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**Dilin Duwa Centre for Indigenous Business Leadership
Submission on the
Public Consultation on Consideration of Broader Economic Benefits in Procurement**

We acknowledge the traditional owners of the countries on which we live and work on Wurundjeri, Boonwurrung, Taungurung and Wiradjuri, we acknowledge their Elders past and present.

Dilin Duwa Centre for Indigenous Business Leadership (Dilin Duwa) welcomes the opportunity to contribute this response to the consultation on the consideration of broader economic benefits in procurement. Dilin Duwa is a research centre with the mission to advance Indigenous Business and Leadership research and to inform policy and decision-making in Indigenous business towards an economically powerful Indigenous business sector. Dilin Duwa has an international network of Founding and Global members who are established and leading academics covering the areas of Indigenous business, leadership, policy, and Indigenous economics.

The following researchers have contributed to this submission, comprised of academics associated with the Dilin Duwa:

Associate Professor Michelle Evans: Associate Professor of Leadership, Department of Management and Marketing, Faculty of Business and Economics and Melbourne Business School and Director of Dilin Duwa.

Associate Professor Cain Polidano: Melbourne Institute: Applied Economic & Social Research, Faculty of Business and Economics and Founding member of Dilin Duwa.

Dr Sarah Dahmann: Research Fellow, Melbourne Institute: Applied Economic & Social Research, Faculty of Business and Economics.

Dr Admiral Manganda, Post Doctoral Fellow, Dilin Duwa Centre for Indigenous Business Leadership, University of Melbourne

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Dr Matthew Storey: Honorary Fellow, Dilin Duwa Centre for Indigenous Business Leadership, University of Melbourne, and Legal Principal and Director, Storey & Ward.

Introduction

Procurement provides governments with a purchasing framework that can engage social policy objectives, such as prioritising minority suppliers or addressing environmental goals, which in turn demonstrate the broader economic benefits whilst achieving value for money. Practical implementation of policy objectives through the vehicle of procurement requires accountability and transparency mechanisms that demonstrate benefits through a suitable measurement framework. The Department of Finance ‘Consideration of broader domestic economic benefits in procurement’ addresses a range of important questions for consideration to ensure each procurement contract benefits the broader Australian economy such as definitions, practical guide for procurers, a guide for suppliers, guidance for the establishment of a panel and practical examples.

Dilin Duwa has focused our submission on advice which promotes important concerns for unintended consequences and questions around competition.

Assessing and ranking of economic benefits under consideration

Broadening the scope of economic benefits considered in procurement guidance is a welcome change. However, this breadth presents a key challenge as some of the broader economic benefits are easier to measure monetarily (e.g., taxes and wages paid in Australia), while others are inherently less tangible with their primary gains often being non-monetary (e.g., using Indigenous businesses or employing people with a disability). It is thus not straightforward to assess and rank the broader economic benefits of such different nature among tenderers to ensure a fair comparison, and clarity and transparency of the assessment framework is critical.

Expanding examples of economic benefit

In considering how a supplier can provide a domestic economic benefit, the guidance document includes “using Indigenous businesses” as an example. We consider this example too broad to deliver real benefits. It would be more useful to specify the contribution to the achievement of Closing the Gap targets as a more useful such as Target 7 (increase the proportion of Aboriginal and Torres Strait Islander youth (15-24 years) who are in employment, education or training) and Target 8 (increase the proportion of Aboriginal and Torres Strait Islander people aged 25-64 who are employed).

