



Friday 12 December 2025

Finance and Public Administration Legislation Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

**Submission on the Public Governance, Performance and Accountability (Ban Unethical Contractors) Bill 2025**

Thank you for the opportunity to comment on the Public Governance, Performance and Accountability Amendment (Ban Unethical Contractors) Bill 2025 ("the Bill").

ACESGroup is a 100% Australian-owned specialist security, risk, safety and event management company and Registered Training Organisation. Established in 1980, we are a direct-employment, non-subcontracting provider with over 3,000 employees delivering services across every State and Territory to government and private clients in education, health, transport, aviation, local government, and major sporting and entertainment venues.

We strongly support the Bill and welcome its acknowledgement that unethical contractors distort procurement outcomes, harm workers and honest suppliers, and undermine public trust in Commonwealth procurement. The Bill is a critical step, but its effectiveness depends on explicitly targeting the two proven mechanisms by which unethical contractors win government work:

1. Procurement manipulation and fraud (false declarations, fake documents, contrived relationships and collusion); and
2. Post-award sham employment and subcontracting models that strip workers of award entitlements and allow contractors to profit from unlawful labour cost reduction.

Our submission sets out how the Bill can be strengthened to meaningfully disrupt these practices and restore a level playing field for ethical providers.

ACESGroup supports the intent and direction of the Bill. We urge the Committee to:

- Treat procurement fraud as seriously as sham employment. Both must be explicit grounds for exclusion.
- Shift verification out of conflicted procurement silos. This requires independent pre-award checks and post-award audits.
- Hold directors and associated persons accountable. Exclusion must follow individuals as well as entities.
- Ensure principal employer responsibility. Prime contractors must be liable for subcontractor underpayments and labour breaches.
- Prohibit opaque subcontracting chains and sham ABN models on government contracts.
- Establish a robust public exclusion register to deter misconduct and support transparent procurement.

Without these measures, unethical contractors will continue to undercut lawful providers by manipulating tender processes and using unlawful labour arrangements after contract award.

### **Key issues in the security industry**

The security industry presents a well-documented case study of the risks the Bill seeks to address. Across major inquiries, media investigations, regulator actions and insolvency records, a recurring pattern of unethical, unlawful, and economically predatory practices is evident. These include:

#### **1. Unethical employment and labour practices**

- Flat-rate or cash-in-hand payment models well below Award obligations.
- Widespread superannuation non-payment and unpaid leave entitlements.
- Sham ABN/sole-trader arrangements designed to avoid payroll tax, workers' compensation and employee protections.
- Multi-tier subcontracting chains that obscure liability and depress wages.
- Exploitation of migrant workers and repeated visa-condition breaches.
- Inadequate or non-existent workers' compensation cover.

#### **2. Procurement fraud and deceptive tendering**

- False declarations regarding employment models, insurances, or compliance history.
- Use of manufactured references or related-party endorsements.
- Undisclosed subcontracting arrangements presented as "direct employment" in tenders.
- Collusive relationships between bidders or with individuals embedded in procurement processes.

#### **3. Subcontracting abuse and corporate evasion**

- Labour-hire chains that routinely collapse owing millions in unpaid PAYG, GST, payroll tax and superannuation.
- Liquidator findings describing tax-evasive behaviours, including falsified payslips, entity rotation, and shadow-workforce structures.
- "Ghost guard" billing (charging for staff not present on site).
- Subcontractors operating without licences or below legal wage thresholds.

These behaviours are not hypothetical. They have been evidenced in:

- ICAC and State integrity agency investigations.
- The Fair Work Ombudsman's 2018 review of security procurement by local governments.
- Labour Hire Authority enforcement actions in Victoria.
- The Victorian Hotel Quarantine Inquiry.
- Recent mainstream media investigations (November and December 2025).

In every instance, the harms fall on workers (lost entitlements and unsafe conditions), tax authorities (unpaid obligations), and honest suppliers (who cannot compete against unlawful pricing).

Government procurement becomes the inadvertent funder of non-compliant business models.

## **Key issues the Bill must address**

### **1. The two failure modes: Pre-award fraud and post-award evasion**

Unethical contractors succeed because current procurement systems fail at both ends:

- **Before award:** fraudulent tendering, false declarations, and manufactured relationships enable contracts to be won under false pretences.
- **After award:** subcontracting chains, sham ABN models and wage undercutting allow contractors to deliver services far below lawful labour cost.

Unless the Bill closes both pathways, unethical operators will continue to outbid ethical providers and workers will remain unprotected.

### **2. Low-cost procurement predictably rewards unethical conduct**

Where price is the dominant evaluation criterion, non-compliant operators meet unrealistic price points by stripping labour costs through unlawful means. Ethical providers who comply with Awards, superannuation, payroll tax and workers' compensation are structurally disadvantaged.

