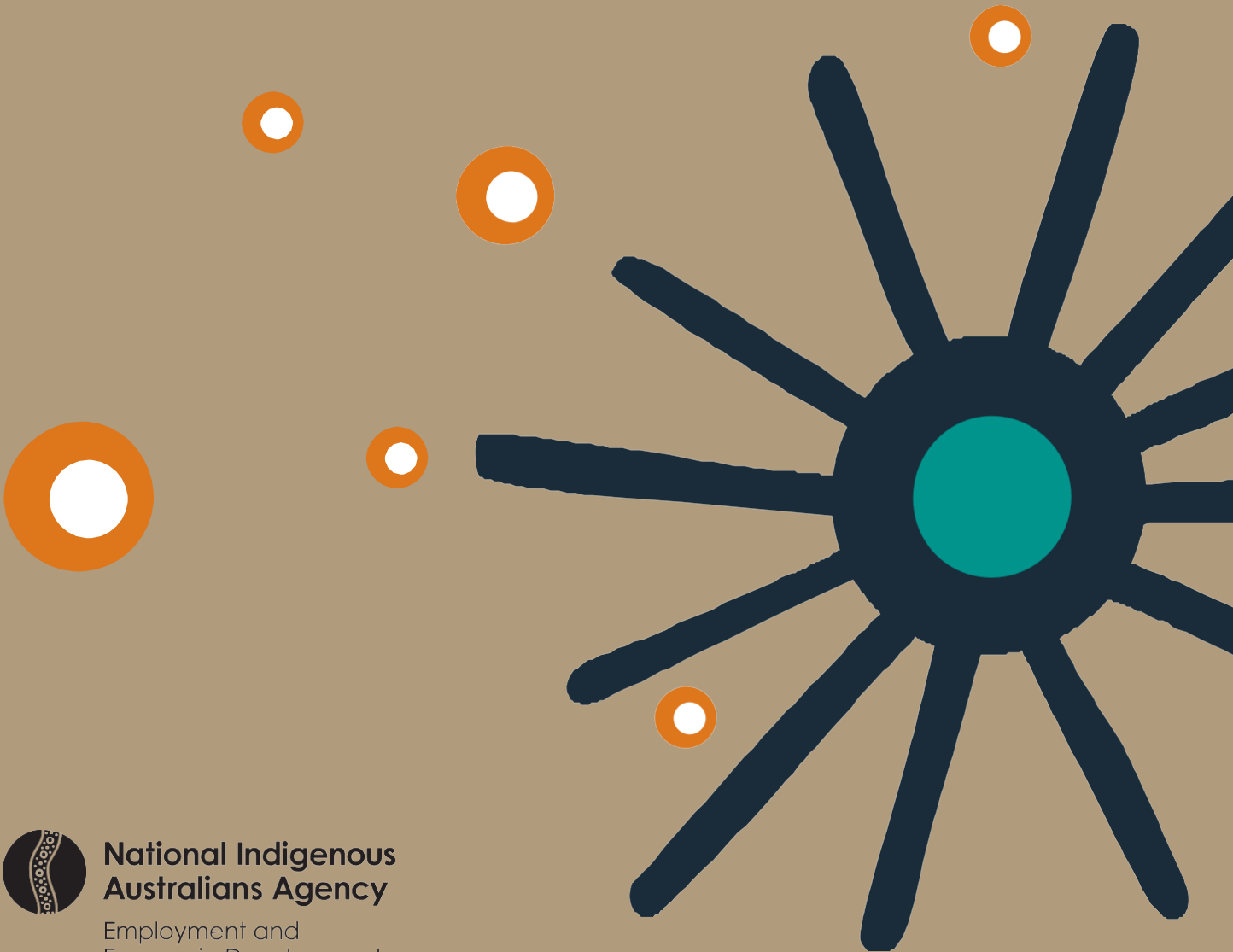




Australian Government

Indigenous Procurement Policy

December 2020



**National Indigenous
Australians Agency**

Employment and
Economic Development

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GLOSSARY

The following defined terms are used in this document:

AusTender has the same meaning as in the Commonwealth Procurement Rules.

Approach to market has the same meaning as in the Commonwealth Procurement Rules.

Commonwealth entity has the same meaning as set out in the *Public Governance, Performance and Accountability Act 2013*.

Commonwealth Procurement Rules (CPRs) mean the rules issued by the Minister for Finance under section 105B (1) of the *Public Governance, Performance and Accountability Act 2013*.

Cooperative procurement arrangement means procurement where more than one entity approaches the market together or where an entity accesses another entity's established contract or standing offer (panel) arrangement.

Coordinated procurement arrangement means whole-of-government arrangements for procuring goods and services. Non-corporate Commonwealth entities must use coordinated procurements. A list of mandatory coordinated procurement arrangements is available at the Department of Finance [website](#).

Corporate Commonwealth entity has the same meaning as set out in the *Public Governance, Performance and Accountability Act 2013*.

Eligible procurement means a procurement for which details are published on AusTender and that is not otherwise excluded from the calculation of future Portfolio volume or value based targets as outlined in this document.

Exemption 16 of the Commonwealth Procurement Rules (CPR) means a procurement of goods and services from an SME with at least 50 per cent Indigenous Ownership.

Extraordinary Expenditure means unexpected, large scale (commitment) resulting from an unexpected or atypical event. This could include whole-of-agency software upgrades, office relocations and other one-off purchases that resulted in atypical annual commitments.

High Value Contracts means contracts delivered in Australia valued at \$7.5 million (GST inclusive) or more in specified sectors, and subject to Mandatory Minimum Requirements (MMR), as defined below.

Indigenous enterprise means an organisation, operating a business, that is 50 per cent or more Indigenous owned. It may take the form of a company, incorporated association or trust. A social enterprise or registered charity may also be an Indigenous enterprise if it is operating a business.

Incorporated Indigenous joint venture means a legally incorporated entity that it is at least 50 per cent Indigenous owned and can demonstrate equal Indigenous representation and involvement in the management of the joint venture.

Indigenous Procurement Policy Reporting Solution (IPPRS) means the online reporting system used to record and track data on IPP contracts. The system is managed by the NIAA.



Indigenous procurement mailbox is the email indigenousprocurement@niaa.gov.au managed by the NIAA for the purpose of providing advice on the Indigenous Procurement Policy.

Indigenous small or medium enterprise (Indigenous SME) means an Indigenous enterprise that meets the definition of SME in the Commonwealth Procurement Rules.

MMR means mandatory minimum requirements for Indigenous participation, as defined in section four.

MSA means mandatory set aside, as defined in section three.

NIAA means the National Indigenous Australians Agency, the Commonwealth agency with responsibility for administering the Indigenous Procurement Policy.

Non-corporate Commonwealth entity has the same meaning as set out in the *Public Governance, Performance and Accountability Act 2013*.

ORIC means the Office of the Registrar of Indigenous Corporations.

Panel arrangement means a selected number of suppliers appointed through a contract or deed of standing offer that a Commonwealth entity can approach to procure regularly required goods or services. Panel arrangements are either *coordinated* or *cooperative procurements* (see definitions above).

Portfolio means the portfolios identified in the [Australian Government Organisations Register](#).

Procuring official means a Commonwealth official that has responsibility for purchasing a good or service on behalf of a Commonwealth entity.

Remote area means the areas identified in the Remote Indigenous Procurement Policy (RIPP) map on the NIAA website, as updated from time to time.

Remote contract means a contract where the majority (by value) of the goods or services will be delivered in a remote area.

Remote procurement means a procurement exercise for a remote contract, as per section 3.2 of this Policy.

