



MTAA RESPONSE TO:

Secure Australian Jobs Framework - Protecting competition, procurement neutrality and SME participation in Commonwealth supply chains

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Introduction

The Motor Trades Association of Australia (MTAA) welcomes the opportunity to comment on the proposed Secure Australian Jobs Framework.

MTAA is the national representative body for Australia's automotive retail, service and repair industry, representing businesses operating across all states and territories. The automotive industry is overwhelmingly comprised of small and medium enterprises (SMEs), many of which participate directly or indirectly in Commonwealth supply chains.

MTAA supports the Commonwealth's objective of promoting safe, lawful and productive workplaces through public procurement. MTAA also supports procurement settings that deliver value for money, encourage competition, maintain broad supplier participation and support sustainable employment outcomes.

However, MTAA is concerned that several elements of the Framework move beyond these objectives and instead seek to preference particular workplace arrangements that are neither representative of most Australian workplaces nor demonstrably linked to improved procurement outcomes.

Procurement policy should focus on outcomes. It should assess suppliers on demonstrated capability, compliance, workforce practices, workplace health and safety (WHS) performance and value for money. It should not favour particular forms of workplace representation, bargaining arrangements, engagement models or workplace structures.

In MTAA's view, the Framework risks conflating procurement policy with industrial relations policy in a manner that may reduce competition, disadvantage SMEs, undermine freedom of association and increase costs to taxpayers without a corresponding public benefit.

The Appropriate Question for Government

MTAA does not dispute that Health and Safety Representatives (HSRs), enterprise agreements, direct employment, labour hire arrangements and other workplace arrangements referenced throughout the Framework are lawful workplace mechanisms.

Nor does MTAA suggest that any particular workplace model is inherently preferable to another.

The central policy question is different.

The question is whether the Commonwealth has established a sufficient evidentiary basis to justify preferring particular workplace arrangements within procurement processes.

The Framework repeatedly treats certain workplace structures as indicators of good jobs, good workplaces and good procurement outcomes.

However, the consultation materials do not demonstrate that suppliers possessing those characteristics consistently outperform other compliant suppliers on measures such as:

- > workplace health and safety;
- > employee wellbeing;
- > workforce stability;
- > productivity;
- > innovation;
- > service quality; and
- > value for money.

Absent such evidence, procurement policy risks rewarding workplace structures rather than procurement outcomes.

That would represent a significant departure from established procurement principles and risks undermining the neutrality that should underpin Commonwealth purchasing decisions.

The Framework Should Be Evidence-Based

The Framework proceeds on the assumption that particular workplace arrangements, including HSRs, enterprise agreements involving registered employee organisations and specified workforce structures, are indicators of good employment practices and good procurement outcomes.

However, the consultation material provides little evidence demonstrating that suppliers with these characteristics consistently achieve superior WHS outcomes, improved workforce outcomes, greater productivity or better value-for-money outcomes than suppliers operating under alternative lawful workplace arrangements.

Public procurement frameworks should be evidence-based.

Where procurement settings have the effect of favouring particular workplace arrangements, the onus should rest upon Government to demonstrate a clear and measurable connection between those arrangements and the procurement outcomes sought to be achieved.

MTAA is concerned that the Framework has not established that connection.

Procurement Policy Must Remain Focused on Value for Money

The Commonwealth Procurement Rules place value for money at the centre of procurement decision-making and recognise the benefits of competition as a fundamental mechanism for achieving value-for-money outcomes.¹

Consistent with those principles, any procurement criterion that has the practical effect of reducing supplier participation, limiting competition or narrowing the available supplier market should be supported by clear evidence demonstrating that the resulting restriction is justified by a commensurate public benefit.

MTAA is concerned that the Framework does not presently establish such a connection between the workplace arrangements it seeks to preference and the procurement outcomes it seeks to achieve.

Competition is a fundamental mechanism through which value for money is achieved. Broad supplier participation encourages innovation, improves service quality and places downward pressure on costs.

Several elements of the Framework risk narrowing the available supplier pool by effectively favouring suppliers that have adopted particular workplace representation models, bargaining structures or workforce arrangements.

