



Australian Government
Department of Education,
Skills and Employment

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Practical Guide: Buying from Indigenous Business

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OVERVIEW

Purpose

The term 'department' in this document means either the Department of Education, Skills and Employment.

This guide is a supplementary guide which should be used in conjunction with the [Procurement and Grants Policy Team Intranet Page](#) and the Practical Guide – Approaching the Market.

The Procurement Services [Intranet Page](#) covers the initial planning, needs analysis, procurement methodology and approval of the spending proposal.

The Practical Guide – Approaching the Market covers the processes to be followed in order to undertake a successful approach to the market.

This guide details the processes to be followed when considering Indigenous suppliers in an approach to market. The guide highlights a number of *mandatory* obligations indicated by the use of the word **must**.

Procurement related policies directed at maximising Indigenous employment opportunities and buying from Indigenous business considered in this Practical Guide include:

- the exemption in the Commonwealth Procurement Rules for Small and Medium Enterprise (SME) with at least 50% Indigenous ownership:
- the Indigenous Opportunity Policy and
- the Indigenous Business Procurement Policy.

Guidance on the steps involved in identifying and procuring from Indigenous business for the purposes of the Indigenous Business Procurement Policy.

Part 1 – Indigenous Procurement in the Department

Background

Government expenditure can contribute to promoting employment and training opportunities for Indigenous Australians. The Council of Australian Governments (COAG) under the National Partnership Agreement on Indigenous Economic Participation has made a commitment to strengthen current government procurement policies to maximise Indigenous employment. In implementing Indigenous procurement policy requirements, jobs will be created for Indigenous Australians, the skills of Indigenous Australians will be developed and Indigenous businesses will be created and supported.

Indigenous business owners typically have a strong desire to employ Indigenous people. Growth in Indigenous business therefore translates directly to employment opportunities for Indigenous people. This in turn creates an imperative for Indigenous business owners/leaders to ensure their youth (their future employees and stakeholders) make healthy lifestyle choices and value secondary education.

The Indigenous Procurement Policy (IPP)

[Indigenous Procurement Policy](#) (IPP) came into effect from 1 July 2015 and replaced the Indigenous Opportunities Policy.

The primary purpose of the policy is to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy.

As the Indigenous business sector is dominated by small to medium sized enterprises (SMEs), the new policy focuses effort on these enterprises to drive improvements in Indigenous economic development and Indigenous employment.

Indigenous enterprises are around 100 times more likely to employ Indigenous people than non-Indigenous enterprises and strengthening the Indigenous business sector will also have a significant flow-on impact on Indigenous employment.

Prior to the implementation of the policy, Indigenous enterprises secured only limited Commonwealth business. The policy is intended to significantly increase the rate of purchasing from Indigenous enterprises, helping to drive Indigenous economic development and strengthen the Indigenous business sector.

The policy has three key components:

1. A target for purchasing from Indigenous enterprises
2. A mandatory set-aside to direct some Commonwealth contracts to Indigenous enterprises
3. Minimum Indigenous participation requirements for certain Commonwealth contracts

Commonwealth Procurement Rules

Under the Commonwealth Procurement Rules (CPRs), exemption 16, ***procurements of goods and services from a Small or Medium Enterprise with at least 50% Indigenous ownership*** are exempt from the application of Division 2 of the CPRs. Division 2 of the CPRs includes additional rules for procurements at or above the relevant procurement threshold. This exemption complements the IOP but operates separately.

For PGPA Act non Corporate Commonwealth entities, the procurement threshold is \$80,000, unless the procurement is for construction services, in which case the procurement threshold is \$7.5 million.

This means that where the procurement for goods or services is valued at or above \$80,000 and there is an Indigenous business that:

- is Small or Medium Enterprise (SME) with at least 50% Indigenous ownership;
- which provides a suitable good or service for your procurement;

You may source the goods or services from that Indigenous business through Limited Tender.

The procurement will still, however, need to be undertaken in accordance with value for money requirements and the rules in Division 1 of the CPRs. Thus, Indigenous businesses that are considered suitable and submit a proposal, but do not offer value for money should not be selected for the procurement activity.

Indigenous business procurements valued below \$10,000

The Indigenous Procurement Policy does not apply to the department's procurements valued below \$10,000 as these are low value procurements that require a single verbal quote and may appear to offer only limited value/benefit to Indigenous businesses and impose disproportionate administrative challenges to the department. However, where possible, staff should consider applying the \$10,000 to \$80,000 Indigenous Business Procurement Policy even for these smaller procurements.

Indigenous Procurement Policy for procurements valued between \$10,000 to \$80,000

While the requirements for Indigenous business procurement in the department apply to procurements valued at \$80,000 to \$200,000 (GST Incl), procurement officials are encouraged to consider Indigenous business for any procurement opportunity valued at \$10,000 to \$80,000. The Indigenous Procurement Policy requires that verified Indigenous businesses should be considered and given an opportunity to participate in the standard quote process, if their participation is considered appropriate to the procurement. This means that if there is an appropriate Indigenous business that provides a suitable good or service for your procurement, you should offer them the opportunity to submit a quote.