Restricted market means goods or services that fall within a subset of the UNSPSC code set as defined in this policy. Refer to Appendix A.

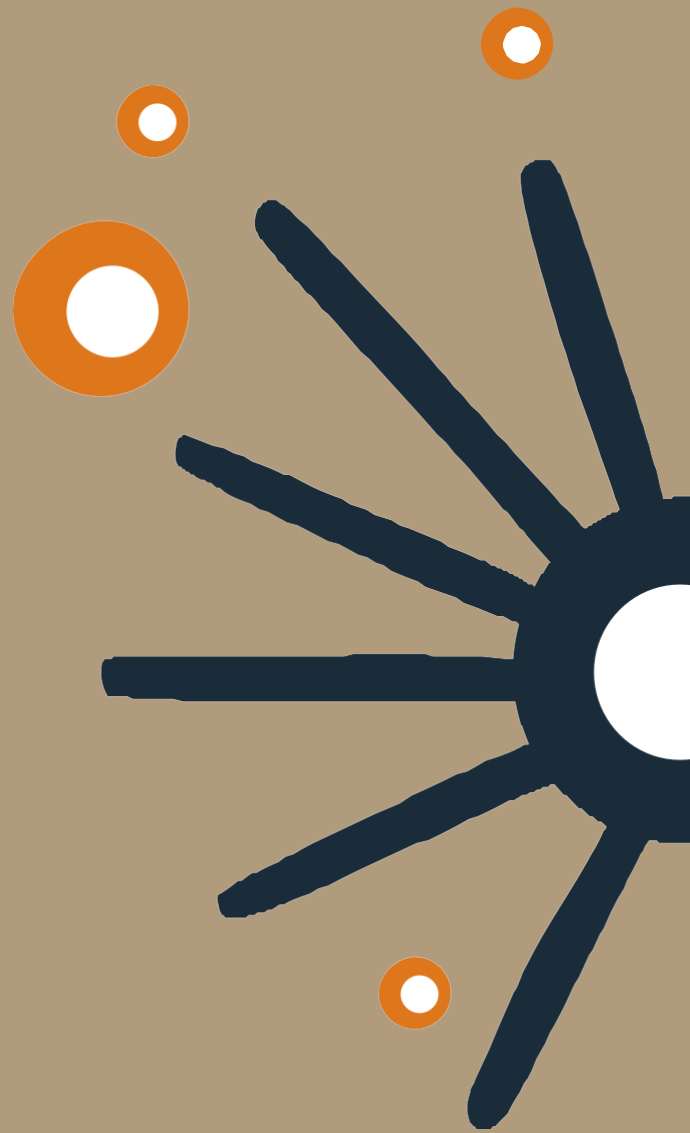
Small and medium-sized enterprise (SME) has the same meaning as in the Commonwealth Procurement Rules.

Supply Nation is the trading name of the Australian Indigenous Minority Supplier Officer Limited (ABN 50 134 720 362), which is an organisation dedicated to growing diversity in supply chains.

United Nations Standard Products and Services Code (UNSPSC) is an open, global, multi-sector standard for the classification of products and services. Use of UNSPSC enables analysis of Australian Government procurement activity from approach to outcome by sector and across government.



1



INTRODUCTION

1.1. INTRODUCTION

This document outlines the key components of, and the principles underpinning, the Australian Government's Indigenous Procurement Policy (IPP).

The policy is administered by the *National Indigenous Australians Agency (NIAA)*. The NIAA can be contacted at IndigenousProcurement@niaa.gov.au.

This document supersedes the original policy document (dated 1 July 2015) and reflects announced changes to the policy.

Detailed guidance to assist relevant *Commonwealth entities* and other stakeholders implement the policy is also available on the NIAA website.

Terms appearing in *italics* are defined in the Glossary.

1.2. POLICY OBJECTIVE

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

Prior to the implementation of the policy, *Indigenous enterprises* secured limited business from Commonwealth procurement. The policy is intended to significantly increase the rate of purchasing from *Indigenous enterprises*.

1.3. POLICY ELEMENTS

The policy aims to increase the Commonwealth's Indigenous procurement in three ways:

1. Annual targets for the volume and value of contracts to be awarded to *Indigenous enterprises* by the Commonwealth and each *Portfolio*.
2. A *Mandatory Set Aside (MSA)* to provide *Indigenous enterprises* the opportunity to demonstrate value for money before a *general approach to market*. The MSA applies to all procurements to be delivered in remote Australia and for all other *procurements* wholly delivered in Australia with an estimated value from \$80,000 to \$200,000 (GST inclusive).
3. Indigenous participation targets to be mandated in *high value contracts* wholly delivered in Australia valued at \$7.5 million or more in specified industry categories, known as the '*mandatory minimum requirements*' (*MMR*). This includes a mandate that tender evaluations for procurement subject to the *MMR* must consider a tenderer's past performance against *MMR* targets contained in relevant Commonwealth contracts.

1.4. KEY PERFORMANCE INDICATORS

The success of the IPP is assessed using two key performance indicators:

1. The extent to which there is an increase in the number of *Indigenous enterprises* contracted to the Commonwealth; and
2. The extent to which there is an increase in the volume and value of contracts awarded to *Indigenous enterprises*.

1.5. PROCUREMENT CONTEXT

The Department of Finance is responsible for the *Commonwealth Procurement Rules (CPRs)*, which are the keystone of the Government's procurement policy framework, reflecting officials' responsibilities for the management of public monies under the *Public Governance, Performance and Accountability Act 2013*.

The IPP is a Procurement-Connected Policy (PCP). A PCP seeks to support government policy objectives through the Commonwealth's use of procurement activities.¹

Under the devolved procurement framework, individual relevant Commonwealth entities are responsible for ensuring their own compliance with a PCP. The NIAA is responsible for monitoring and reporting entities' performances against the requirements of the policy. The NIAA is also responsible for administering, reviewing and providing information on the IPP.

The CPRs include an Appendix A exemption (exemption 16) that enables relevant *Commonwealth entities* to procure goods and services directly from *small and medium enterprises (SME)* with at least 50 per cent Indigenous ownership without having to apply the additional rules in Division 2 of the CPRs.

All procurements must be undertaken in accordance with Division 1 of the CPRs. Division 1 includes the requirement to demonstrate value for money and the requirement for non-corporate government entities to use coordinated procurement arrangements where they exist.

1.6. APPLICATION OF THE POLICY

Non-corporate Commonwealth entities **must** comply with the IPP. Prescribed *Corporate Commonwealth entities* listed in section 30 of the *Public Governance, Performance and Accountability Rule 2014* and *Corporate Commonwealth entities* are encouraged to use best endeavours to apply the IPP.

The IPP does not apply to Commonwealth grants.

¹ Procurement by non-corporate Commonwealth entities must not be inconsistent with the policies of the Commonwealth in accordance with sections 15 and 21 of the *Public Governance, Performance and Accountability Act 2013*. The Department of Finance maintains a list of [Procurement Connected Policies](#).

1.7. ACCOUNTABILITY AND TRANSPARENCY

The Australian Government publicly holds itself to account for performance under the IPP. Performance against the three components of the IPP is published on the [Indigenous Procurement Policy page](#) on the NIAA website.

1.8. INDIGENOUS ENTERPRISES

To meet the definition of an *Indigenous enterprise*, the enterprise must be at least 50 per cent Indigenous owned.

The NIAA contracts [Supply Nation](#) to maintain a free registry of *Indigenous enterprises* known as '[Indigenous Business Direct](#)'.

