



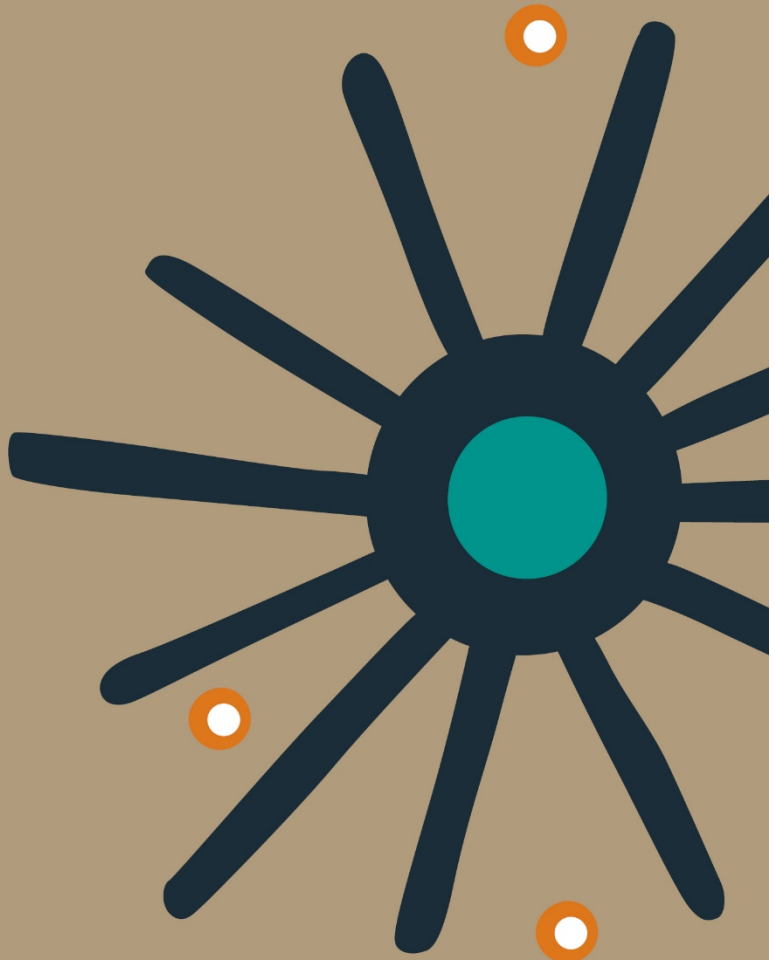
Australian Government

Indigenous Procurement Policy

Indigenous participation in high value Government contracts (\$7.5million or more)

Guide 2

Potential Suppliers



**National Indigenous
Australians Agency**

Employment and
Economic Development



Document history

Version	Date approved	Approver
Version 1	26 June 2020	Neil Williams, Branch Manager Economic and Business Policy

Indigenous Procurement Policy

A guide for suppliers

This guide

This guide aims to help private sector businesses tendering for Australian Government contracts valued at \$7.5 million (GST inclusive) or more (high value contracts), that are subject to mandatory minimum requirements (MMR) under the Indigenous Procurement Policy (IPP).

This is one of several guidance documents designed to support the application of MMR at each stage of the procurement life-cycle.

These documents should be read in conjunction with the Indigenous Procurement Policy. Further information is available on the [NIAA website](#).

Please note: The NIAA is unable to provide information or advice on how to respond to a particular approach to market. This document should be treated as general guidance only. All questions related to an approach to market must be directed to the contact person listed in the documentation