The current requirement that procurement decisions satisfy the value for money considerations continues to apply. Thus, Indigenous businesses that are considered suitable and submit quotes, but do not offer value for money should not be selected for the procurement activity.

More information can be found on the [Procurement and Grants Policy Team Intranet](#).

Indigenous Procurement Policy for procurements valued between \$80,000 and \$200,000

The Indigenous Procurement Policy applies to the department's procurements valued between \$80,000 and \$200,000.

There are mandatory set-aside provisions in the policy which will give Indigenous SMEs greater access to the most relevant Commonwealth contracting opportunities. The mandatory set-aside gives Indigenous SMEs the chance to demonstrate value for money first, before the procuring officer makes a general approach to the market.

The contracts that the mandatory set-aside applies to will be reviewed each year to ensure that the targeted group of procurements are achieving the intended outcome.

The mandatory set-aside applies to:

1. all Remote Procurements (except for transactions paid for by credit card); and
2. all other new domestic procurements where the estimated value of the procurement is from **\$80,000 to \$200,000 (GST inclusive)**, other than:
3. procurements to which paragraph 2.6 or 10.3 of the Commonwealth Procurement Rules apply; and
4. procurements where the purchase is made through a mandatory whole of government procurement arrangement or through a departmental panel arrangement that is specified as an exclusive purchasing arrangement; and
5. procurements where the purchase is made using an exemption to Appendix A of the Commonwealth Procurement Rules other than Exemption 16.

The exemption under the CPRs for SME with at least 50% Indigenous ownership may be relevant and should be considered.

Definition of verified Indigenous business

A verified Indigenous Business for the purpose of the Indigenous Procurement Policy is a Small or Medium Enterprise with at least 50% Indigenous Australian ownership and an Australian Business Number (ABN).

Small and Medium Enterprise is defined as an Australian or New Zealand firm with fewer than 200 full-time equivalent employees.

A list of verified Indigenous businesses can be accessed on the Supply Nation website. Supply Nation is a not-for-profit membership body for Australian companies and Government agencies who are seeking to buy goods and services from Indigenous businesses. It provides a direct business-to-business purchasing link between corporate Australia, Government agencies and Indigenous owned businesses.

Supply Nation certify Indigenous business suppliers as 51% Indigenous owned, managed and controlled, Australian companies and Government agencies that are members of Supply Nation are able to access a qualified database of Indigenous suppliers for procurement opportunities.

Summary

Where you are undertaking procurement activity valued between \$10,000 and \$80,000 you should consider providing Indigenous business an opportunity to participate in the RFQ process and be assessed for Value for Money.

For procurement activity valued at \$80,000 to \$200,000, the IPP and the exemption under the CPRs for SME with at least 50% Indigenous ownership applies. It is mandatory that you provide Indigenous Business the opportunity to respond to the RFQ.

For procurement activity valued below \$10,000 or over \$200,000, you are *not required* to consider verified Indigenous business for the purposes of the Indigenous Procurement Policy. However, it is strongly *recommended* that you consider applying the \$80,000 - \$200,000 process for these procurements. In these cases you will be exercising the Exemption 16 in the Appendix A of the Division 2 in the CPR.

Part 2 – Using Indigenous Business

Supply Nation Indigenous suppliers listing

A list of verified or ‘certified’ Indigenous suppliers can be found on the [Supply Nations website](#). The public list of certified suppliers can be searched under the [Indigenous Business Direct](#) banner.

If an Indigenous business is listed here it can be considered verified for the purpose of the Indigenous Business Procurement Policy.

The purpose of certification is to assure Supply Nation members that the Indigenous suppliers they seek to contract with are majority Indigenous Australian owned as well as managed and controlled by Indigenous Australians.

Additional to Supply Nation, there are several other listings of Indigenous enterprises which are available to agencies.

The Supply Nation certifies that suppliers on their list are at least 51% Indigenous owned. An example of this is the [NSW Aboriginal Business Directory](#) which requires that business is at least 50% owned by Aboriginal people or 50% of the governing board are Aboriginal.

When applying the exemption for SME with at least 50% Indigenous ownership from Division 2 of the CPRs in a procurement, agencies are required to use their own due diligence to ensure the SME is at least 50% Indigenous owned.

What if there are no suitable Indigenous businesses available?

If there are no suitable Indigenous businesses available for your particular procurement, then you do not need to get a quote from an Indigenous business. A business case to purchase should note the success or otherwise of finding suitable Indigenous Businesses to seek quotes. Quotes from other businesses will be required, as usual.

You are under no obligation to buy from the Indigenous business if it does not offer value for money. When selecting any business for your procurement activity, selection should be based on whether the business can provide value for money. If the Indigenous business fails to do so, it should not be selected over other suitable businesses that offer value for money. Doing so would contravene section 5.3 of the CPRs regarding anti-discrimination.