Businesses are also recognised as *Indigenous enterprises* under the IPP if they are on the public register maintained by the [Office of the Registrar for Indigenous Corporations \(ORIC\)](#).

If a business is not listed with *Supply Nation* or *ORIC*, the *procuring official* must document the steps taken to assure themselves the enterprise is 50 per cent or more Indigenous owned. This could include:

- a. Requesting that the owners of the business provide evidence of Indigeneity. This could take the form of:
 - A statutory declaration, declaring that the enterprise is 50 per cent or more Indigenous owned; or
 - Certificates or letters of Indigeneity of the Indigenous owners provided by a recognised Indigenous organisation such as a land council.
- b. Checking whether the enterprise is listed with an Indigenous Chamber of Commerce or another business list and confirming that the business meets the eligibility requirement of the IPP as per steps outlined in this section (above).

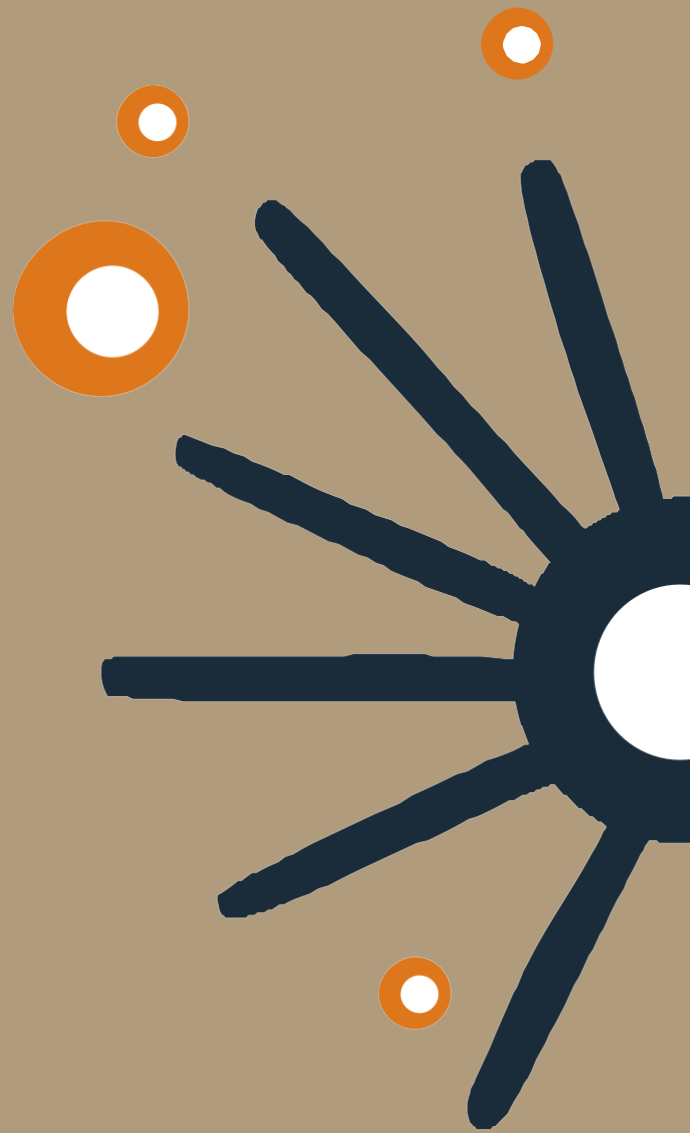
The *CPRs* contain a series of exemptions outlining particular circumstances under which procurement processes are exempt from particular aspects of the *CPRs* (Appendix A exemptions). *Exemption 16* relates to the procurement of goods and services from *small and medium-sized enterprise (SME)* with at least 50 per cent Indigenous ownership. If using *Exemption 16*, the *procuring official* must also ensure the enterprise meets the definition of a *SME*, as defined in the *CPRs*.

1.9. INCORPORATED INDIGENOUS JOINT VENTURES

For the purpose of the policy, an *incorporated Indigenous joint venture* is a company formed through the incorporation of an *Indigenous enterprise* and a *non-Indigenous enterprise*.

To be recognised under this policy, an *incorporated Indigenous joint venture* must register with *Supply Nation*, be at least 50 per cent Indigenous-owned, and demonstrate at least 50 per cent control of the joint venture. In addition, the joint venture must demonstrate it has strategies in place to increase their Indigenous workforce and the capability of the *Indigenous enterprise* partner.

2



ANNUAL TARGETS FOR
PURCHASING FROM
INDIGENOUS ENTERPRISES

2.1. INTRODUCTION

The Commonwealth has two targets for purchasing from *Indigenous enterprises*:

1. Volume target – the equivalent of three per cent of the number of *eligible procurements* are awarded to *Indigenous enterprises* each financial year.
2. Value target – the equivalent of three per cent of the value of *eligible procurements* are awarded to *Indigenous enterprises* each financial year (from 1 July 2027). From 1 July 2019, a series of progressively increasing value targets apply, up to a maximum value in 2027-28, as per the table below.

FINANCIAL YEAR	TARGET (BY VALUE OF CONTRACTS)
2019-20	1 per cent
2020-21	1.25 per cent
2021-22	1.5 per cent
2022-23	1.75 per cent
2023-24	2 per cent
2024-25	2.25 per cent
2025-26	2.5 per cent
2026-27	2.75 per cent
2027-28	3 per cent

Indigenous procurement volume and value targets are set annually for each *Portfolio*. The targets are calculated by the NIAA in consultation with each *portfolio*, using *AusTender* contract data. Adjustments are made to ensure the volume and total value of contracts reflect the number of *eligible procurement* opportunities.

The targets, expressed in terms of the actual volume of contracts and the actual dollar amount to be awarded by *Portfolios* to *Indigenous enterprises* each financial year are published on the NIAA [website](#).

2.2. PORTFOLIO TARGETS FOR THE VOLUME OF CONTRACTS AWARDED

The *Portfolio volume* based target for the upcoming financial year is calculated based on three per cent of the expected number of *eligible procurements*.

The expected volume of *eligible procurements* is the average of the number of *eligible procurements* over the previous three full financial years.

The number of *eligible procurements* for a particular financial year is the number of contracts published on *AusTender* in the relevant financial year, minus the number of contracts associated with an exclusion.



For the volume-based targets, excluded contracts are those where paragraph 2.6 of the CPRs has been applied.

2.3. PORTFOLIO TARGETS FOR THE TOTAL VALUE OF CONTRACTS AWARDED

The *Portfolio value* based target for the upcoming financial year is calculated based on the relevant target (refer to table at 2.1) as applied to the expected value of eligible procurements.

The expected value of *eligible procurements* is the average of the total value of *eligible procurements* over the previous three full financial years.

The value of *eligible procurements* for a particular financial year is the total value of contracts published on *AusTender* in the relevant financial year, minus the value of contracts associated with an exclusion.

The following contracts are excluded from the value-based target:

- a. Procurements exempt from CPRs Division 2 (other than Exemption 16)
- b. Procurements subject to CPRs paragraph 2.6
- c. Procurement through a *coordinated procurement arrangement*
- d. Procurements within a *Restricted Market* (see [Appendix A](#))
- e. Procurements agreed between NIAA and individual *portfolios* as being *extraordinary expenditure* that is unlikely to be repeated.²

2.4. COUNTING PROCUREMENT AGAINST THE TARGETS

To encourage the broadest possible application of the IPP, *Portfolios* may count a range of procurement and purchases with *Indigenous enterprises* against their targets including:

- a. **Direct contracts and purchases** awarded to an *Indigenous enterprise* by an entity within their *Portfolio*.
- b. **Subcontracts** awarded to an *Indigenous enterprise* that directly relate to the goods and services contracted by an entity within the *Portfolio*.
- c. **Multi-year contracts**
 - A multi-year contract awarded to an *Indigenous enterprise* can count towards a *portfolio's volume* based target for each year the *Indigenous enterprise* receives revenue under the contract.

