# REVISED COMMONWEALTH PROCUREMENT RULES—PRIORITISING ETHICAL AUSTRALIAN BUSINESS

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**Australia Corporate Alert**

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## KEY TAKEAWAYS

The Commonwealth Department of Finance will implement new Commonwealth Procurement Rules (CPRs) on 17 November 2025. These rules govern how Commonwealth entities procure financial and nonfinancial goods and services.

The CPRs prioritise procurement from Australian businesses and SMEs.

While the primary goal of the CPRs remains achieving value for money, Commonwealth entities are now required to consider the ethical character of a supplier.

While the changes to the CPRs are generally favourable to Australian business, prospective Commonwealth suppliers must ensure that their operations adhere to sufficient ethical standards. Such standards include:

- Labour regulations, including ethical employment practices;
- Workplace health and safety regulations;
- Environmental impact targets; and
- Supply chain standards as set out in the *Modern Slavery Act 2018* (Cth).

## WHAT ARE THE CPRS?

As mentioned, the Department of Finance is due to vastly reform the existing CPRs on 17 November 2025.

In short, the CPRs regulate how government entities procure goods and services. They are designed to ensure that government entities uphold the highest standards of ethics and probity, without lessening competition.

We have summarised the key aspects of the 2025 CPRs, which will shape government procurement processes going forward.

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## PRIORITISING AUSTRALIAN BUSINESS

For the first time, the CPRs have introduced requirements to prioritise Australian businesses in procurements. This is a departure from the 2024 CPR's 'non-discrimination' requirement, which did not afford Australian business with exclusive invitations to procurement opportunities.

Non-corporate Commonwealth entities must only invite Australian businesses to make submissions for procurements valued between AU$10,000 and the relevant procurement thresholds (other than procurements of construction services) unless an exemption is documented.

The procurement threshold for non-corporate Commonwealth entities (excluding construction) has been raised from AU$80,000 to AU$125,000. This expands the range of procurements for which preferential rules for Australian businesses apply.

The 2025 CPRs provide a clear definition of 'Australian business', which provides much needed clarity to the originally silent eligibility requirements in the 2025 CPR. Appendix B of the 2025 CPRs defines 'Australian business' as:

*“a business (including any parent business) that:*

Has 50% or more Australian ownership, or is principally traded on an Australian equities market;

*Is an Australian resident for tax purposes; and*

*Has its principal place of business in Australia.”*

## ENHANCING OPPORTUNITIES FOR SMALL AND MEDIUM ENTERPRISE

Not only must noncorporate government entities prioritise Australian business, certain Commonwealth Panels must invite only SMEs to make submissions for procurements with an expected value below AU$125,000 (having first met Indigenous Procurement Policy Priorities).

The definition of SME has been refined to include the employees of an associated entity. The new test focuses on the “real substance, practical reality, and true nature” of the employment relationship, considering factors such as whether the employer can elect to offer or not offer work and whether the employee can elect to accept or reject work.

## ACHIEVING 'ETHICAL' VALUE FOR MONEY

The core rule for the CPRs remains the same: achieve a value for money outcome.

However, the 2025 CPRs specify that price is not the sole factor in assessing value for money. Officials must also consider relevant nonfinancial costs and benefits of each procurement submission, including a supplier's historic performance and ethical conduct.

In response to the 2022-23 Procurement Complaints Handling Performance Audit by the Attorney General, relevant officials must undergo all reasonable enquires for all tenderers for any procurement to ensure that the relevant tenderer's practices are compliant with:

- Labour regulations, including ethical employment practices;

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- Workplace health and safety regulations; and
- Environmental impact targets.

This is a change from the 2024 CPRs, where some procurements were exempt from the aforementioned audit requirements.

## SOME RULES REMAIN THE SAME

Several key provisions remain unchanged from the 2024 CPRs. These provisions continue to ensure consistency and reliability in procurement processes for Commonwealth entities. The following rules have not been altered:

### Commonwealth Supplier Code of Conduct

The requirement to include the Commonwealth Supplier Code of Conduct in all contracts remains unchanged. This ensures that suppliers adhere to ethical standards and maintain integrity in their dealings with Commonwealth entities.

### Payment Terms

The standard payment terms outlined in the CPRs continue to apply, ensuring timely and fair compensation for goods and services provided under Commonwealth contracts.

### Subcontractor Disclosure Requirements

Entities are still required to disclose any subcontractors involved in the procurement process. This transparency is crucial for maintaining accountability and ensuring compliance with procurement standards.

### Verification and Compliance Requirements

The standard verification and compliance requirements remain in place, ensuring that all parties involved in procurement adhere to the necessary legal and regulatory standards.

### Contract End Dates and Reviews

The rules regarding the specification of contract end dates and the requirement for regular contract reviews have not been modified. These provisions ensure that contracts are managed effectively and remain relevant throughout their duration.

### Limited Tender Conditions

The conditions under which limited tenders may be conducted remain consistent with the previous rules. This includes specific circumstances where limited tenders are permissible, ensuring that procurement processes remain fair and competitive.

### Ethical and Probity Standards

The ethical and probity standards required in procurement activities continue to be a cornerstone of the CPRs. These standards ensure that procurement is conducted with integrity and fairness, safeguarding public trust in Commonwealth procurement activities.

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These unchanged rules provide a stable foundation for procurement activities, ensuring that while new reforms are introduced, the core principles of transparency, fairness, and accountability are maintained.

## WHAT SHOULD BUSINESSES DO?

It is more important than ever that Australian businesses are compliant with ethical standards and regulations if they wish to take advantage of the changes to the CPRs.

For further assistance in navigating the regulatory framework, please reach out to your K&L Gates contact.

# KEY CONTACTS



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