The difficulty with this approach is that it assumes such arrangements are indicative of superior workplace practices without establishing any causal relationship between those arrangements and improved procurement outcomes.

Public procurement should focus on measurable outcomes rather than prescribed industrial arrangements.

The Automotive Industry Context

Australia's automotive retail, service and repair industry is overwhelmingly comprised of SMEs operating in highly competitive markets. The sector includes vehicle dealerships, independent repair businesses, collision repairers, automotive service centres, specialist technicians, parts distributors and associated suppliers.

¹ Department of Finance, *Commonwealth Procurement Rules* (Australian Government, 2024) <<https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules>>.

Many businesses operate with small workforces, direct owner and manager engagement, and a range of lawful workforce arrangements to respond to changing demand, specialised skill requirements and rapidly evolving technologies. Procurement settings that preference workplace structures more commonly found in larger organisations risk disadvantaging significant parts of the automotive industry without any demonstrated procurement benefit.

SME Participation Must Not Be Undermined

SMEs are not a peripheral part of the Australian economy. They are the Australian economy.

According to the Australian Small Business and Family Enterprise Ombudsman, businesses employing fewer than 20 employees account for approximately 97 per cent of Australian businesses.²

Any procurement framework that favours workplace structures uncommon amongst SMEs will therefore disproportionately affect the overwhelming majority of Australian businesses.

Procurement policy should be designed around the realities of the supplier market. Criteria that preference workplace arrangements more commonly associated with larger enterprises risk excluding substantial numbers of capable businesses from Commonwealth procurement opportunities, thereby reducing competition, innovation and value for money.

Many SMEs do not have formal HSR structures, enterprise agreements or ongoing third-party workplace representation. Rather, workplace issues are typically managed through direct engagement between employers and employees.

Many automotive businesses also compete in labour markets characterised by persistent skills shortages. In these environments, wages and conditions are frequently influenced by market demand, skill availability, employee retention considerations and productivity requirements rather than the industrial instrument applying within the workplace. As a result, workforce outcomes cannot be reliably inferred from the existence or absence of an enterprise agreement.

A procurement framework that privileges workplace arrangements more commonly found in larger organisations will inevitably disadvantage many otherwise capable SMEs.

Reducing supplier participation is inconsistent with value-for-money procurement principles and risks increasing costs to government while reducing competition and innovation.

² Australian Small Business and Family Enterprise Ombudsman, *Small Business Counts* (Web Page) <<https://asbfeo.gov.au/research/small-business-counts>>.

Health and Safety Representatives Are an Inappropriate Procurement Metric

MTAA is concerned by the suggestion that established Health and Safety Representative arrangements should be treated as an indicator of good workplace health and safety performance.

This proposition is not supported by the realities of Australian workplaces.

The Framework appears to proceed on the assumption that formal HSR structures are a hallmark of effective workplace consultation and safety performance. However, evidence from recent independent reviews of workplace representation arrangements demonstrates that workplace consultation occurs through a variety of lawful mechanisms and that formal representative structures are not always practical or necessary in all workplaces, particularly in small business environments. Those reviews have also recognised that direct consultation frequently remains the predominant mechanism through which workplace health and safety issues are addressed in SMEs and that alternative consultation mechanisms often operate effectively where formal representative structures are absent.³

Importantly, this reality has been recognised across a broad range of stakeholders. Reviews of workplace representation arrangements have acknowledged that many small businesses do not utilise formal representative structures and that workplace health and safety issues are frequently addressed through direct consultation between employers and employees. Such findings reinforce that effective consultation can occur through a variety of lawful mechanisms and should not be assessed solely by reference to the presence or absence of a particular workplace structure.

The existence of an HSR is not, of itself, evidence that a workplace achieves superior safety outcomes, consultation outcomes or compliance outcomes compared with workplaces that utilise alternative consultation mechanisms. Equally, the absence of an HSR does not indicate poor consultation practices or inferior safety outcomes.

Importantly, the existence of an HSR is a measure of workplace structure, not workplace performance.

Procurement frameworks should be concerned primarily with performance outcomes rather than organisational form.

A supplier's safety performance, compliance history, consultation arrangements and risk management capability are objectively measurable. The existence or otherwise of a particular workplace structure is not, of itself, an indicator of procurement capability or value for money.