2 Prior to agreeing a value-based target for an upcoming financial year, the NIAA will write to the Chief Finance Officer of each portfolio to confirm whether any extraordinary expenditure occurred in the previous financial year. If a portfolio reports extraordinary expenditure in the previous financial year, the amount will be deducted from the value target for the upcoming financial year.

- The total value of the multi-year contract awarded to an *Indigenous enterprise* will be counted against the *portfolio's* value based target for the year the contract was executed. Any increase in the value of the contract will be counted against the target for the financial year in which the variation occurred.
- d. **Official orders** awarded to an Indigenous enterprise, including subcontracts, that have been entered into under a panel, including coordinated procurement arrangements and cooperative procurement arrangements, can be counted toward volume and value based targets.

Portfolios will need to report procurement and purchases to the NIAA via the *IPP Reporting Solution (IPPRS)* if they are not required to be reported on *AusTender* or reported by a Supplier through the *IPPRS*.

2.5. REPORTING CONTRACTS AGAINST IPP TARGETS

Portfolio agencies are required to report against their IPP targets. This data is stored in the *IPP Reporting Solution (IPPRS)*, which is managed by the NIAA.

The *IPPRS* automatically collates data on contracts awarded to *Indigenous enterprises* that have been published on *AusTender* and attributes these contracts to relevant *Portfolios*. This is achieved by matching *AusTender* data with *Indigenous enterprises* registered with *Supply Nation* or through *ORIC*.

The *IPPRS* also captures and attributes the volume and value of subcontracts to *Indigenous enterprises* awarded under contracts subject to the *MMR* to the relevant *portfolio* targets. *Relevant Commonwealth entities* are required to ensure suppliers' report their performance against the *MMR* quarterly through the *IPPRS*.

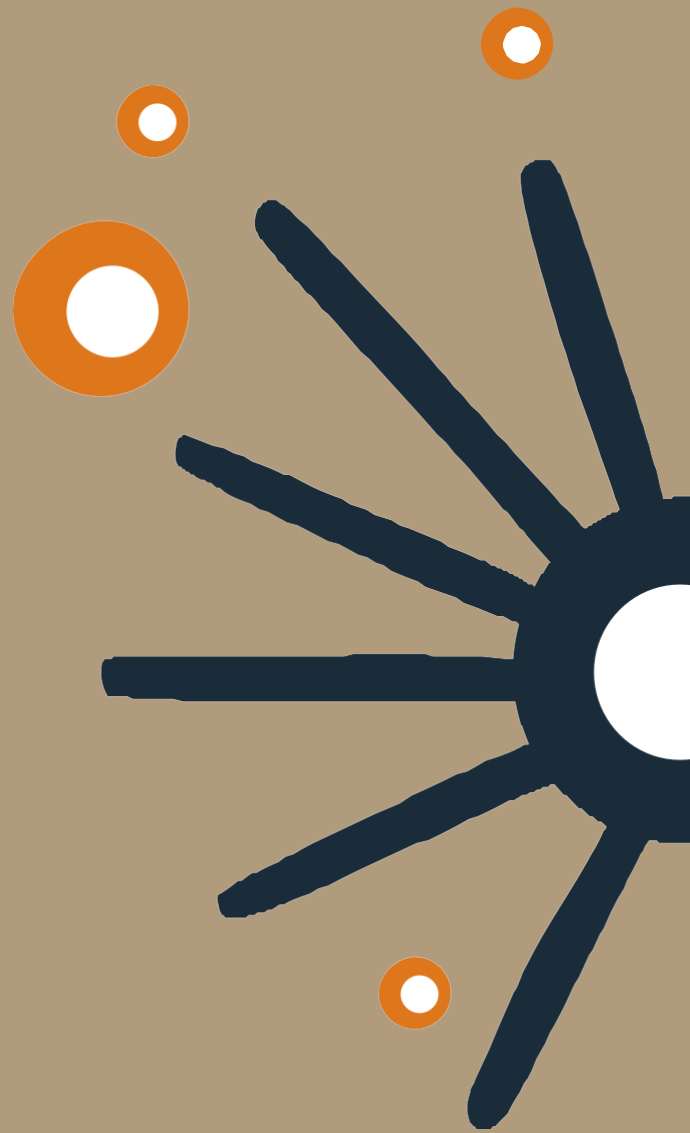
Portfolios are encouraged to report all other eligible contracts (not already published on *AusTender* or associated with *MMRs*) to the NIAA via the *IPPRS* throughout the year. Each year *Portfolios* are notified of the deadline by which reporting is to be entered into *IPPRS*. This will typically be around 42 days from the end of financial year. *Portfolios* can use the reporting function of the *IPPRS* at any time to monitor progress against their target.

Contracts that need to be manually reported include:

- a. Subcontracts with *Indigenous enterprises* not related to a *MMR* or reported by suppliers through the *IPPRS*;
- b. Contracts and purchases valued at less than \$10,000 (including credit card purchases);
- c. For prescribed *Corporate Commonwealth entities*, contracts and purchases valued at less than \$7.5 million for procurement of construction services or \$400,000 for procurements other than construction services.
- d. Contracts with *Indigenous enterprises* not registered with *Supply Nation* or *ORIC*; and
- e. Contracts and purchases awarded by *Corporate Commonwealth entities* (other than prescribed *Corporate Commonwealth entities*).



3



MANDATORY SET-ASIDE
(MSA) OF CERTAIN
COMMONWEALTH
CONTRACTS

3.1. INTRODUCTION

The Mandatory Set-Aside (MSA) arrangements provide *Indigenous SMEs* with the opportunity to demonstrate value for money before the *procuring official* makes a general approach to the market.

The MSA applies to:

- a. all *remote procurements*;³
- b. all other procurement wholly delivered in Australia where the estimated value of the procurement is between \$80,000 and \$200,000⁴ (GST inclusive).

The MSA **does not** apply to:

- a. procurements to which paragraphs 2.6 or 10.3 of the CPRs apply;
- b. procurement made through a mandated coordinated procurement arrangement and
- c. procurement where the purchase is made using an exemption contained in Appendix A of the CPRs (other than exemption 16).

3.2. REMOTE PROCUREMENT

A *remote procurement* is a procurement exercise for a *remote contract*, which is a contract where the majority of the value of the goods and services will be delivered in a *remote area*.

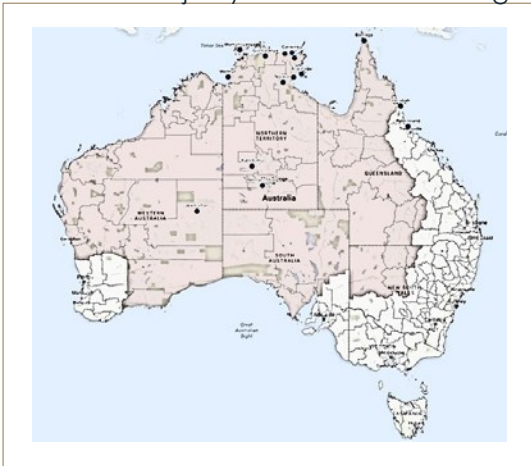


Figure 1 illustrates regions considered as *remote areas* under the IPP, noting this includes Darwin and several regional centres such as Broome and Alice Springs. A [detailed map](#) is available on the NIAA website.