IPP Policy Framework

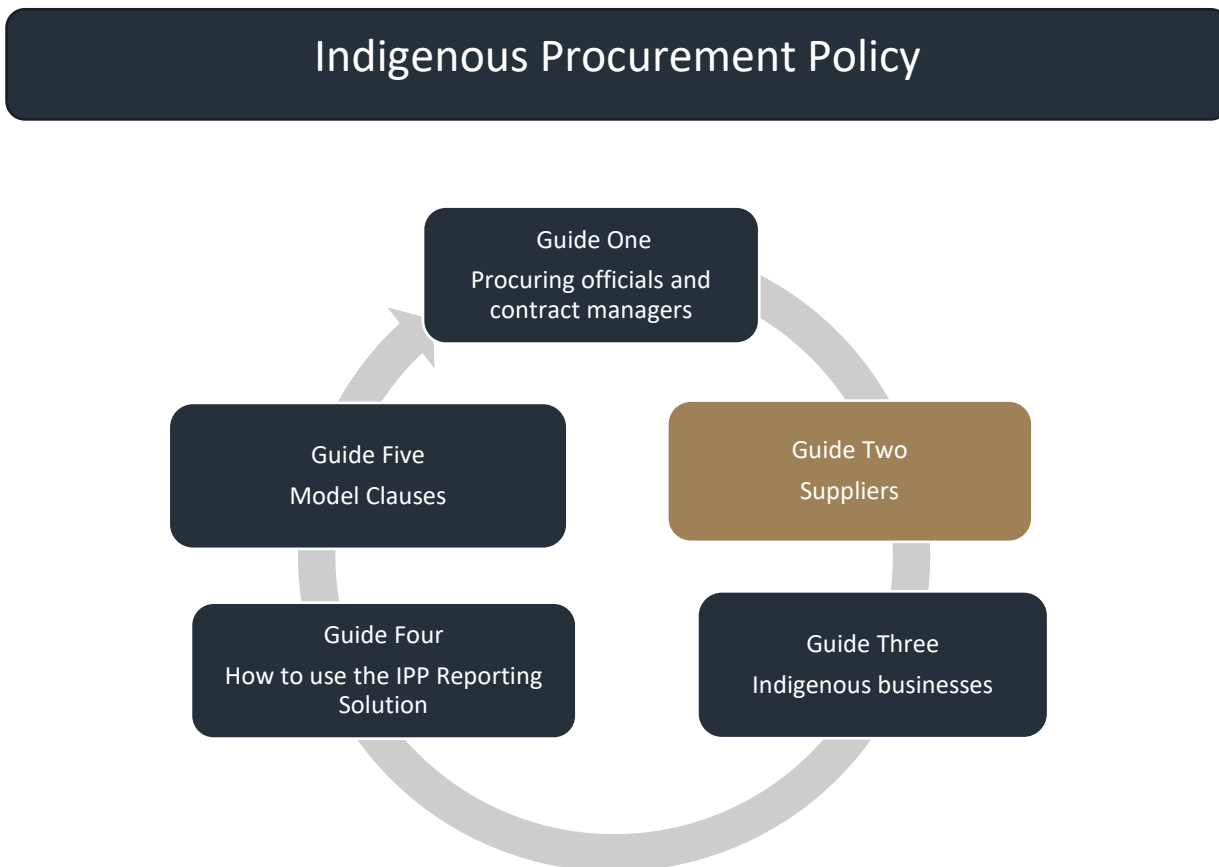




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Glossary

The following defined terms are used in this document:

AusTender is the central web-based facility for the publication of Australian Government procurement information, including business opportunities, annual procurement plans and procurement contracts awarded.

Approach to market is any notice inviting potential suppliers to participate in a procurement including, but not limited to a request for tender, quote, expression of interest, application for inclusion on a multi-use list, request for information and request for proposal.

Commonwealth entity has the same meaning as set out in the *Public Governance, Performance and Accountability Act (PGPA) 2013*, being a non-corporate Commonwealth entity or a corporate Commonwealth entity under the PGPA Act, further defined as a Department of State, a Parliamentary Department, a listed entity, or a body corporate established by a Commonwealth law or listed in the PGPA Rule.

Contract is an arrangement, as defined by section 23(2) of the PGPA Act, for the procurement of goods and/or services under which relevant money is payable or may become payable. Note: this includes standing offers and panels.

Contract manager is responsible for oversight of the contract including compliance, financial aspects and ensuring reporting requirements are met.

