability over the lifecycle of the procurement);
- environmental sustainability of the proposed goods and services (such as energy efficiency, environmental and climate change impact and the use of recycled products); and
- whole-of-life costs.

The CPRs encourage competition in Commonwealth procurement through the use of competitive procurement processes and non-discriminatory practices that reflect Australia's international obligations. Officials must treat potential suppliers equitably based on their commercial, legal, technical and financial abilities and not discriminate on the basis of a business' size, degree of foreign affiliation or ownership, location, or the origin of their goods and services.

The CPRs also reflect the Government's commitment to ensuring accountability and transparency in its procurement activities, including requiring record keeping that is commensurate with the scale, scope and risk of the procurement.

Open approaches to market are the default approach where the estimated value of the procurement is above the relevant procurement threshold, and are required to be advertised publicly via AusTender, inviting all potential suppliers in the market.

A number of limited tender conditions exist that allow officials to conduct limited tenders when the estimated value of the procurement is over the relevant procurement threshold. Limited tenders involve inviting a limited number of potential suppliers to participate in a tender process. Conditions for limited tender can be found at Appendix A and paragraph 10.3 of the CPRs. There are also limited circumstances where an Accountable Authority can determine that the CPRs (either in part or in their entirety) do not apply, such as for the protection of human health and essential security interests.

Additional information on the CPRs and the Commonwealth Procurement Framework is provided at [Appendix A](#) of the Submission.

## 2.3 AusTender

AusTender is the Australian Government's centralised procurement information system that is freely accessible over the internet. AusTender provides a single portal to connect government entities with suppliers through the publication of business opportunities, and provides transparency of contracts awarded following a procurement process. AusTender can also be used for limited tenders, where allowed by the CPRs, enabling entities to invite particular suppliers to participate.

Entities are required to use AusTender to:

- publish annual forward looking procurement plans;
- notify the market of current procurement opportunities; and
- report details of all procurement contracts awarded at or above the relevant threshold (\$10,000 for NCEs) within 42 days of entering into the arrangement.

The use of AusTender assists entities in meeting their accountability and transparency obligations, outlined in [RMG 423 Procurement Publishing and Reporting Obligations](#).

A snapshot of procurement data in 2021-22 is available at [Appendix B](#). Additional statistics can be found on [Finance's website](#).

### 2.3.1 AusTender Panel Procurement Functionality

The Commonwealth Procurement Framework enables the establishment of standing offer panel arrangements that streamline the buying and selling process for commonly used goods and services.

Panel arrangements are usually established by approaching the market through an open tender on AusTender. Responses that meet the conditions for participation for a panel are considered for further evaluation and negotiations, and if found fully capable of undertaking the work and demonstrating the best value for money, are appointed to participate in the panel. There are currently over 11,000 active suppliers that are participating on panels.

Panels are an effective way to procure goods and services that reduces the costs of tendering for buyers and suppliers through the establishment of standard terms and conditions and the use of standardised procurement templates such as request for quote and contract templates.

AusTender provides a central location for the reporting of all panels across government, enabling entity buyers to find and locate relevant goods or services and seek quotes from approved suppliers on panels.

Due to the efficiencies that panels provide, the use of panel arrangements by entities has been increasing steadily over the past five years. In 2021-22, around 48 per cent by volume of contracts awarded were sourced from panels, compared to 36 per cent by volume in 2017-18.

### 3. The Future Made in Australia Office and the Buy Australian Plan

The Future Made in Australia Office (the Office) was recently established within Finance to coordinate the delivery of the Buy Australian Plan (the Plan). Lifting procurement and contract management capability of procuring officers and potential suppliers is a key focus for the Office in delivering the Plan.

The Plan is a significant procurement reform program which aims 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 supporting the Australian Public Service (APS) to better engage with industry and ensure Government procurement supports the local economy.

The Plan will maximise the opportunities for businesses, especially regional businesses, Indigenous-owned businesses and small and medium enterprises 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 Office, as part of implementing the Plan, will elevate procurement and contract management capability through continuous capability improvement and modernised training delivery. To achieve this, and reflecting the increased focus on procurement capability in the APS, the Centre of Procurement Excellence has been moved into the Office. The activities of the Centre of Procurement Excellence are detailed below in section 4.5.