To determine whether a procurement is a *remote procurement*, the *procuring official* will need to identify whether the delivery point(s) for the majority of the goods and services (by value) is in a *remote area*.

Figure 1: Remote areas under the Indigenous Procurement Policy

³ This does not apply to transactions paid for by credit card.

⁴ Rules for estimating the value of a procurement are set out in the Commonwealth Procurement Rules.



3.3. APPLYING THE MSA

In situations where the MSA applies, the *procuring official* must first determine whether an *Indigenous SME* could deliver the required good or service on a value for money basis. Only after applying that rule can procuring officials apply exemption 17 in Appendix A of the CPRs or other ordinary procurement processes.

With the exception of *coordinated procurement arrangements* procuring officials must apply the MSA before undertaking a procurement from an existing panel arrangement.

To satisfy the MSA requirement:

- a. The *procuring official* must **conduct a search** for suitable *Indigenous SMEs* on *Supply Nation's* directory of *Indigenous enterprises*;
- b. Depending upon the outcome of the search:
 - **If a suitable *Indigenous SME* is identified.**
 - i. The *procuring official* must take steps to determine whether the *Indigenous SME* could deliver the required good or service on a value for money basis, consistent with the CPRs.
 - ii. If value for money is determined the entity must purchase the required good or service from the *Indigenous SME*. For procurements valued at or above the relevant procurement threshold, the procurement can be undertaken using Exemption 16 of Appendix A of the CPR.
 - iii. If based on the initial search, a number of suitable *Indigenous SMEs* are identified the *procuring official* must assess these in a manner commensurate to the scale, scope and risk of the procurement, and award the contract to the *Indigenous SME* that represents best value for money.
 - iv. If the *Indigenous SME* that represents best value for money declines the contract, the entity should offer the contract to each subsequent *SME* that met value for money requirements.
 - **If no suitable *Indigenous SME* is identified,**
 - i. document the outcomes of that search.
 - ii. consider applying Exemption 17 in Appendix A of the CPRs
 - iii. follow the entity's ordinary procurement practices to award the contract.

3.4. RECORDING AND REPORTING REQUIREMENTS

Contracts valued between \$80,000 and \$200,000

The NIAA publishes the percentage of MSA eligible contracts as published on *AusTender* that have been awarded to *Indigenous enterprises*.

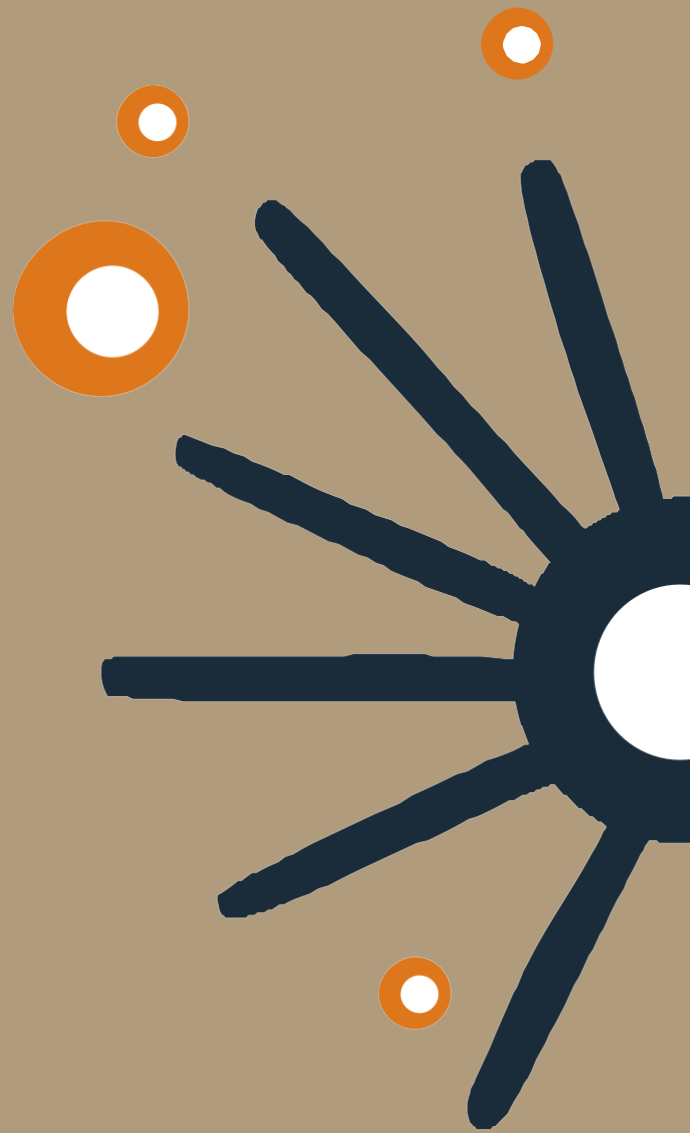
Remote procurements

Every six months, *portfolios* must manually report to the NIAA via the *IPPRS*:

- a. *remote procurements* conducted by the *Portfolio*; and
- b. *remote contracts* that were awarded to *Indigenous SMEs*.



4



MANDATORY MINIMUM
REQUIREMENTS FOR
CERTAIN CONTRACTS

4.1. INTRODUCTION

For certain Commonwealth contracts (see section 4.2), relevant *Commonwealth entities* are required to include targets for minimum Indigenous employment or supply use. These targets are referred to as the 'mandatory minimum requirements for Indigenous participation' or *MMR*.

The *MMR* requires suppliers to achieve a minimum percentage of Indigenous employment or supplier use (or a combination of both) on average over the term of the contract. The supplier, in consultation with the relevant purchasing Commonwealth entity, can elect to apply a target of 4 per cent Indigenous employment or supplier use at the contract level, or a target of 3 per cent at the organisational level (see Table 1 at section 4.6.6). The supplier may elect to meet the *MMR* directly or through subcontracts.

When tendering for procurements to which *MMR* targets apply tenderers must:

- a. outline how the *MMR* targets will be achieved within an Indigenous Participation Plan;
- b. indicate if they have been subject to *MMR* targets previously; and
- c. declare their organisations current levels of Indigenous employment and supply use.

When evaluating tenders, in which the *MMR* apply, relevant *Commonwealth entities* must:

- a. consider each tenderer's Indigenous Participation Plan;
- b. consider the tenderer's past performance against *MMR* targets; and
- c. document these considerations as part of the tender assessment.

Past performance information is held in the *IPPRS* and can be accessed via the central procurement team within each Government entity or via IPPRS@pmc.gov.au.

4.2. APPLICATION

From **1 July 2016**, relevant *Commonwealth entities* are required to include *MMRs* in the Approach to Market documentation for all procurement:

- a. wholly delivered in Australia; and
- b. valued at \$7.5 million (GST inclusive) or more; and
- c. where more than half of the value of the contract is being spent in one or more of eight specified industry sectors (Appendix B – Table 1) or
- d. From 1 July 2020, where more than half of the value of the contract is being spent in one or more of nineteen specified industry sectors (Appendix B – Table 2).

Procurements from a standing offer or panel arrangement, including *coordinated or cooperative procurement arrangements*, are subject to the *MMR*.

The *MMR* **does not** apply to:

- a. contracts that are subject to paragraph 2.6 of the CPRs. Paragraph 2.6 deals with activities relating to international peace and security, human health, essential security interests and national treasures;



- b. several sub-category exclusions listed in Appendix B; and
- c. contracts delivered overseas in whole or in part.