Contractor Portal means the online reporting system used by suppliers to report their performance against contracts that contain the MMR. This is the external face of the IPP RS as defined below.

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 an optional *panel arrangement* that *non-corporate Commonwealth entities* may use to approach the market together for the purposes of reducing expenditure by sharing administration costs. The Mandatory Set Aside (MSA) must be applied prior to a cooperative procurement arrangement is considered. An Indigenous business may also be contracted outside of this arrangement using Exemption 16 to Division 2 of the Commonwealth Procurement Rules.

Coordinated procurement arrangement means a *panel arrangement* established for commonly used goods or services by the Commonwealth. Once established, a coordinated procurement arrangement is mandatory for *non-corporate Commonwealth entities* to use. As a coordinated procurement arrangement forms part of Division 1 of the Commonwealth Procurement Rules, Exemption 16 and the MSA cannot be applied. The MMR may apply to coordinated procurement arrangements. 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*.

Domestic contract means a contract that results from a procurement exercise conducted in Australia, even if some or all of the goods or services that are purchased may be used or delivered overseas.

Domestic procurement means a procurement exercise that is conducted in Australia, even if some or all of the goods or services that are purchased may be used or delivered overseas.

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 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.

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High Value Contracts means contracts delivered in Australia valued at \$7.5 million (GST inclusive) and above 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 (IPP) helps stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy. The IPP is a procurement connected policy under the Commonwealth Procurement Rules (CPRs).

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

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

Indigenous Participation Plan means the document that must be submitted by organisations tendering for contract that are subject to the Mandatory Minimum Indigenous Participation Requirement. Tenderers outline in the Plan how they intend to meet (or exceed) Indigenous employment and or supply use targets over the contract term. The Plan assists procuring officials to determine which tenderer is most likely to achieve the strongest economic outcomes for Indigenous Australians.

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

MMR means mandatory minimum Indigenous participation requirements.

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

Model Clauses are provided as examples of text that should be included in material for an Approach to Market or Contract terms where the entity determines that the IPP is applicable.

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.

Potential Supplier is an entity or person who may respond to an approach to market, also known as a tenderer.

Submission is any formally submitted response to an Approach to Market.

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 codeset

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 Office Limited (ABN 50 134 720 362), which is an organisation dedicated to growing diversity in supply chains.

Supplier is an entity or person who has entered into a contract with the Commonwealth.

Tender (open) involves publishing an open approach to market and inviting submissions. This includes multi-stage procurements, provided the first stage is an open approach to market.

Tenderer is an entity or person who has responded with a submission to an approach to market.

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.



1.0 The Indigenous Procurement Policy (IPP)

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

Prior to the implementation of the policy on 1 July 2015 Indigenous enterprises secured limited business from Commonwealth procurement. The policy is intended to drive a significant increase the rate of purchasing from Indigenous enterprises, helping to drive Indigenous economic development.

The IPP applies to procurements made on behalf of non-corporate Commonwealth entities. If the procurement activity is subject to the Commonwealth Procurement Rules, it is likely subject to the IPP.

Corporate Commonwealth entities are encouraged to use best endeavours to apply the IPP. The IPP does not apply to Commonwealth grants.

2.0 Mandatory Minimum Indigenous Participation Requirements (MMR)

To ensure Indigenous Australians have the opportunity to participate in the delivery of certain high-value Australian Government contracts, the IPP requires Commonwealth entities to include targets for Indigenous participation in contracts. These are known as mandatory minimum requirements or MMR.

The IPP requires Commonwealth entities to consider at the tender evaluation stage all tenderers' current levels of Indigenous participation, past performance against MMR targets and commitment to achieving Indigenous participation outcomes through the delivery of the contract.

The Commonwealth entity must then agree targets during contract negotiations with the preferred suppliers. Targets should reflect an agreed level of Indigenous employment, or an agreed level of Indigenous businesses participation (supplier-use), or a combination of both, over the life of the contract. These targets should be applied to the contract itself or the supplier's Australian based supply chain and or workforce.