### **3. Payroll tax integrity and the Security Industry**

The Payroll Tax Act's contractor and employment agent provisions were designed to ensure labour is taxed consistently, regardless of contracting structure. In high-risk sectors such as security, layered subcontracting has become a mechanism for tax avoidance, not legitimate service delivery.

Industry submissions that security work should fall outside employment agent provisions:

- Ignore the reality of labour-hire-style models that dominate the sector.
- Create de facto payroll tax carve-outs for labour-intensive industries.
- Risk incentivising outsourcing, subcontracting and rotation of entities to avoid tax, entitlements and regulatory oversight.

These issues are directly relevant to this Bill: payroll tax avoidance is a form of unethical conduct that should trigger exclusion.

## **Recommendations for strengthening the Bill**

### **1. Clarify and expand the definition of "Unethical Conduct"**

The Bill should explicitly include:

- Fraudulent or deceptive tendering (false documents, misrepresentations, concealed relationships).
- Unethical labour practices (wage theft, sham contracting, ABN misclassification, unpaid superannuation, and failure to provide workers' compensation).
- Subcontracting models that strip entitlements or obscure liability. Tax-evasive structures, including entity rotation and deliberate underpayment of payroll tax.

## **2. Amend the Responsible-Person provisions**

ACESGroup recommends:

- Exclude low-level employee misconduct from causing supplier exclusion to avoid disproportionate penalties where conduct is not condoned by the employer.
- Include subcontractors, related entities and associated persons (prime contractors must not be insulated by outsourcing unethical behaviour).
- Mandate supplier liability for subcontractor underpayments (wages, superannuation, payroll tax and insurance).

## **3. Strengthen procurement and verification processes**

Government should:

- Require open-book costings and educate agencies on the risks of low-cost procurement models.
- Mandate disclosure of any prior unethical conduct or regulatory action.
- Require independent, expert verification of tender claims (employment models, insurance, corporate relationships, labour costs).
- Establish a national independent audit regime including random and risk-based payroll audits, site visits and worker interviews.
- Enable secure data-sharing with the ATO, Fair Work Ombudsman, payroll tax authorities and workers' compensation regulators.
- Allow suspension of payments pending investigation where credible evidence of fraud or underpayment exists.

## **4. Subcontracting controls**

- Tenderers must disclose all proposed subcontractors and seek approval for any changes.
- Multi-tier subcontracting chains should be prohibited or tightly regulated.
- Government contracts should ban flat-rate ABN arrangements that mask employment relationships.

## **5. Public register and enforcement powers**

- Create a comprehensive, searchable public exclusion register, listing entities, related bodies, associated persons, grounds for exclusion and appeal outcomes.
- Introduce director and associated-person bans for serious or repeated misconduct.
- Allow clawback of funds, termination rights and damages recovery for proven breaches.

## **6. Worker protections and remedies**

- Ensure procurement frameworks align with modern slavery risk indicators, including adequate pay and superannuation.
- Establish streamlined pathways for unions and workers to report and recover entitlements.
- Strengthen whistleblower protections for workers and auditors reporting misconduct.

## **7. Obligation for procurers to assess reasonable likelihood of unethical conduct**

ACESGroup recommends the Bill impose a positive statutory obligation on Commonwealth procuring entities to consider and evaluate whether a tender proposal is reasonably likely to constitute, involve, or facilitate unethical conduct, based on the face of the tender and identifiable risk indicators.

This obligation would not require exhaustive due diligence or investigation of every tenderer. Rather, it would require procurement decision-makers to actively turn their minds to ethical deliverability, and to document that consideration as part of the evaluation process, particularly where:

- proposed pricing or labour cost assumptions appear inconsistent with lawful performance; or
- the delivery model relies on subcontracting, labour intermediaries or ABN arrangements that elevate misclassification or underpayment risk; or
- there are gaps, inconsistencies or ambiguity in compliance claims; or
- the tender structure suggests entity rotation, phoenixing or obscured accountability.

Where such indicators are present, procurers should be required to seek proportionate clarification or evidence and to treat an inability to credibly demonstrate ethical performance as a material evaluation risk.

Independent verification may inform but must not replace this obligation. Accountability for assessing ethical risk should rest with the procuring officials who make award decisions, ensuring ethical considerations are not outsourced or reduced to a 'green-tick' exercise.

## **Conclusion**

ACESGroup strongly supports the Bill and commends the Committee for addressing unethical behaviour in Commonwealth procurement. We urge the Committee to ensure the legislation:

1. Explicitly includes procurement fraud as exclusionary conduct;
2. Holds prime contractors accountable for subcontractor misconduct;
3. Imposes director and associated-person bans;
4. Mandates independent pre-award verification and robust post-award audits; and
5. Implements a public, enforceable exclusion register.

These reforms are essential to restoring ethical competition, protecting workers and ensuring that government contracts are awarded only to lawful, transparent and responsible providers.

ACESGroup would welcome the opportunity to provide drafting assistance for model procurement clauses or the design of a pilot program in the security industry.

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