Entities can consider voluntarily applying the MMR to contracts that include an overseas delivery component. This could include applying the MMR to the component of the procurement delivered in Australia or to the procurement in full. Reporting should occur via the IPPRS (as a voluntary MMR) to ensure sub contracts are counted towards the *Portfolio's* target.

Model clauses are available on the NIAA [website](#) and the Department of Finance's Clause Bank.

4.3. APPLYING MMR TO VARIED CONTRACTS

Portfolios may negotiate with suppliers to apply the MMR requirements to varied contracts, where:

- a. the variation(s) bring the total value of the contract to \$7.5 million (GST inclusive) or more; and
- b. more than half of the value of the contract is being delivered in one or more of the specified industry sectors; and
- c. the variation presents an opportunity for increased Indigenous participation in the delivery of the remainder of the contract (MMR requirements should apply from the date of the relevant variation).

It would not be appropriate for the MMR to be applied where almost all of the contract has been completed, and where the requirement would introduce inefficiencies into the procurement activity and where changing the requirement of the work package would represent a burden on entities and suppliers that is greater than the corresponding Indigenous employment or supplier use outcome.

Voluntary introduction of MMR targets to a varied contract should only be pursued if mutually agreed with the supplier. Suppliers should not be compelled to agree to contract variations that introduce MMR targets and there should be no penalty for the supplier if they do not agree.

Reporting should occur via the IPPRS (as a voluntary MMR) to ensure sub contracts are counted towards the *Portfolio's* target.

4.4. MMR TARGETS

The MMR is designed to increase the level of Indigenous participation in the delivery of government contracts. This can be achieved via Indigenous employment, the use of *Indigenous enterprises* or a combination of both.

While the targets are typically applied to work directly associated with delivering the contract, the supplier may apply to the purchasing *Commonwealth entity* to have the target applied to their organisation – refer to Table 1.



4.5. REMOTE AREA CONTRACTS

Where a component of a contract subject to the MMR is delivered in remote Australia, the purchasing *Commonwealth entity* must ensure there is a contractual requirement that the contract delivers significant Indigenous employment, or supplier use outcomes in that area, which are in excess of the minimum target levels – refer to Table 1.

This could include:

- a. subcontracting an *Indigenous enterprise(s)* to assist with delivering the contracted goods and services in the *remote area*; and/or
- b. specifying minimum Indigenous employment requirements for the proportion of the contracted goods and services to be delivered in the *remote area* (for example 20 per cent).

In determining what requirement would deliver a 'significant' Indigenous employment or supplier use outcome, the purchasing *Commonwealth entity* and the supplier should have regard to:

- a. the local employment market, including consideration of the number of Indigenous businesses, workers and job seekers, and their relevant skills, capabilities, qualifications and training; and
- b. the scale, value and location of the contract, and skills and capabilities required to deliver the goods and services; and
- c. the availability of supply-side services to support the meeting of any targets and assist in building the capacity of Indigenous businesses and job-seekers to take up opportunities; and
- d. existing Commonwealth and state and territory policies and/or targets.

4.6. COMPLIANCE

As a devolved policy, relevant *Commonwealth entities* are required to manage MMR within each stage of the procurement process and make an assessment and report as to whether or not the supplier was compliant against the MMR **at the end of the contract**.

The contract may be varied during the term of the contract to change the combination of employment and supply use targets and the application of the MMR to the contract or the organisation. Any variation to the target setting must comply with MMR policy. Specifically, varied employment and supply use targets must still add up to a minimum of 4 per cent for contract based targets or a minimum of 3 per cent for organisation based targets and represent a significant Indigenous participation outcome for any component of the contract delivered in remote Australia following the variation.



4.6.1. Approach to market

When inviting potential suppliers to participate in a procurement to which the MMR applies, relevant *Commonwealth entities* must specify whether a component is to be delivered in a remote area. Approach to market clauses will require tenderers to declare their level of compliance with any past contracts that included MMRs, and also require them to develop an Indigenous Participation Plan that addresses:

- a. how the tenderer intends to meet the mandatory minimum requirements for the Indigenous Procurement Policy; and
- b. the tenderer's current rate of Indigenous employment and Indigenous supplier use; and
- c. the tenderer's commitment to Indigenous participation; and
- d. whether any part of the contract will be delivered in a Remote Area, and if so, how the tenderer will ensure that its provision of goods and or services will deliver significant Indigenous employment or Indigenous supplier use outcomes in that remote area.

4.6.2. Tender evaluation

The *Commonwealth entity* must consider the tenderers':

- a. past compliance with the MMR requirements (this information is available in the IPPRS);
- b. plans to increase Indigenous participation (as outlined in the tenderer's proposed Indigenous Participation Plan); and
- c. ability to achieve significant Indigenous participation outcomes in remote Australia (as appropriate, for contracts with a remote component).

To gain access to the IPPRS, contact your central procurement area or email IPPRS@pmc.gov.au.

4.6.3. Establishing, and procuring from a panel arrangement

Procurements for the establishment of new panels will need to include clauses in the approach to market documentation and in the Deed of Standing Offer indicating that the MMR will apply to procurements from that standing offer. The assessment and reporting of MMR will occur when a procurement is undertaken from the panel that meets the MMR.

Procuring officials undertaking a procurement from a standing offer or panel arrangement (where MMR have been identified in the Deed of Standing Offer) must ask the supplier/panel member to provide an Indigenous Participation Plan and details of their organisation's past compliance with the MMR when the value of the contract (or official order) meets the MMR criteria (see 4.2 and 4.6.1).

Procuring officials must consider these as part of the procurement evaluation.

Potential suppliers responding to an approach to market from a panel arrangement that is subject to the MMR must have the capacity to meet the MMR to be awarded a contract/work order/official order.

4.6.4. Contract Management

The contract manager within the purchasing *Commonwealth entity* is responsible for ensuring compliance with the Indigenous Participation Plan and MMR targets during the contract term, including establishing, monitoring and assessing progress reports submitted by the supplier via the IPPRS and undertaking appropriate assurance activities to ensure that the information provided by contract managers accurate.

The relevant Commonwealth entity and the supplier may vary MMR targets during the term of the contract, provided revised targets are consistent with the policy and are included in a contract variation and the IPPRS as outlined in 4.3. The contract variation is to include a revised Indigenous Participation Plan that must be agreed between the supplier and contract manager.

4.6.5. Reporting

Suppliers are required to report on progress against the Indigenous Participation Plan on a quarterly basis via the IPPRS. This includes providing details of subcontracts or purchases made with *Indigenous enterprises*, total full time equivalent (FTE) workforce for the quarter and total FTE Indigenous workforce for the quarter.

NIAA publishes the names of suppliers and contract details (as published in *AusTender*) that have been awarded contracts containing MMR, on the NIAA website.

It is incumbent on the *Commonwealth entity* to ensure suppliers provide the required reporting in a timely manner and assurance activities include review of all information provided.

4.6.6. Assess final performance against targets

At the end of the contract, the contract manager will provide an assessment of the supplier's performance in the IPPRS. This assessment will be accessible to any future evaluation panel across Commonwealth agencies when considering the past performance of the supplier.