A Commonwealth procurement is subject to the MMR if all the following conditions are met:

- ✓ The procurement is estimated to be of a starting value of \$7.5 million (GST inclusive) or more.
- ✓ All the goods and services will be delivered wholly within Australia.
- ✓ The majority of the value of the procurement falls within one or more of the 19 specified industry categories as listed in Figure 1.

Figure 1. Industry sectors subject to MMR

Code	Industry Category
64	financial instruments, products, contracts and agreements
70	farming and fishing and forestry and wildlife
71	mining and oil and gas services
72	building and facility construction and maintenance services
73	industrial production and manufacturing services
76	industrial cleaning services
77	environmental services
78	transportation, storage and mail services
80	management and business professionals and administrative services (sub-category exemptions apply)
81	engineering and research and technology-based services
82	editorial and design and graphic and fine art services
84	financial and insurance services (sub-category exemptions apply)
85	healthcare services
86	education and training services
90	travel and food and lodging and entertainment services
91	personal and domestic services
92	national defence and public order and security and safety services (sub-category exemption apply)
93	politics and civic affairs services
94	organisations and clubs

These sectors are determined by the United Nations Standards Products and Services Codes (UNSPSC) which is an open, global, multi-sector standard for efficient accurate classification of products and services for buying, selling or otherwise exchanging goods and services in the global marketplace.

The UNSPSC is used for reporting procurement activity across the Australian Government, including under the IPP. The UNSPSC is used by entities to decide whether a contract must meet MMRs.

To find out more, refer to the NIAA website: www.niaa.gov.au/resource-centre/indigenous-affairs/united-nations-standard-products-and-service-codes

Figure 2. Sub-category MMR exemptions

80131500	Lease and Rental of property or building
80131501	Land Leases
80131503	Residential leases
84130000	Insurance and retirement services
84131800	Retirement funds
92110000	Military services and national defence
92111700	Military science and research

3.0 MMR Targets

MMR targets for Indigenous employment or supply-use (or a combination of both) are applied to the work associated with delivering the contract (contract-based) or the supplier’s organisation (organisation-based). If a contract is being delivered in remote Australia, the targets must reflect a significant employment or supply-use (or a combination of both) outcome for Indigenous people in that area.

The MMR (both remote and non-remote) are typically applied at the contract level, but suppliers can apply to procuring officials and contract managers to have the MMR applied at the organisation level where appropriate.

Procuring officials will advise all tenderers of their MMR obligations at the approach to market stage. These requirements will inform each tenderer’s Indigenous Participation Plan (see Section 4.3) that must be submitted as part of the tender submission. The agreed Indigenous Participation Plan will be included in the final contract.

Table 1 MMR targets

	Employment	Supplier	Combined
Remote contract-level target	<p>A significant employment outcome that is greater than 4 per cent Indigenous employment (as a weighted average) of the full time equivalent Australian-based workforce deployed on the contracted project (by the end of the contract term).</p> <p>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.</p>	<p>A significant supply use outcome that is 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).</p> <p>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.</p>	<p>A significant Indigenous participation outcome that is greater than 4 per cent.</p> <p>The Employment and Supplier target in total is greater than 4 per cent (by the end of the contract term).</p> <p>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.</p>
Organisation-level target	<p>3 per cent Indigenous employment (as a weighted average) of the full time equivalent Australian-based workforce of the supplier (by the end of the contract term).</p>	<p>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).</p>	<p>The Employment and Supplier target total is 3 per cent (by the end of the contract term).</p> <p>For example: a 2 per cent Indigenous employment outcome and a 1 per cent Indigenous supplier-use</p>