### 4. Improving Capability and supporting entities to deliver best-practice procurement

Finance is an active steward in supporting and enhancing the procurement and contract management capability across the APS. This includes initiatives to engage with officials and provide training and guidance on applying the Commonwealth Procurement Framework, promoting examples of excellence in and through procurement, provision of templates and tools, such as the Commonwealth Contracting Suite and BuyRight, and conducting outreach activities to provide tailored support to entities.

Finance's effective stewardship and strong engagement with procuring entities is a key support of the devolved framework. Finance recognises that a collaborative, engaged



relationship with entities is the most effective approach to supporting best practice, sharing information and identifying potential challenges.

Finance also recognises the important role that the ANAO plays in reporting on entity compliance with the financial framework, including the Commonwealth Procurement Framework, and the findings that the ANAO provide in shaping the direction of Finance's future work program and engagement with entities. Finance notes that the addition of any further compliance and monitoring activities within the Framework would need to be carefully assessed as this would potentially damage Finance's strong relationships with procuring entities and place additional burden on procuring entities. Without the strong relationships with procuring entities, there is a risk that there will be less transparency and information sharing between entities, including with Finance, which would impact on entities' capacity to learn from each other, the development of procurement guidance and the potential propagation of poor procurement practices out of sight of Finance. It could also stifle entities' approach to innovation, which would have a broader impact on potential suppliers.

## 4.1 External Engagement and Advice

Finance engages with Commonwealth entities via a range of mechanisms, including face to face meetings, regular newsletter style communication and "town hall" meetings. Communication with entities is tailored based on the communication mechanism, recent events (including any recent ANAO audit findings) and particular key messages requiring transmission.

Finance conducts regular outreach sessions, both bilaterally and multilaterally, with Commonwealth entities. The bilateral sessions are tailored to the entity (including what areas of an entity attend the meetings) and update procurement officials on developments in the Commonwealth Procurement Framework and related policies, provide advice and guidance to support procurement teams, and provide the opportunity for the entity to raise any issues with Finance.

Procurement-related audit reports and findings drive Finance's engagement activities and policy development. Finance shares key ANAO findings with entities for broader consideration, updates broader procurement guidance for all entities and seeks to work with impacted entities on addressing findings. This includes supporting the impacted entity with specific assistance and improving capability across the Commonwealth through implementing initiatives and guidance to address identified issues.

Multilateral engagement occurs through the Senior Procurement Officials Reference Group, administered and supported by Finance. The Group is made up of key procurement decision makers within each relevant entity. It provides a community of practice across the Commonwealth to share updates, learnings, ideas and best practice on procurement.

Since 2017, Finance has brought together senior members of key Commonwealth entities and the business community for the Secretary's Procurement Consultative Roundtable to discuss issues related to Commonwealth procurement and to test potential policy impacts with stakeholders. Meetings are chaired by the Secretary of the Department of Finance, with the agenda reflecting both Government and industry issues. The meetings have been a valuable mechanism for creating broader discussion on trends and challenges that are impacting industry in relation to government procurement.

Finance also provides a dedicated advice line through the Procurement Agency Advice inbox. This advice line is targeted at central procurement teams who request further support in developing policy related to the Commonwealth Procurement Framework and applying the CPRs in practice, however assistance is also provided to business areas, should a centralised model not be in place within an entity.

In addition to the initiatives outlined above, Finance provides assistance to entities where expert knowledge of the Commonwealth Procurement Framework is required to assist in the delivery of urgent or sensitive government priorities. In recent times, Finance has provided experienced officers to assist with the delivery of the Centres for National Resilience, based in Finance; and a taskforce established regarding the procurement of COVID-19 vaccines, based in the Department of Health. Finance also regularly seconds and exchanges experienced procurement staff to and from entities as part of a knowledge sharing and capability building exchange.

Following the establishment of the Future Made in Australia Office, Finance is reviewing its communication and engagement activities to ensure that they remain well targeted to support the Government's significant procurement agenda under the Buy Australian Plan.