Using ‘value-for-money’ to assess the economic benefits of procurement

Indigenous businesses are more than 10 times more likely to employ Indigenous people (Hunter 2015), including by training and investing in local community members outside of metropolitan areas who otherwise have limited sustainable employment prospects because they face complex barriers to employment, discrimination, and few other local job opportunities. From an investment perspective, Indigenous businesses bear much of the up-front cost of training and supporting such disadvantaged job seekers, but the community gains substantially through reduced income support payments and potentially reduced social service expenditure over the job seeker’s working life from the attainment of sustainable employment. Indigenous businesses are more likely to deliver Indigenous job seekers sustainable employment because they provide jobs that are more supportive and culturally sensitive. Therefore, in assessing the employment benefits of a potential procurement outcome in terms of value for money, it is important that any assessment consider the extent of labour market barriers that disadvantage businesses face when seeking to provide ongoing jobs to the most disadvantaged job seekers, especially Indigenous businesses.

Accountability mechanisms

There is also a need to clarify accountability mechanisms to ensure that tenderers deliver proposed economic benefits to the Australian economy. Case study 1 (pg. 9) of the July 2022 Guidance highlights this concern, stating, “Once on the panel, tenderers are not required to further demonstrate the economic benefits to the Australian economy when providing goods and services under the panel arrangement.” Under the theme of broader economic benefit to the domestic economy, continually demonstrating the economic benefit of all procurements makes for a more effective policy leveraging. Additionally, the ‘free text’ requirement to explain how the economic benefit is achieved may incentivise tenderers to be creative in writing winning tenders. There needs to be clear criteria and structure in this section of the tender response for proper and fairer assessment.

Clarification regarding the application of Government Procurement (Judicial Review) Act 2018.

The Government Procurement (Judicial Review) Act 2018 (GPJR) applies to **covered procurements** which are:

- a procurement where both Division 1 and 2 of the CPRs apply
- usually, an Open or Limited Tender using the Conditions for Limited Tender outlined in part 10.3 of the CPRs.
- where the procurement value is at or above the following thresholds:
 - \$80,000 (incl. GST) – for procurements other than construction services
 - \$7.5m (incl. GST) – for procurements of construction services
- not otherwise exempt from compliance with Division 1 and/or Division 2 of the CPRs

These are procurements at a level that you would normally go to a competitive procurement process. The Indigenous Business Exemption (IBE) creates the option of not using the competitive process if awarded to an Indigenous Business. On that basis, an application of the Indigenous Business Exemption should be exempt from the GPJR.

Intersection of this policy with the Indigenous Procurement Policy

The Commonwealth Indigenous Procurement Indigenous (IPP) guides the use of Exemption 16 of the CPR. Does requiring Indigenous businesses to compete based on broader economic benefits conflict with the IPP? Perhaps the question is whether Indigenous businesses will be required to compete based on broader economic benefits or if they will gain a weighting for being an Indigenous business? The IPP includes Indigenous participation requirements for Indigenous employment and/or supplier use in contracts valued at \$7.5 million or more in specified sectors. It would be useful to provide clarification on whether these mandatory set asides will be allowed to be used in evaluations of direct economic benefits even though they are mandatory or whether the demonstration of additional economic benefits will be required for evaluation of tenders.

Recommendations

Throughout this submission, Dilin Duwa has identified areas that require further clarification and expansion in the Guidance note and provided the following recommendations for consideration.

- Further clarify the methodology for assessing and ranking monetary and non-monetary economic contributions.
- Incorporate assessments of the difficulties and costs to addressing “wicked problems” including employment of the historically disadvantaged and underemployed in assessments of “value for money”.
- Ensure strong accountability mechanisms for monitoring and evaluating the attainment of proposed economic benefits. This includes developing an evaluation and data collection plan before funding is allocated.

- Clarify whether Indigenous businesses will be required to compete based on broader economic benefits or gain a weighting for being an Indigenous business.
- Clarify the weighting of mandatory set-asides in evaluating economic benefits in contracts meeting the threshold for Indigenous participation and /or supplier use.

For any enquires on the points in this submission, please contact Associate Professor Michelle Evans via Email: michelle.evans@unimelb.edu.au.

Yours in unity
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References

Hunter, B. (2015). Whose business is it to employ Indigenous workers?, *The Economic and Labour Relations Review*, 26(4), 631–51.