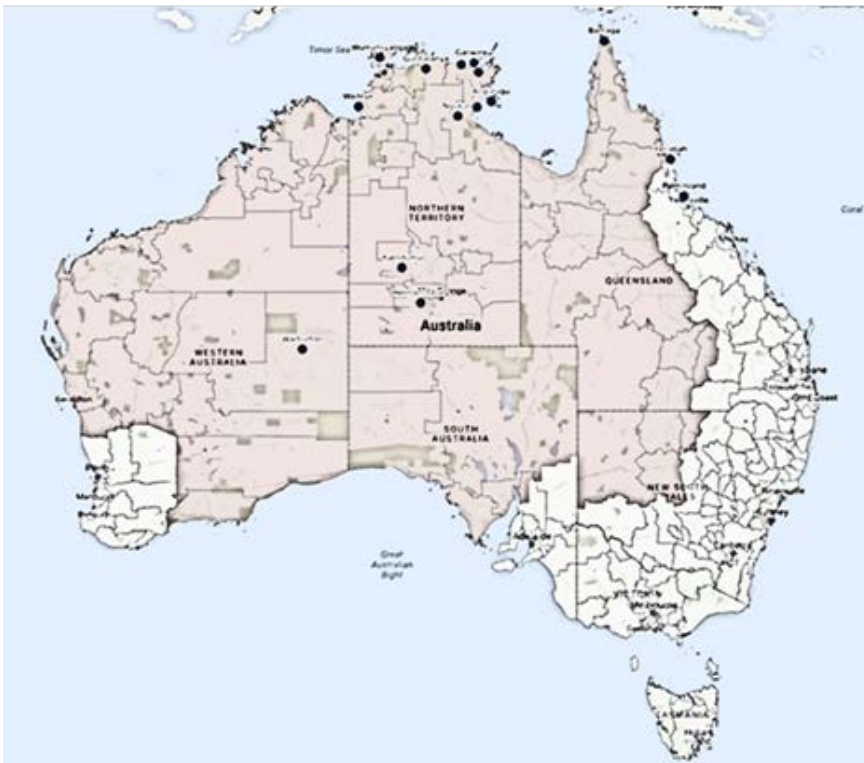
			outcome delivers a combined outcome of 3 per cent.
Non – remote contract-level target	4 per cent Indigenous employment (as a weighted average) of the full time equivalent workforce deployed on the contracted project (by the end of the contract term).	4 per cent of the value of the goods and services 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.

3.1 Minimum targets in remote procurements

Where a component of a contract will be delivered in remote Australia, the MMR must deliver a significant Indigenous employment or supply use outcome by the end of the contract term.

At a minimum, the target must exceed 4 per cent (4%) of the value of the contract.

3.1.1 Determining the remote component a contract



Remote Australia has a unique definition under the IPP, it includes highly populated cities and towns such as Darwin, Broome and Alice Springs as well as sparsely populated regions like Central Australia. The NIAA maintains an [interactive map](#) that allows users to search Australia by location to determine whether an area is remote.



3.1.2 Identifying the delivery point

To determine if a component of a procurement is remote the procuring official will need to identify if the delivery point for the goods and services falls within the IPP remote boundary.

For goods, the delivery point is where the procuring official assumes control of the goods. For a service, the delivery point is where the Commonwealth buyer receives the service, even if the end user of the service is located elsewhere.

3.1.3 Determining a significant Indigenous outcome in a remote contract

As part of contract negotiations, the successful tenderer must agree a MMR target with the procuring official or contract manager that will ensure a significant Indigenous employment or supplier use outcome. In determining a 'significant' outcome the successful tenderer might wish to consider:

1. **Local employment market conditions** such as the number of Indigenous businesses, workers and job seekers in the region and the relevant skills, qualifications and capabilities of the cohort.
2. **The requirements of the contract** such as the skills and capabilities required to deliver the goods and services including the value and scale and size of the contract.
3. **The availability of supply services** to support the meeting of any targets and assist in building the capacity of Indigenous businesses and job-seekers to take up opportunities.
4. **Other government projects** operating in the region that may impact on the capacity of Indigenous businesses and job-seekers to take up opportunities over the contract term.