## 4.2 Web Guidance

A key element of the support that Finance provides to entities is through our web-based guidance. Finance's guidance details procurement policy and process information and advice that Commonwealth officials can use to inform their procurements activities, deliver best practice and ensure their procurements are not inconsistent with the Commonwealth Procurement Framework. Topics covered by the guidance include and are not limited to:

- procurement processes and practices;
- panel arrangements;
- third party procurements;
- sound practice in meeting particular requirements in the CPRs (such as consideration of broader economic benefits and disaggregation of large projects);
- accountability and transparency;
- ethics and probity;
- complaints;
- reporting;
- sustainability;
- confidentiality; and
- financial viability.

The web guidance is updated on an as-needs basis.

To support best-practice contract management, Finance provides entities with advice through the [\*Australian Government Contract Management Guide\*](#) on its website. The guide provides practical process guidance to support effective contract management at a practitioner level for Commonwealth entities. Key elements of the guide include:

- general advice related to contract management planning;
- key contract management activities;
- managing performance;
- closing a contract; and
- contract management for standing offer arrangements.

The guide is currently being updated to support further capability development and support of procuring and contract management officers within the APS.

Finance is currently in the process of a whole-of-guidance refresh that will include additional resources to support entities in their procurement activities. This includes additional guidance around the definition of construction services, reflecting Finance's 'agreed' response to recommendation 1 of the *Auditor-General Report No. 30 2021–22 Performance Audit: Procurement by the National Capital Authority*.

A number Resource Managements Guides provide additional advice, information and rules to officials on meeting requirements in the Commonwealth Procurement Framework. A list of key RMGs that relate to procurement is provided at [Appendix A](#).

### 4.3 Supporting improved procurement practices through information technology and data provision

Finance seeks to continuously improve access to procurement information for procuring entities, potential suppliers and the public. From October 2021, Finance has released a range of reports that are available publicly at [Information Made Easy \(tenders.gov.au\)](https://tenders.gov.au). The reports increase transparency and accountability through providing greater insights into whole of government and entity level procurement trends and behaviours.

The AusTender insights reports provide access to over 10 years of procurement data (including near real-time data for the current financial year), covering a range of topics including:

- [contracts and amendments](#);
- [what the Government Buys](#);
- [procurement of consultancies](#); and
- [contracts by value threshold](#).

Finance plans on incrementally releasing further public information reports as they are developed.

In addition, Finance as part of its stewardship role has developed and released a range of automated insights that are accessible by government entities to assist them with monitoring their AusTender data, provide entities with insights into their procurement trends and behaviours, and make it easier to identify potential anomalies in their procurement practices. The site also enable Finance to share policy developments, guidance and other news directly with entities.

As part of the scoping and design of future changes to AusTender, Finance considers relevant findings from ANAO audits. For example, Finance is investigating ways to further increase the transparency of panel procurements, including collecting the number of suppliers invited to submit quotes for a procurement.

- This reflects Finance's 'noted' response to recommendation 5 of the Auditor-General Report No. 5 2022-23 Performance Audit: Digital Transformation Agency's Procurement of ICT-Related Services.

## 4.4 Tools and Templates

In its role overseeing the Commonwealth Procurement Framework and assisting entities to apply the procurement framework in practice, Finance has developed, in consultation with entities, a number of tools to support entity operations:

- [BuyRight](#) is web-based guidance designed to assist officials through the procurement process to ensure that they understand their obligations under the relevant policies and regulations including the Commonwealth Procurement Framework;
- [ClauseBank](#) provides a repository of pre-drafted contract terms that are optional for use and can be used by Commonwealth entities, where appropriate, when developing contracts for use; and
- The [Commonwealth Contracting Suite](#) (CCS) is a document-creation website for Government officials that includes standard terms and conditions for Commonwealth contracts. The CCS is designed to simplify the terms and conditions in Commonwealth contracts, provide guidance to officials when drafting contracts and reduce the transaction costs for the Commonwealth and suppliers doing business together.
  - The CCS is mandatory for procurements under \$200,000 for all NCEs except where a relevant exclusion applies, and is encouraged for use on contracts valued up to \$1 million. CCEs are encouraged to use the CCS.
  - The CCS was recently reviewed to further simplify and ensure consistency across all the documentation.