The relevant question for procurement purposes is not whether a supplier has adopted a particular consultation model.

The relevant question is whether the supplier:

- > complies with WHS laws;

³ Eugene White, *Independent Review of Employee Representatives Final Report* (April 2026) [7].

- > maintains effective consultation processes;
- > demonstrates positive safety outcomes;
- > manages risk appropriately; and
- > actively promotes workplace safety.

Those are outcome measures capable of objective assessment.

Workplace structures are not.

Accordingly, MTAA submits that references to HSRs as indicators of good workplace health and safety practice should be removed and replaced with outcome-based criteria focused on legal compliance, effective consultation, safety performance and risk management capability.

Freedom of Association Requires Genuine Neutrality

MTAA strongly supports freedom of association. Employees should be free to join a representative organisation. Employees should be equally free not to join a representative organisation.

Employers should be free to adopt workplace arrangements that best suit their operational requirements, provided they comply with Australian law.

The Australian Bureau of Statistics reports union membership at 13.1 per cent of employees, meaning almost 87 per cent of employees are not union members.⁴ The rate is lower again within the private sector. ABS data indicates private sector union membership at 7.9 per cent, meaning more than 92 per cent of private sector employees have chosen not to join a union.⁵

The workplace arrangements preferred by the Framework are not representative of the experience of most Australian businesses or most Australian employees.

While freedom of association includes the right to join an organisation, it equally includes the right not to do so and not to participate in a particular form of workplace representation.

Procurement frameworks should remain neutral between these lawful choices.

A procurement framework that rewards particular representation models, bargaining arrangements or workplace structures cannot readily be reconciled with genuine neutrality.

If suppliers perceive that they must adopt particular workplace arrangements in order to remain competitive in Commonwealth procurement markets, the practical effect will be to influence workplace choices that should remain matters for employers and employees.

⁴ Australian Bureau of Statistics, *Trade Union Membership, Australia* (August 2024) <<https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/trade-union-membership>>.

⁵ Ibid.

The Framework Risks Creating a Two-Tier Supplier Market

The proposed Framework has the potential to create a two-tier procurement market.

Under such a model, suppliers that adopt preferred workplace arrangements may enjoy a competitive advantage in Commonwealth procurement processes irrespective of whether those arrangements have any demonstrated relationship to capability, performance or value for money.

Conversely, suppliers that remain fully compliant with Australian workplace laws, maintain positive workforce outcomes and deliver high-quality goods and services may nevertheless be disadvantaged because they operate under different workplace models.

Procurement systems should assess performance, not prescribe industrial preferences.

Creating distinctions between compliant suppliers based on workplace structures rather than procurement outcomes risks diverting procurement decision-making away from capability and towards industrial considerations.

Such an outcome would be inconsistent with the central procurement objective of securing value for money through fair and effective competition.

Secure Work Should Be Assessed by Outcomes Rather Than Engagement Models

A recurring theme throughout the Framework is the proposition that direct ongoing employment is inherently more secure and therefore preferable to alternative forms of lawful engagement.

MTAA is concerned that the Framework adopts an overly narrow conception of secure work.

Security of work is properly measured by outcomes such as continuity of engagement, predictability of income, access to training and skills development, compliance with workplace laws, safe working conditions and employee wellbeing.

It should not be assumed that one engagement model is inherently superior to another.

It is also important to recognise that different employment models cater to differing employee preferences and circumstances. While some employees seek the predictability associated with ongoing employment, others actively prefer casual employment because it provides greater flexibility, autonomy and control over when work is performed. The ability to accept or decline offers of work, accommodate study, caring responsibilities, phased retirement arrangements or supplementary employment can be a significant benefit for many workers. Australian workplace relations legislation recognises and accommodates these differing preferences through a range of lawful engagement models. Procurement policy should be cautious about

implicitly treating employee preference and workforce diversity as secondary considerations to a predetermined conception of secure work.

Many workers engaged through labour hire arrangements, fixed-term employment arrangements, contracting arrangements and other lawful workforce models experience long-term and stable engagement. Equally, employees engaged on a full-time or part-time basis remain subject to redundancy, restructuring, insolvency, business closure and lawful termination of employment. Direct employment does not confer tenure and is not synonymous with lifelong employment.