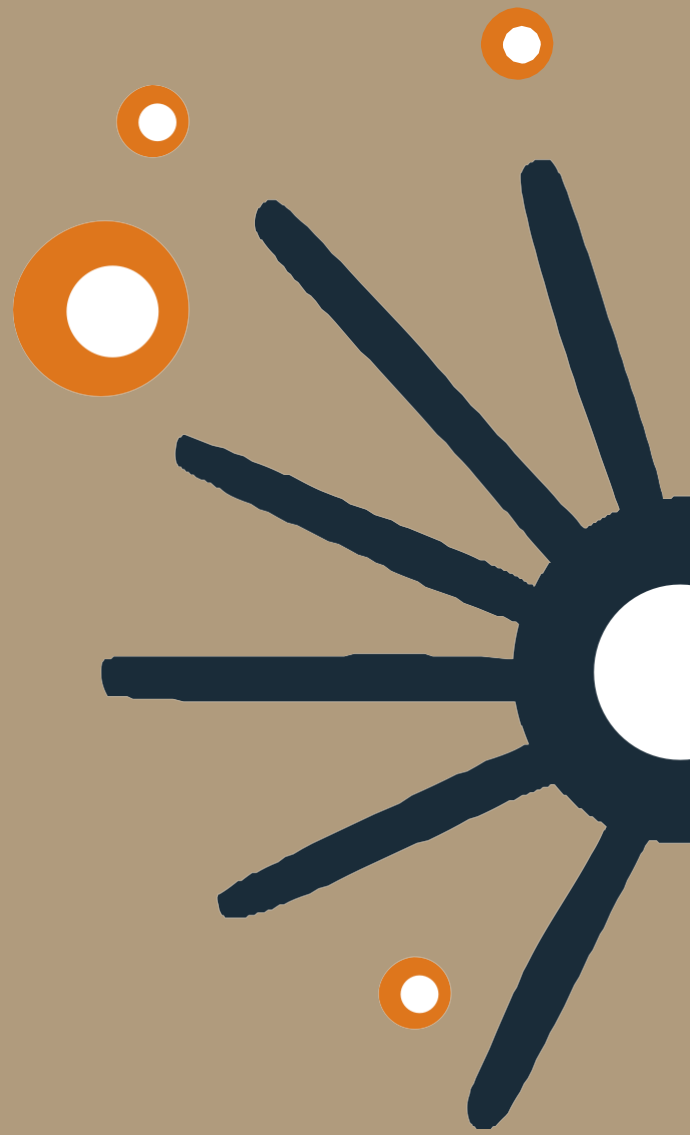
Table 1: Mandatory minimum requirement targets –

	EMPLOYMENT	SUPPLIER	COMBINED
Non – remote contract-level target	4 per cent Indigenous employment (on average) of the full time equivalent Australian-based workforce deployed on the contracted project (by the end of the contract term).	4 per cent of the value of the goods and services provided under the contract must be awarded to Indigenous enterprises (by the end of the contract term)	The Employment and Supplier target total 4 per cent (by the end of the contract term). For example: a 1 per cent Indigenous employment outcome and a 3 per cent Indigenous supplier-use outcome delivers a combined outcome of 4 per cent .
Remote contract-level target	Greater than 4 per cent Indigenous employment (on average) of the full time equivalent Australian-based workforce deployed on the contracted project (by the end of the contract term). Setting the target should have regard to the local Indigenous employment market, the nature of the goods and services to be delivered, availability of support services and any other relevant government targets.	Greater than 4 per cent of the value of the goods and services provided under the contract must be awarded to Indigenous enterprises (by the end of the contract term). Setting the target should have regard to the local Indigenous business sector, the nature of goods and services to be delivered, availability of support services and any other relevant government targets.	Greater than 4 per cent The Employment and Supplier target in total is greater than 4 per cent (by the end of the contract term). Setting the target should have regard to the local Indigenous business sector and employment market, the nature of goods and services to be delivered, availability of support services and any other relevant government targets.
Organisation-level target	3 per cent Indigenous employment (on average) of the full time equivalent Australian-based workforce of the supplier (by the end of the contract term).	3 per cent of the value of the supplier's Australian supply chain must be awarded to Indigenous enterprises (by the end of the contract term).	Employment and Supplier total in value to 3 per cent (by the end of the contract term). For example: a 2 per cent Indigenous employment outcome and a 1 per cent Indigenous supplier-use outcome delivers a combined outcome of 3 per cent .





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IPP REPORTING REQUIREMENTS

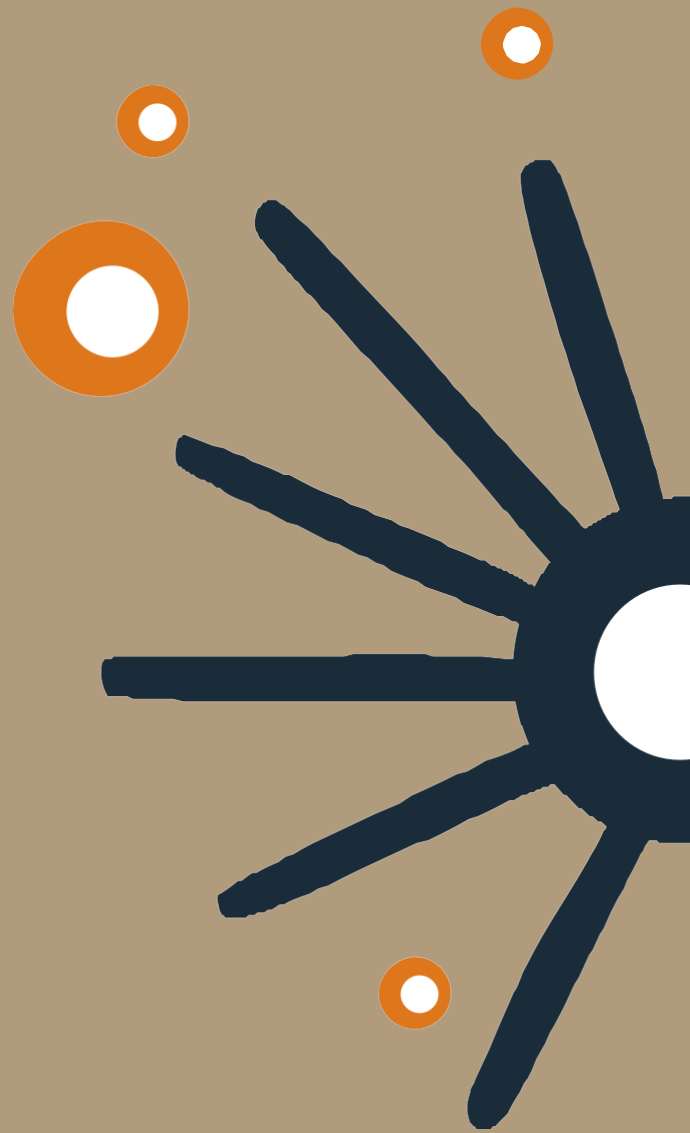
	NIAA REPORTING OBLIGATIONS	PORTFOLIO REPORTING OBLIGATIONS (MAY BE DEVOLVED TO RELEVANT COMMONWEALTH ENTITIES)	SUPPLIER REPORTING OBLIGATIONS
Commonwealth targets	<p>Annual publication of portfolio results against their IPP targets.</p> <p>This will include:</p> <ul style="list-style-type: none"> - volume of contracts - value of contracts 	<p>Portfolios are responsible for uploading onto the IPPRS:</p> <ul style="list-style-type: none"> - <i>AusTender</i> contracts awarded to enterprises not registered on Supply Nation or ORIC; and - All other procurement contracts or purchases not reportable on <i>AusTender</i>. - All subcontracts not reported by suppliers via the IPPRS. <p>Reports must be uploaded at least bi-annually, however reports can be uploaded at any time.</p> <p>The IPPRS extracts <i>AusTender</i> contract data and counts contracts awarded to enterprises registered on Supply Nation and/or ORIC against portfolios targets daily.</p> <p>Reports to support portfolios reporting are available on IPPRS.</p>	<p>Portfolios may require suppliers to report on non-MMR Indigenous supplier use.</p>
Mandatory set-aside (MSA)	<p>Six monthly publication on NIAA website of total number of contracts:</p> <ul style="list-style-type: none"> • reported on <i>AusTender</i> in the previous period valued from \$80,000 to \$200,000 • awarded to Indigenous enterprises. <p>Numbers of Commonwealth remote procurements conducted and awarded to Indigenous SMEs.</p>	<p>Portfolios are to report to NIAA procurements that have occurred in remote Australia at least every six months via the IPPRS. Reports can be uploaded at any time.</p> <p>NIAA extracts contract data from <i>AusTender</i>, Supply Nation and ORIC for MSA reporting against the value based MSA.</p>	<p>Nil</p>