## 4.5 Centre of Procurement Excellence

The Centre of Procurement Excellence (CoPE) was established in 2019 and is currently being expanded following its transfer to the FMiAO. The CoPE's role is to build public sector capability in procurement, strengthen partnerships with the business community and encourage innovation to deliver better value for money outcomes.

The CoPE guides and encourages entities to continually improve their procurement capability through initiatives that share best practice across the APS, highlight new and innovative approaches being used in the APS and help entities understand their capability strengths as well as capability gaps. The CoPE has provided opportunities for entities to collaborate with stakeholders to shape a modern and fit-for-purpose procurement framework.

### 4.5.1 Commonwealth Procurement Awards for Excellence

One important way to highlight and share best practice is through the Commonwealth Procurement Awards for Excellence (the Awards). The Awards have put a spotlight on positive procurement achievements demonstrated by entities displaying leadership, innovation and excellence. The Awards contribute to Commonwealth capability uplift by building a community of engaged procurement professionals who share knowledge on innovative approaches to procurement and lessons learned.

Categories in the 2022 Awards included:

- Building Entity Capability;
- Delivering Innovation through Procurement;
- Engaging with Small and Medium Enterprises; and
- Procuring for Digital Services.

25 nominations were received across the four categories. From these, five nominations were presented with a Gold award. Winners represented key areas of priority such as: strengthening the culture around the proper use and management of public money in an organisation; development of best practice processes, which are valuable tangible artefacts that can be shared; and innovative approaches to engage with risk effectively and positively to deliver value for money outcomes for the Commonwealth.

Winning nominations will be used to build case studies that then will be shared with procurement officials and published on Finance's website. This will impart key learnings and challenges overcome through the procurements, as well as innovations implemented, continuing to build procurement expertise and knowledge across the Commonwealth.

#### 4.5.2 Commonwealth Procurement Self-Assessment Survey

The CoPE supports entities to regularly evaluate their procurement and contract management capability maturity through the Commonwealth Procurement Self-Assessment Survey (the Survey). The Survey seeks to enhance visibility and understanding of the maturity of procurement and contract management capability across the Commonwealth. Maturity is assessed over three key categories and is designed to assist entities in targeting the maturity level that is appropriate to the needs and goals of the entity, taking into account factors such as the scope, scale and risk profile of the entity and the procurements undertaken.

The Survey is targeted at entities subject to the Commonwealth Procurement Framework, and is undertaken on a voluntary basis. Response rates to the inaugural Survey in 2020 were high, and were further increased in 2021, with around 75% of entities submitting a response.

The 2021 report found maturity improvements across the Commonwealth on most procurement capability categories. Entities larger in size or that procured higher valued contracts reported a higher average capability maturity. These findings are consistent with Finance's views of entity capability linked to resourcing and availability of procurement guidance and tools, which is more readily available in larger sized and high volume procuring entities.

The Survey results provide entities an insight into their current capability and allows the identification of areas for targeted internal entity training to improve capability. Feedback from entities following the 2021 Survey is that they are using the results to focus on areas where maturity needs to be strengthened at the entity level. The findings from the Survey are utilised as a discussion element when targeting outreach activities (see section 4.1 above).

The CoPE uses the collective results of the Survey to inform the development of procurement capability initiatives. These initiatives aim to assist entities to improve organisational procurement capability and identify pathways to promote the professionalisation of the public sector procurement cohort. Guidance material that complements findings from the Survey will be explored and developed where appropriate to support best practice approaches and fill in knowledge gaps.

#### 4.5.3 Lifting Capability through Training

Finance is working closely with the Australian Public Service Commission (APSC) to develop additional training material targeted to strengthening the capability and confidence of

procurers, contract managers and delegates to ensure value for money is achieved. The methodology in the delivery of training to maximise knowledge transfer will be explored with the APS Academy, as the APS learning and development excellence hub. Finance is also working with the APS Reform Office to develop a highly capable and future ready workforce, in line with broader APS reform initiatives.