The concept of secure work should therefore focus on outcomes rather than workforce architecture.

The Framework appears to proceed from an assumption that labour hire and other indirect engagement models are inherently less desirable than direct employment arrangements. MTAA does not accept that proposition.

Labour hire arrangements perform an important function across the Australian economy, including within automotive, manufacturing, transport, logistics, construction, agriculture and resource sector supply chains. Where labour hire arrangements comply with workplace relations laws, applicable licensing frameworks, WHS obligations and any applicable same-job-same-pay obligations, there is no obvious procurement basis upon which they should be regarded as inherently less secure or less desirable than direct employment arrangements.

This approach is broadly consistent with the International Labour Organization concept of decent work, which focuses on productive work, rights at work, social protection and workplace participation rather than prescribing a single employment model.

Accordingly, procurement policy should remain neutral regarding lawful engagement models and instead focus on measurable outcomes.

Enterprise Agreements Are Not a Proxy for Good Jobs

The Framework appears to proceed on an assumption that enterprise agreement coverage is indicative of superior employment outcomes.

MTAA does not support procurement settings that favour, encourage or discourage enterprise agreements. Enterprise bargaining is a matter properly determined between employers, employees and, where relevant, employee representatives under Australia's workplace relations framework.

The role of procurement policy is not to influence bargaining outcomes or workplace representation choices.

Procurement frameworks should remain neutral as between:

- > award-covered workplaces;
- > enterprise agreement-covered workplaces;

- > workplaces operating under different workplace representation models; and
- > different lawful mechanisms through which employment conditions are established.

The relevant consideration is whether a supplier complies with workplace laws and delivers value for money, not the industrial instrument that applies within the workplace.

Enterprise agreements are one mechanism through which workplace terms and conditions may be established. They are not, in themselves, a measure of workplace quality, productivity, safety performance or procurement capability.

Australia's automotive retail, service and repair industry is not characterised by widespread enterprise bargaining. In common with many sectors of the Australian economy, employment arrangements are frequently established through modern awards supplemented by over-award payments, market-based remuneration practices, incentive structures, commissions and enterprise-specific workforce arrangements.

The Framework risks implicitly establishing enterprise agreement-covered workplaces as the benchmark against which employment practices are assessed, despite such arrangements not being representative of large parts of the automotive industry or the broader SME community.

This creates a risk that suppliers operating under lawful and effective workplace arrangements may be disadvantaged, not because they deliver inferior workforce outcomes, but because they utilise different mechanisms to establish terms and conditions of employment.

Similarly, where procurement assessments place weight on enterprise agreement coverage, businesses may face pressure to adopt bargaining arrangements that are neither necessary nor preferred by their workforce in order to remain competitive for government work. Such an outcome would represent an industrial relations outcome being driven by procurement policy rather than by workplace circumstances.

In practice, many automotive businesses compete vigorously for skilled labour and routinely provide remuneration and employment conditions above minimum award requirements in order to attract and retain skilled employees. In sectors experiencing skills shortages, labour market pressures frequently drive employment outcomes more powerfully than the particular industrial instrument applying within a workplace.

The existence or absence of an enterprise agreement therefore provides little insight into workforce outcomes, workforce engagement, productivity, skills investment, workplace quality or supplier capability. Indeed, in some circumstances, enterprise agreement coverage may be a contrary indicator to the assumptions underpinning the Framework, particularly where businesses operating under award-based arrangements supplemented by over-award remuneration, market-driven employment practices, skills investment and productivity-based incentives deliver workforce outcomes equal to or superior to those achieved in enterprise agreement-covered workplaces.

Reliance on enterprise agreement coverage as a proxy for workplace quality may therefore obscure significant variation in remuneration outcomes, workforce capability, employee retention, productivity and skills development between suppliers operating under different but equally lawful workplace arrangements.

Procurement policy should remain focused on workforce outcomes rather than the industrial instrument through which those outcomes are achieved.

Public Confidence Requires Demonstrable Neutrality

Government procurement frameworks must be designed and administered in a manner that maintains public confidence in the integrity and impartiality of public expenditure.