	NIAA REPORTING OBLIGATIONS	PORTFOLIO REPORTING OBLIGATIONS (MAY BE DEVOLVED TO RELEVANT COMMONWEALTH ENTITIES)	SUPPLIER REPORTING OBLIGATIONS
<p>Mandatory minimum requirements for Indigenous participation</p> <p>(MMR)</p>	<p>Six monthly publication on NIAA website of MMR contract details:</p> <ul style="list-style-type: none"> • suppliers' names • contract value/term • types of goods/ services being purchased. <p>(data sourced from <i>AusTender</i> and <i>IPPRS</i>)</p>	<p>Portfolios are responsible for entering into the IPPRS:</p> <ul style="list-style-type: none"> • targets • reporting start date • suppliers' contact details • acknowledgement that the contract manager has reviewed the quarterly performance report • comments against the final performance report. 	<p>Suppliers report quarterly via the IPPRS: (for employment targets)</p> <ul style="list-style-type: none"> • FTE total workforce • FTE Indigenous workforce <p>(for supply chain target)</p> <ul style="list-style-type: none"> • Australian Business Number and name of enterprise • value of contract/ purchase • date of contract/ purchase • description of good/service purchased • Whether the contract/purchase was awarded by the Supplier or by a subcontractor within their supply chain (direct or indirect contract/ purchase).







IPP AGENCY ROLES AND RESPONSIBILITIES

National Indigenous Australians Agency (NIAA)

The NIAA is responsible for administering the policy. This includes:

- Developing and publishing policy and periodically reissuing these documents as necessary.
- Promoting the IPP.
- In consultation with Department of Finance and *portfolios*, setting the next financial year portfolio targets.
- Monitoring *portfolio* performance.
- Publishing *portfolio* and Government-wide performance information including the list of contracts subject the MMR.
- Ensuring there is a central list of *Indigenous enterprises*.
- Monitoring and reviewing the effectiveness of the IPP against its key performance indicators.
- Managing the *IPPRS* database.
- Support relevant *Commonwealth entity* and supplier compliance with performance reporting in relation to contracts with MMR.

Department of Finance

The Department of Finance is responsible for the Commonwealth Procurement Framework including the *CPRs* and *AusTender*. The Department of Finance provides advice to relevant entities on the Commonwealth Procurement Framework.

Commonwealth portfolios

Portfolios are responsible for their compliance with the IPP. This includes:

- reporting contracts and purchases to *Indigenous enterprises* to the NIAA via the *IPPRS* database at least bi-annually;
- ensuring *procuring officials* and contract managers understand their obligations under the IPP, including ensuring tenderers are aware of requirements under the IPP and negotiating MMR targets into contracts, in line with the policy intent;
- monitoring *IPPRS* to ensure contracts identified through contract data matching with *AusTender* are appropriately classified within the *IPPRS*, including the application of any exemption to the MMR in accordance with the policy;



- ensuring that contract managers monitor and manage performance of suppliers against *MMR* for Indigenous participation via the *IPPRS*; and
- ensuring suppliers report performance against *MMR* targets via the *IPPRS* and that this data is accurate and complete.

Suppliers

Suppliers are responsible for providing accurate and complete quarterly reporting against *MMR* targets via the *IPPRS*, in accordance with the requirements detailed in the relevant contract(s).



APPENDIX A: RESTRICTED UNSPSC CODE EXEMPTIONS

Procurement contracts published using one of the restricted UNSPSC codes listed in Table 1 will be deducted from the procurement base of all portfolios each financial year. Procurements within these categories may also be subject to another exemption.

Table 1: Restricted Market Exemptions by UNSPC code

UNSPC CODE	DESCRIPTION
83100000 – 83101800	Utilities
12130000	Explosive materials
15100000	Fuels
25100000	Motor vehicles
25101500	Passenger motor vehicles
25101801	Motorcycles
25102000	War vehicles
25102100	Truck tractors
25111700	Military watercraft
25111900	Marine craft systems and subassemblies
25130000	Aircraft
25131500	Powered fixed wing aircraft
25131700	Military fixed wing aircraft
25131707	Reconnaissance or surveillance aircraft
25131800	Specialty aircraft
25131900	Military rotary wing aircraft
25150000	Spacecraft
25151700	Satellites
25170000	Transportation components and systems
25180000	Vehicle bodies and trailers
25191500	Air transportation support systems and equipment
25191700	Vehicle servicing equipment



UNSPC CODE	DESCRIPTION
25200000	Aerospace systems and components and equipment
25202500	Aircraft equipment
26110000	Batteries and generators and kinetic power transmission
26120000	Electrical wire and cable and harness
31170000	Bearings and bushings and wheels and gears
32130000	Electronic hardware and component parts and accessories
32140000	Electron tube devices and accessories
41100000	Laboratory and scientific equipment
41110000	Measuring and observing and testing instruments
41120000	Laboratory supplies and fixtures
43190000	Communications Devices and Accessories
46100000	Light weapons and ammunition
46101800	Arms and ammunition accessories
46110000	Conventional war weapons
46120000	Missiles
46130000	Rockets and subsystems
46140000	Launchers
46171600	Surveillance and detection equipment
78181505	Vehicle inspection Services
78181800	Aircraft maintenance and repair services
92110000	Military services and national defence
93160000	Taxation



APPENDIX B: INDUSTRY CATEGORIES WITH MANDATORY MINIMUM REQUIREMENTS (INCLUDING SUB-CATEGORY EXEMPTIONS)

UNSPSC CATEGORY ID	DESCRIPTION	SUB-CATEGORY EXEMPTIONS FROM MMR	
		UNSPSC CODE	DESCRIPTION
TABLE 1			
Effective from 1 July 2016			
70	Farming and fishing and forestry and wildlife contracting services		
72	Building construction and maintenance services		
76	Industrial cleaning services		
78	Transportation, storage and mail services		
82	Editorial and design and graphic and fine art services		
86	Education and training services		
90	Travel and food and lodging and entertainment services		
93	Politics and civic affairs services		



NSPSC CATEGORY ID	DESCRIPTION	SUB-CATEGORY EXEMPTIONS FROM MMR	
		UNSPSC CODE	DESCRIPTION
TABLE 2			
Effective from 1 July 2020			
64	Financial Instruments, Products, Contracts and Agreements		
71	Mining and oil and gas services		
73	Industrial Production and Manufacturing Services		
77	Environmental Services		
80	Management and Business Professionals and Administrative Services	80131500	Lease and rental of property or building
		80131501	Land leases
		80131503	Residential rental
81	Engineering and Research and Technology Based Services		
84	Financial and Insurance Services	84130000	Insurance and retirement services
		84131800	Retirement funds
85	Healthcare Services		
91	Personal and Domestic Services		
92	National Defence and Public Order and Security and Safety Services	92110000	Military services and national defence
		92111700	Military science and research
94	Organisations and Clubs		