Finance is also exploring the development and delivery of professionalisation pathways for officials to become procurement and contracting specialists. A spectrum from basic training to specialist qualification and formal accreditation forms part of a professionalised procurement and contract management framework to be examined. Procurement and contract management professionals are more likely to be experienced and better equipped to handle complex situations such as where there are probity concerns or supplier management disputes. A professionalisation pathway would also provide a career path for APS officials, keeping APS procurement officials engaged and ensuring the skills and knowledge they acquire are not lost due to them leaving the profession.

## 5. Conclusion

Finance is committed to supporting best practice in procurement and contract management across the Commonwealth. To support the appropriately devolved nature of the Commonwealth Procurement Framework, Finance's role focuses on providing guidance and advice, coordinating activities across the Commonwealth and developing and maintaining tools, templates and systems such as AusTender to support entities. To develop this guidance and advice, Finance will continue to leverage findings from external parties, such as ANAO audits and parliamentary inquiries, as well as feedback from entities and suppliers.

Partnerships with officials across the Commonwealth remain critical to Finance's efforts to support entities in implementing the procurement framework while delivering on Government priorities. These activities and partnerships embed the consideration of value for money through competition, probity and contract management in Finance's stewardship of the Commonwealth's procurement policies.

Finance will continue to review the Commonwealth Procurement 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.

## Appendix A – Additional Elements in the Commonwealth Procurement Framework

### i. Divisions 1 and 2 of the Commonwealth Procurement Rules

There are two divisions in the CPRs. Division 1 applies to all procurements, regardless of value. It covers areas such as achieving value for money, competition and non-discrimination, the proper use and management of public resources, accountability and transparency (including reporting), risk and procurement methods.

Division 2 describes the additional rules that normally apply to open approaches to market. These include how long a tender should be in the market, request documentation, specifications, conditions for participation, and receipt and opening of submissions. The procurement thresholds for applying Division 2 are:

- \$80,000 for NCEs and \$400,000 for prescribed CCEs, other than for procurements of construction services, and
- \$7.5 million for procurements of construction services.

### ii. 1 July 2022 Update to the Commonwealth Procurement Rules

The CPRs were updated 1 July 2022, replacing the 14 December 2020 CPRs and incorporating changes announced in March 2022, to include additional changes reflecting the Australian Government's commitment to ensuring more opportunities are available to small and medium enterprises (SMEs) to participate in Commonwealth procurement. A table detailing all changes is provided below.

*Table of changes – 1 July 2022 Updates to the Commonwealth Procurement Rules*

CPR Change	General Comment
Foreword	New foreword attributed to the Minister for Finance.
Achieving value for money (4.5 e)	Amended text to include climate change impacts in relevant financial and non-financial considerations of value for money.
Achieving value for money (4.5 e. ii)	Amended text to reflect the new Department of Climate Change, Energy, the Environment and Water.
Small and Medium Enterprises (5.6)	Amended text to increase the Australian Government's commitment to non-corporate Commonwealth entities sourcing 20 per cent of procurement by value from SMEs.
Procurement from standing offers (9.14)	New text advising officials to approach multiple potential suppliers from a standing offer, to maximise competition.

<b>Previous changes to the Commonwealth Procurement Rules (CPRs) taking effect on 1 July 2022</b>	
Figure 1: Legislation and Policy	Inclusion of <i>Government Procurement (Judicial Review) Act 2018</i> under Legislation heading and inclusion of new text ‘free trade agreements and other commitments’ under International obligations heading within Legislative and policy environment.
Compliance with the two divisions of the CPRs (3.8)	Amended text to provide clarification that the CPRs apply to the administrative services of the Commonwealth Superannuation Corporation that relate to the superannuation schemes it administers.
Procurement-connected policies (4.9)	Amended text stipulates that non-corporate Commonwealth entities and prescribed Commonwealth corporate entities must comply with procurement-connected policies where the policy indicates that it is applicable to the procurement process and to the entity.
Small and Medium Enterprises (5.5 d)	Updated sub-paragraph requiring procuring officials to consider the disaggregation of large projects into smaller packages that maximise competition where appropriate.
Small and Medium Enterprises (5.8)	Amended text reflecting the removal of the \$1 million threshold in the Supplier Pay On-Time or Pay Interest Policy – Resource Management Guide (RMG 417).
Procurement risk (8.4)	New text to provide that suppliers do not need to take out insurance until a contract is to be awarded and to limit insurance imposts in contracts and embed the principle of risk sharing by better reflecting the actual risk in contractual liability.
Appendix A: Exemption 17	Amended text allowing the Department of Defence to directly engage an SME for procurements valued up to \$500,000 (note: the requirements under the Indigenous Procurement Policy must first be satisfied before this exemption is applied).