Example 1. Determining if a contract is considered remote

The Commonwealth purchases a call centre service. The call centre is located in Adelaide, with callers dialling in from around Australia. The delivery point is considered to be Adelaide, because that is where the Commonwealth is receiving the service, even though the end user (callers) may be located elsewhere.

This is not considered a remote contract. MMR target will apply as per non-remote requirements.

3.2 Minimum targets for non-remote procurements

The minimum targets for non-remote procurements are determined by the Commonwealth entity at the approach to market stage or negotiated by the procurement official, contract manager and the successful tenderer (once the contract has been executed, the successful tender is known as the supplier).

Attachment A provides case studies for contract based and organisation based targets.

3.2.1 Contract-based targets and Organisation-based targets

A non-remote

- contract-based target must be, by the end of the initial term of the contract, a minimum of 4 per cent (4%).
- organisation-based MMR must be, by the end of the initial term of the contract, a minimum of 3 per cent (3%)

Note: Table 1 provides further details on applying contract-based and organisation-based targets.



3.3 Counting employment and supply-use against targets

3.3.1 Employment

Employment targets are measured by the number of hours an Indigenous person works for the supplier over the term of the contract in relation to the supplier's total workforce (as a percentage), expressed as full-time equivalent (FTE) and assessed as a weighted average. This ensures Indigenous Australians have access to meaningful employment over the life of the project.

It is important to note: the hours associated with a FTE will differ between industries. The supplier should use the FTE as defined by their industry. If multiple awards are in place, the supplier should use the FTE rate that is most representative of their workforce.

3.3.2 Supply-use

For contract-based MMR targets, the supplier may report any subcontract or purchase made with an Indigenous business that is directly related to delivery of the contract. This is measured as a percentage against the total value of the contract awarded.

For organisation-based MMR targets the supplier can count any contract awarded to, or purchase made from, an Indigenous businesses by their organisation over the term of the contract. This is measured as a percentage against the organisation's Australian supply chain.

4.0 Preparing submission documents

A submission is any formally submitted response to an approach to market. Submission may include tenders, responses to expressions of interest or responses to request to quote.

If a procurement is subject to the MMR, the approach to market documentation issued by the Commonwealth entity will contain certain requirements that tenderers will need to meet in order to be considered for the contract.


This section details what those requirements are.

TIP: The Department of Finance website [Selling to Government](#) provides guidance to help businesses identify and respond to business opportunities, including further guidance on what is typically contained in an approach to market.

4.1 Approach to Market

Any approach to market will generally include a description of the goods and/or services the procuring official requires, the proposed draft contract which sets out the conditions to be met under the contract and list of conditions for participation that must be met for your business to be considered for the work. An approach to market that is subject to the MMR conditions will include a provision:

- a) Requiring the tenderer to declare their businesses level of compliance with any past contracts that included MMRs, and their obligation to develop an **Indigenous Participation Plan** that:
 - i. addresses how the business intends to meet the MMR for the Indigenous Procurement Policy over the life of the contract;

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- II. Records the businesses current rate of Indigenous employment and Indigenous supplier use;
 - III. Describes commitment to Indigenous participation; and
 - IV. if any part of the contract is being, or will be delivered in a remote area, describes how the tenderer will ensure that provision of goods and/or services will deliver significant Indigenous employment or Indigenous supplier use outcomes in that remote area.

The approach to market will provide contact details of the procuring official. Any business considering tendering can contact the procuring official to ask questions before submitting a tender. Responses to questions will be provided to all tenderers in the interests of transparency.

The NIAA is unable to provide information or advice on how to respond to a particular approach to market. This document should be treated as general guidance only. All questions related to an approach to market must be directed to the contact person listed in the documentation.

4.2 Model clauses

The NIAA has prepared pre-drafted content (known as model clauses) that procuring officials and/or contract managers may include in the approach to market document and draft contract (if applicable) to ensure tenderers are accountable to the requirements of the IPP should they be successful in winning the contract. This information may also be included in the final contract, subject to any negotiations.

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

4.3 Indigenous Participation Plan

The Indigenous Participation Plan prepared as part of a tender submission should outline how your business intends to meet the MMRs for Indigenous participation over the life of the contract.

