

# **Tendertrace Submission on Defining an Australian Business for Commonwealth Procurement**

By [REDACTED], [REDACTED], Tendertrace [REDACTED]

Tendertrace welcomes the opportunity to contribute to the public consultation on defining an Australian business within the Commonwealth procurement framework. Establishing a clear and robust definition is essential for promoting local business participation, fostering economic growth, and ensuring alignment with Australia's broader procurement goals.

## **About Tendertrace**

With deep expertise in Australian procurement, we empower both businesses and government to make informed decisions, promote local supplier engagement, and foster inclusive participation, including SMEs and First Nations businesses. Our insights contribute to a more transparent, competitive, and sustainable procurement process.

## **How Tendertrace Supports Government**

Tendertrace is a market leader in AI-powered procurement solutions, offering a cutting-edge platform that helps government agencies analyse and understand the supplier landscape. Our technology provides comprehensive market intelligence, enabling agencies to identify, evaluate, and select suppliers across all procurement categories efficiently.

## **How Tendertrace Support Australian Businesses**

With a deep understanding of the Australian procurement landscape and best practices, we support businesses, including SMEs and First Nations enterprises, in securing government contracts. Our expertise makes us ideally positioned to contribute to discussions on defining an Australian business. We want to ensure that procurement policies align with economic growth, social equity, and inclusive business practices.

## **1. Key Elements of an Australian Business Definition**

We recommend a balanced and inclusive approach that defines an Australian business by considering several critical factors:

**To define business size in the context of Commonwealth procurement, we recommend using a combination of employee count and turnover, maintaining consistency with Australian Bureau of Statistics (ABS) definitions.**

- **Small Businesses:**
  - Employee Count: Fewer than 20 employees
  - Turnover: Less than \$10 million annually
- **Medium Businesses:**

Employee Count: 20 to 199 employees

Turnover: \$10 million to \$50 million annually

- **Large Businesses:**

Employee Count: 200+ employees

Turnover: Over \$50 million annually

The ABS defines actively trading businesses based on specific criteria:

- The business is registered for the Goods and Services Tax (GST)
- The business has an active Australian Business Number (ABN)
- The business has submitted a Business Activity Statement (BAS) or income tax return in the past five quarters/year

**Operational Presence:** At least 50% of the business's operations, employees, or production facilities should be in Australia. This criterion emphasises the importance of maintaining significant local activity and presence, reinforcing the policy objective of supporting Australian jobs, industries, and innovation.

**Tax Residency and Contribution:** An essential criterion should be that businesses are Australian tax residents and comply with local tax laws. This ensures that businesses benefiting from government contracts are contributing to Australia's economy, particularly through the tax system.

**Local Control:** While ownership may include foreign entities, a substantial degree of operational control or decision-making should remain within Australia. This is particularly crucial for industries tied to national security, defense, or critical infrastructure, ensuring local oversight in these sensitive areas.

## **2. Consideration for First Nations Businesses**

Tendertrace strongly supports the continued prioritisation of First Nations businesses under the Indigenous Procurement Policy (IPP). A comprehensive definition of an Australian business should include clear mechanisms to encourage and support First Nations businesses, such as certification through Supply Nation or other recognised bodies. These businesses should be given specific recognition and preference in procurement processes, furthering the government's objectives of reconciliation and economic empowerment.

## **3. Integrating more Accessible Reporting Practices.**

Integrating more accessible reporting of contracts involving First Nations businesses and SMEs within government databases like AusTender would provide substantial

benefits. For the government, it would improve transparency and help agencies identify diverse suppliers that have proven experience with public sector contracts. For businesses, especially SMEs and First Nations enterprises, this visibility would boost their chances of being considered for future opportunities by making it easier for procurement officers to find and engage with them. This could lead to more inclusive procurement practices across the board.

Tendertrace also recommends that when large corporations collaborate with SMEs and First Nations businesses as part of procurement panels, each contributing supplier should be individually reported and made visible in government databases like AusTender. This visibility ensures that the contribution of smaller enterprises is acknowledged, allowing government agencies to track and recognise their involvement. In turn, government entities should report all partnering suppliers within a contract, ensuring accountability and transparency in procurement while promoting ongoing partnerships between large corporations and diverse suppliers.

#### **4. Simplifying & Streamlining for Government Procurement Panel Selection**

Tendertrace recommends simplifying and streamlining the process for SMEs and First Nations businesses to be selected for government procurement panels. Currently, the process can be resource-intensive and time-consuming, which places undue burden on smaller enterprises with limited resources. By reducing administrative complexity and making the process more accessible, the government can ensure broader participation from these businesses, enhance competition, and foster a more inclusive procurement environment. This approach aligns with government goals of supporting diverse suppliers and building a more robust supplier network.

#### **5. Flexibility and Scalability**

We advocate for a tiered, flexible approach to defining an Australian business. A rigid, one-size-fits-all definition could disadvantage SMEs or newer enterprises that are still scaling up. The proposed tiered system ensures that businesses of varying sizes—from micro enterprises to medium-sized firms—can engage in public procurement, thus promoting competition and innovation within Australia's economy.

#### **6. Aligning with Broader Government Goals**

The definition must also align with the Commonwealth's broader objectives, including:

**SME participation:** Supporting small and medium-sized enterprises to access government contracts by providing them with a level playing field.

**Local industry development:** Encouraging businesses that contribute to local employment and infrastructure, especially in regional areas.

Environmental and Social Outcomes: Promoting businesses that demonstrate sustainable practices and contribute to social outcomes, including job creation for underrepresented groups.

## **7. International Trade Compliance**

Finally, it is essential that any definition of an Australian business respects Australia's international trade obligations, including those under WTO agreements and Free Trade Agreements (FTAs). The definition should promote local businesses without violating these agreements, ensuring that Australian businesses remain competitive in the global market.

### **Response to Consultation Questions:**

#### **What criteria should be used to define an Australian Business?**

- Primary location of operations (Australia)
- Employment of Australians
- ABN registration and compliance with local regulations
- Contribution to local content and supply chains

#### **How should we balance between encouraging local participation and maintaining competition?**

Focus on operational footprint and employment in Australia rather than strict ownership models. This would encourage both local and international players to invest in Australia, fostering competition.

#### **Should there be different thresholds for different types of contracts (e.g., size of the contract or industry)?**

Yes, thresholds should vary by industry and contract size, considering specific sector needs (e.g., technology, infrastructure) while giving SMEs and First Nations businesses better opportunities for smaller contracts.

#### **How can we ensure the definition is fair without imposing excessive compliance costs?**

Utilise existing regulatory structures (ABN, tax filings) and avoid adding new, unnecessary reporting requirements. The tiered approach also helps reduce compliance for international businesses that contribute significantly to the local economy.

## **Conclusion**

In conclusion, Tendertrace recommends a clear, inclusive approach to defining an Australian business, focusing on factors like local operations, tax compliance, and the promotion of First Nations businesses. Simplifying the selection process for SMEs and First Nations businesses to join procurement panels will reduce barriers to entry and ensure broader participation. Additionally, ensuring transparency through individual reporting of SMEs partnering with large corporations in procurement will enhance visibility and accountability. These changes will foster a

more inclusive and efficient procurement environment, benefiting both government agencies and suppliers.