### iii. Coordinated Procurements and Cooperative Procurements

Coordinated procurements are whole-of-government arrangements established for commonly used goods and services such as office equipment, travel, Information Communications and Technology (ICT) software, hardware and infrastructure. They deliver economies of scale and more efficient processes to deliver better prices, service and quality, together with increased transparency, standard terms and conditions and improved contract management that benefits both the government and suppliers. These arrangements are mandatory for NCEs while CCEs may opt-in. A list of current coordinated procurements is available on [Finance’s website](#).



Conversely, cooperative procurements involve more than one entity as the buyer and are not mandatory. Typically, both coordinated and cooperative procurements are established via standing offers and can include a single supplier or a panel of suppliers who have demonstrated value for money through competitive procurement processes.

#### iv. Procurement-Connected Policies

Procurement-connected policies (PCPs) are policies of the Commonwealth for which procurement has been identified as a means of delivery. PCPs seek to support social and economic policy objectives through procurement activities. The CPRs requires that relevant entities comply with PCPs. The policies are usually mandatory for NCEs and prescribed CCEs are encouraged to apply. There are six PCPs as of the date of this submission (more information on each policy can be found below and on [Finance's website](#)).

The relevant entity that establishes and manages the PCP is responsible for the PCP and ensuring that there is sufficient guidance and fit-for-purpose processes in place. Finance is not responsible for the policies but supports responsible entities through activities such as providing advice on the procurement framework and ensuring that the policies are not inconsistent with the CPRs.

##### Current Procurement Connected Policies

Procurement-Connected Policy	Responsible Entity
<b>Australian Industry Participation Plans for Government Procurement</b>	Department of Industry, Sciences and Resources
<b>Workplace Gender Equality Procurement Principles</b>	Department of the Prime Minister and Cabinet
<b>Indigenous Procurement Policy</b>	National Indigenous Australians Agency
<b>The Code for Tendering and Performance of Building Work 2016*</b>	Australian Building and Construction Commission*
<b>Shadow Economy – increasing the integrity of Government procurement**</b>	Department of the Treasury
<b>Payment Times Procurement Connected Policy</b>	Department of the Treasury

\* The Government intends to introduce legislation to abolish the Building Code and the Australian Building and Construction Commission.

\*\* Previously named Black Economy Procurement Connected Policy.