Where procurement criteria favour workplace arrangements commonly associated with particular representation models, questions inevitably arise regarding whether procurement objectives or broader industrial policy objectives are driving those criteria.

Public confidence may be further affected where procurement settings are perceived to advantage organisations that maintain formal affiliations with, or provide financial support to, political parties, particularly where those organisations may be indirect beneficiaries of workplace arrangements encouraged by government policy.

MTAA does not suggest that this is the purpose or intended effect of the Framework. However, where procurement criteria may have the practical effect of encouraging workplace arrangements associated with particular representative organisations, Government should be especially conscious of the need to demonstrate a clear and evidence-based connection between those criteria and legitimate procurement objectives.

The need for demonstrable neutrality is particularly important where procurement policy intersects with matters of workplace representation and collective bargaining, given the longstanding institutional and political relationships that exist within Australia's workplace relations system.

Public confidence requires procurement criteria to have a clear and demonstrable connection to supplier capability, service delivery, workforce outcomes, productivity and value for money, rather than actual or perceived industrial, representational or political objectives.

The stronger the relationship between a criterion and procurement outcomes, the easier it is to justify its inclusion.

The weaker that relationship becomes, the more difficult it becomes to justify excluding or disadvantaging otherwise capable suppliers.

Recommendations

MTAA recommends that the Framework be amended to:

1. Require any procurement criterion that favours a particular workplace arrangement to be supported by evidence demonstrating a clear and measurable connection to procurement outcomes.
2. Publish the evidence relied upon to support any procurement criterion that preferences particular workplace arrangements, together with an assessment of impacts on competition, supplier participation, SME participation and value-for-money outcomes.

3. Remain neutral as between lawful forms of employment, engagement, workplace representation and bargaining arrangements and not preference one lawful workplace model over another unless a clear and measurable procurement benefit can be demonstrated.
4. Remove references that identify HSR structures as preferred indicators of workplace safety performance.
5. Recognise that direct consultation between employers and employees is often the most effective and appropriate mechanism for workplace engagement, particularly in SMEs.
6. Ensure procurement criteria remain neutral regarding workplace representation arrangements and bargaining structures.
7. Remove any preference or weighting attached to enterprise agreement coverage and ensure that suppliers are not disadvantaged because workplace terms and conditions are established through modern awards, over-award arrangements, productivity-based remuneration systems or other lawful mechanisms rather than enterprise agreements.
8. Assess employment security by reference to workforce outcomes rather than preferred employment models.
9. Utilise objective earnings and workforce metrics where consideration is given to worker vulnerability, disadvantage or low-paid work.
10. Assess suppliers against measurable outcomes, including legal compliance, safety performance, workforce capability, productivity, quality and value for money.
11. Ensure procurement settings support broad supplier participation and do not unnecessarily disadvantage SMEs.

Conclusion

The central issue raised by the Framework is not whether HSRs, enterprise agreements, direct employment arrangements, labour hire arrangements or other workplace structures are lawful or appropriate.

They are.

The relevant question is whether Government has established a sufficient evidentiary basis to justify preferring those arrangements within Commonwealth procurement processes.

In the absence of such evidence, the most appropriate and defensible approach is to assess suppliers against measurable outcomes rather than preferred industrial arrangements.

Commonwealth procurement frameworks should be designed to identify suppliers that are best able to deliver quality goods and services, maintain lawful and safe workplaces, support productive workforces and provide value for money to taxpayers.

Transparency is also a fundamental component of good procurement policy. Where Government proposes procurement criteria that favour particular workplace arrangements, the evidentiary basis for those criteria,

and the anticipated impacts on competition, SME participation and value for money, should be made publicly available and capable of scrutiny.

Procurement policy should remain focused on performance, capability, compliance, competition and value for money. It should not preference one lawful workplace model over another unless a clear and demonstrable procurement benefit can be established.

Given that SMEs account for approximately 97 per cent of Australian businesses and union membership represents a minority of the workforce, procurement settings should reflect the realities of the Australian economy while remaining neutral between lawful forms of workplace organisation.

For these reasons, MTAA recommends substantial revision of the Framework prior to implementation.

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