If no response is received to a request for quote

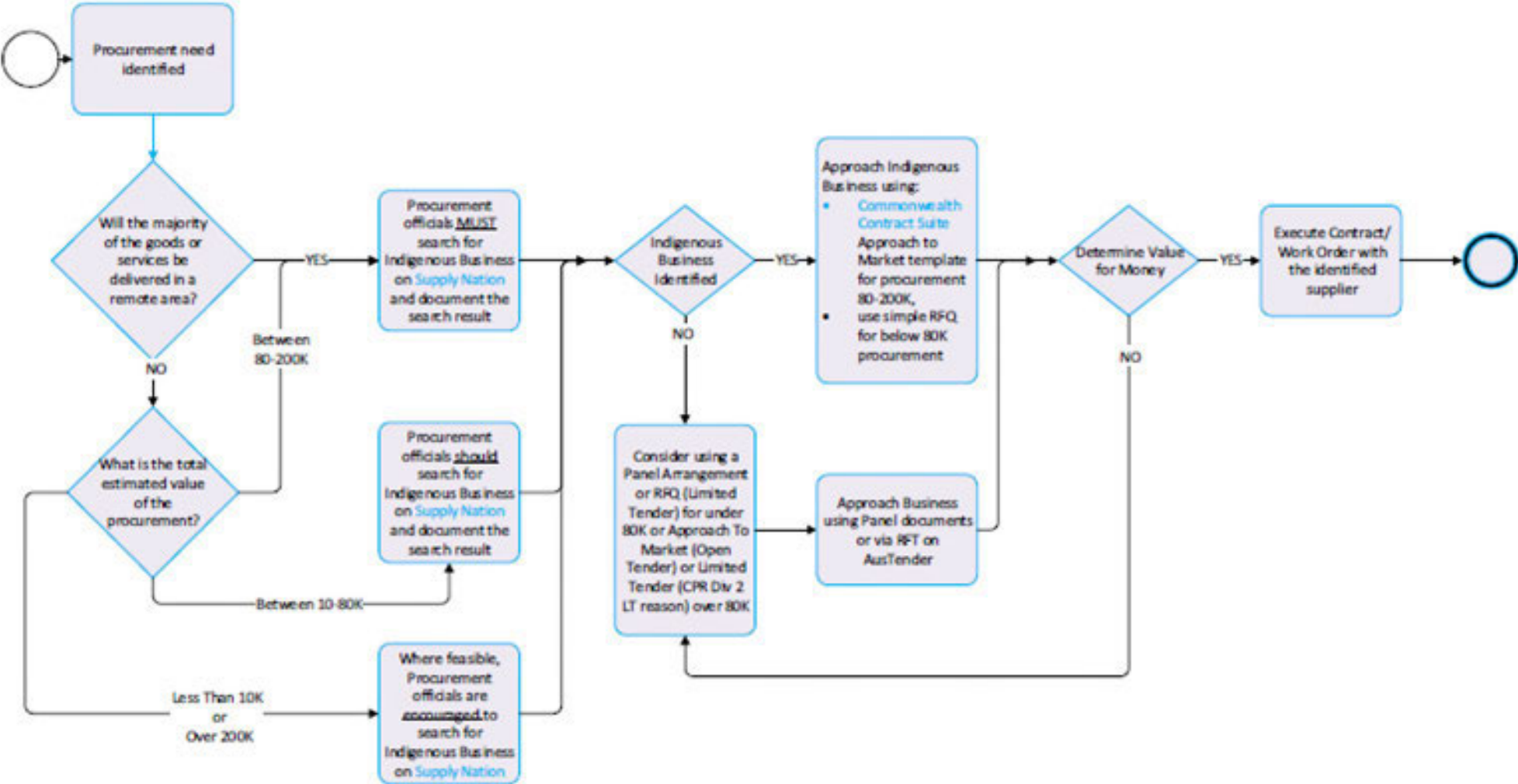
The Indigenous business, and all businesses you seek quotes from, should be provided with sufficient time and information to be able to provide a quote. If the Indigenous business declines to provide a quote you should treat it the same way as any other late or non-compliant response.

Feedback to Indigenous business

Unsuccessful Indigenous businesses should be provided with a debriefing so that they are able to understand areas they excelled in and in areas where they could improve to maximise future opportunities within the government.

Process Flowchart

Applying IPP to your procurement flowchart



Part 3 – Further Information and Assistance

Tools and templates

- Practical Guide: Approaching the Market
- Practical Guide: Defining Requirements
- Practical Guide: Evaluation and Selection of Suppliers

Further information

Further information is available on:

- Commonwealth Procurement Rules
- Fairness and Transparency in Purchasing Decisions
- APS Code of Conduct
- Accountable Authority Instructions
- Procurement and Grants Policy Team Intranet Site
- Buying for the Australian Government
- [Indigenous Procurement Policy](#)

Contact the Procurement Services Team

If you have any questions or require assistance with your procurement activity, please contact the [Procurement and Grants Policy Team](#).

Phone: (02) 6240 0400 (x40400)

Email:

For Non-ICT Procurement related matters procurement@dese.gov.au

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