## v. Key Resource Management Guides Related to Procurement

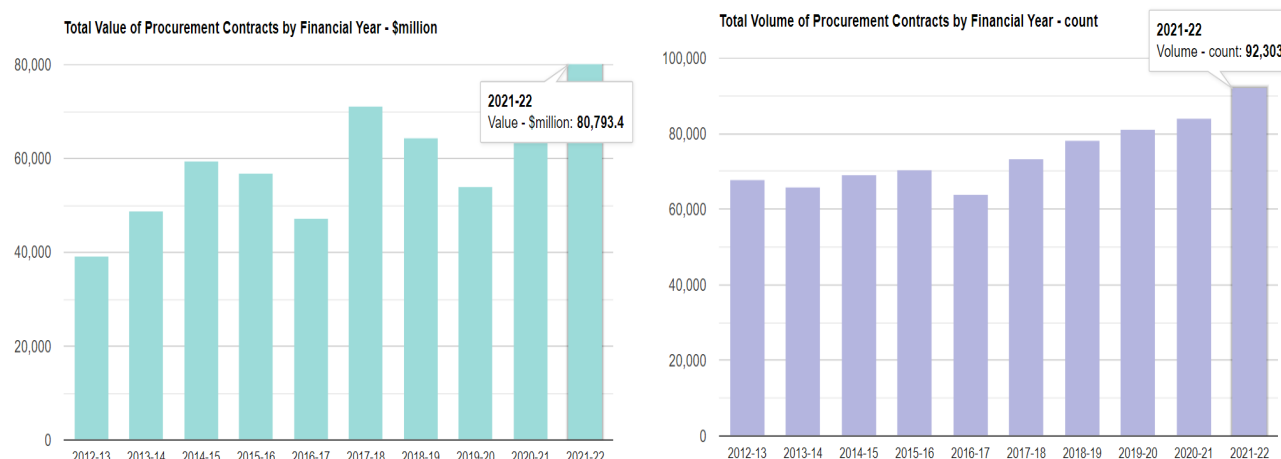
- [RMG 400 Commitment of Relevant Money](#)
- [RMG 403 Meeting the Senate Order for Entity Contracts](#)
- [RMG 404 Domestic Travel policy](#)
- [RMG 405 Official International Travel – Use of the best fare of the day](#)
- [RMG 411 Grants, Procurement and Other Financial Arrangements](#)
- [RMG 414 Contingent Liabilities: indemnities, guarantees, warranties on behalf of the Commonwealth](#)
- [RMG 415 Commonwealth Grants and Procurement Connected Policies](#)
- [RMG 417 Supplier Pay On-Time or Pay Interest Policy](#)
- [RMG 418 Payment terms for Australian Government Travel Arrangements – card services](#)
- [RMG 420 Mandatory use of the Commonwealth Contracting Suite \(CCS\) for procurement under \\$200,000](#)
- [RMG 422 Handling Complaints under the Government Procurement \(Judicial Review\) Act 2018](#)
- [RMG 423 Procurement Publishing and Reporting Obligations](#)

## Appendix B – Statistics on Australian Government Procurement Contracts

The following data reflects contractual information reported on AusTender. Data is extracted from AusTender at the end of each financial year to prepare the aggregated information. To view current AusTender information visit [Information Made Easy \(tenders.gov.au\)](https://tenders.gov.au).

### Total Procurement Contracts

In 2021-22 there were 92,303 contracts published with a combined value of \$80.8 billion.



### Contracts Awarded to Small and Medium Enterprises (SMEs)

An SME is defined by the CPRs as an Australian or New Zealand firm with fewer than 200 full-time equivalent employees. A small business is defined as a business with fewer than 20 full-time equivalent employees.

	SME		Small Business		Total	
Financial Year	Value \$million	Number of Contracts	Value \$million	Number of Contracts	Value \$million	Number of Contracts
2021-22	24,914.8	50,921	8,536.7	26,352	80,793.4	92,303
2020-21	18,657.1	45,773	5,473.0	23,020	69,794.5	84,054
2019-20	13,601.0	41,880	5,362.8	21,256	53,975.4	81,174
2018-19	16,668.1	41,341	6,316.5	20,842	64,454.6	78,150
2017-18	12,911.6	38,739	4,017.0	21,135	71,127.3	73,458
2016-17	9,955.0	34,621	3,349.0	18,073	47,354.7	64,092

The SME statistics estimate the level of SME participation in Government procurement. The estimate is provided by the Australian Bureau of Statistics (ABS) based on AusTender data and the [ABS Business Register](https://abs.gov.au/australia/1310000).

## Procurement Contracts by Value Range

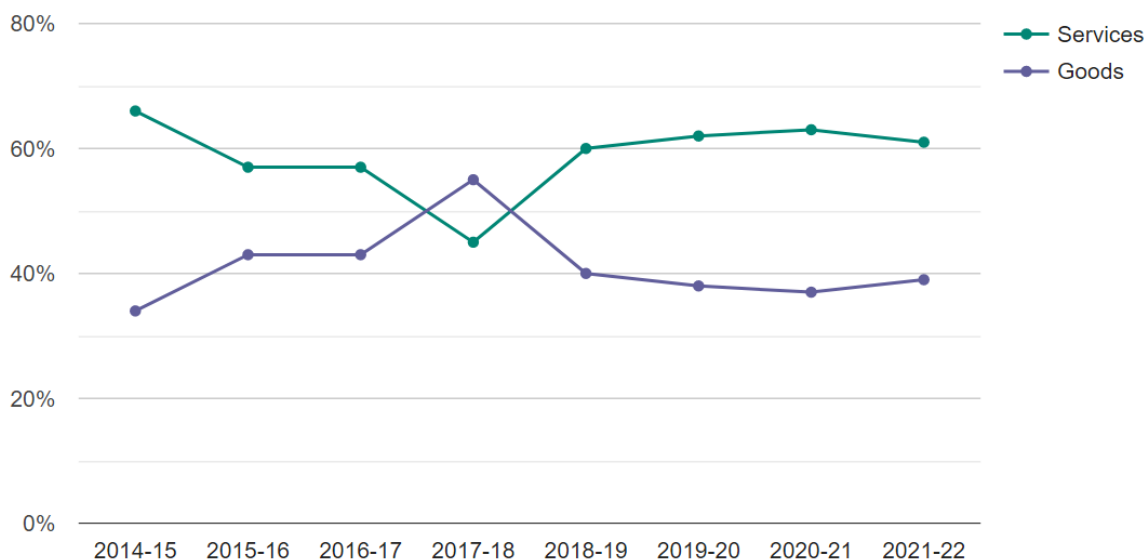
Below is a summary of the number and value of contracts awarded across the procurement thresholds.

Threshold	Value \$billion	% of Total Value	Number of Contracts	% of Total Number
<b>Below \$80k</b>	1.6	1.96%	47,585	51.55%
<b>\$80k and above</b>	79.2	98.04%	44,718	48.45%
<b>Total</b>	<b>80.8</b>	<b>100%</b>	<b>92,303</b>	<b>100%</b>

Threshold breakdown				
<b>\$80k to &lt;\$200k</b>	2.3	2.90%	17,792	19.28%
<b>\$200k to &lt;\$1m</b>	8.4	10.37%	20,436	22.14%
<b>\$1m to &lt;\$4m</b>	8.4	10.37%	4,397	4.76%
<b>\$4m to &lt;\$7.5m</b>	4.6	5.73%	863	0.94%
<b>\$7.5m to &lt;\$20m</b>	8.3	10.24%	703	0.76%
<b>\$20m and above</b>	47.2	58.43%	527	0.57%

## Procurement Contracts Comparison of Goods and Services

The graph below shows a comparison of Goods and Services contracts reported on AusTender, by value, using the United Nations Standard Products and Services Category Codes (UNSPSC).



## Top 20 Procurement Categories

Note: Entities are required to categorise procurement contracts using the UNSPSC that aligns with the primary purpose or outcomes of the procurement.

The table below shows the percentage by value for the top 20 categories, when compared to the total value of all contracts awarded in 2021-22 (\$80.8 billion).

UNSPSC Category Title	Value \$million	% Total Value
Building construction and support and maintenance and repair services	7,755.9	9.60%
Military rotary wing aircraft	4,776.4	5.91%
Computer services	3,859.4	4.78%
Lease and rental of property or building	3,784.9	4.68%
War vehicles	3,023.1	3.74%
Employment services	2,991.5	3.70%
Management advisory services	2,953.2	3.66%
Temporary personnel services	2,785.3	3.45%
Components for information technology or broadcasting or telecommunications	2,459.0	3.04%
Military fixed wing aircraft	2,424.5	3.00%
Professional engineering services	2,131.2	2.64%
Software	2,002.2	2.48%
Management support services	1,986.9	2.46%
Military watercraft	1,708.3	2.11%
Enhanced telecommunications services	1,261.8	1.56%
Education and Training Services	1,140.1	1.41%
Security surveillance and detection	1,127.7	1.40%
Reconnaissance or surveillance aircraft	976.9	1.21%
Fuels	938.3	1.16%
Aircraft	919.4	1.14%