The Indigenous Participation Plan must state the targets you intend to meet in order to comply with the MMR and the strategy you will use to meet or exceed these targets. The Plan must also include your organisation's current rate of Indigenous participation, whether your businesses has been subject to the MMR before and if so your performance against these targets,

Note: Refer to Table 1 for the MMR target requirements.

Table 2 outlines details of what could be included in an Indigenous Participation Plan. However, this is a guide only and tenderers should include any content that will support the tender and notes any specific requirement that may be included by the purchasing entity in the ATM documentation

If tenderers have questions in relation to the preparation of an Indigenous Participation Plan they should contact the procuring official listed as the contact in the approach to market.

Indigenous Participation Plan

Table 2

The Indigenous Participation Plan should include:

Notes

Clear indication of whether the supplier will meet contract-based (4%), organisation-based (3%) or remote contract-based participation requirements (>4%).

The supplier may choose any of these options or the awarding entity may provide direction on the target in the ATM documents.

Clear indication of whether the percentage target for Indigenous participation will be met through employment or supply use or a combination of employment and supply use.

The supplier may choose any of these options or the awarding entity may provide direction on the target in the ATM documents.

A commitment to Indigenous employment.

- Clearly identify roles for Indigenous Australians and the skills required for these roles. Where possible, the majority of the roles should be central to the goods/services being delivered and located within local communities.
- Identify ways to source suitable Indigenous candidates, for example through collaboration or memoranda of understanding with Commonwealth employment service providers such as Vocational Training and Employment Centres (VTECs), Community Development Program (CDP) /or Job Active available at jobsearch.gov.au; consulting with local Indigenous community controlled organisations available at ORIC database; and/or advertising through Indigenous owned media outlets and/or hosting community information sessions.
- Identify ways to retain and train Indigenous candidates for the role and ongoing development, for example a mentoring or professional development programme for Indigenous employees and/or commitment to building cultural capability within the workplace, which may include working with Reconciliation Australia to agree a Reconciliation Action Plan.

A commitment to Indigenous supply use.

- Clearly identify opportunities for Indigenous businesses in your supply chain.
- Methods for identifying Indigenous businesses and clear communicating opportunities, including: supplier diversity programs, business mentoring programs; assessing local Indigenous capability; consulting Supply Nation’s Indigenous Business Direct and other Indigenous business databases; hosting community information sessions.

A commitment to significant participation of Indigenous workers and businesses in contracts delivered in remote Australia.

- Where the contract will be delivered in a remote area/s, clearly identify ways to achieve 'significant' (as a percentage) Indigenous employment and/or supplier use with regard to local Indigenous business sector and employment market.
- The plan should specify an employment target considerate of the proportion of working age Indigenous people in the area (using the Australian Bureau of Statistics as a guide)

Table 2

The Indigenous Participation Plan should include:

Notes

- Supply target: This could include identifying indigenous businesses that your organisation will sub-contract in the delivery of the project.
- For large procurements with multiple tenders, procuring officials may consider the impost posed on small organisations to agree MoU and/or collaborative agreements with multiple tenderers where only one will ultimately be contracted.
- The tenderer could demonstrate an existing relationship with the local stakeholder groups such as [CDP providers](#), [Land and Sea Councils](#), and local Indigenous community controlled organisations (see tip box below) or commit to develop a work relationship with specified stakeholders by a certain date if successful.
- Supply target: This could include identifying indigenous businesses that you will sub-contract in the delivery of the project.

4.4 Current levels of Indigenous participation

Your tender documents should include details of your business's current levels of Indigenous employment and Indigenous supply use. If your business has limited experience in Indigenous participation you will need to demonstrate how your business will seek to obtain the required knowledge and relationship to build and retain participation in your workforce and supply chain. A participation plan will be stronger if it identifies and seeks to make use of the resources and tools listed below.

- Commonwealth providers such as jobactive, Community Development Program (CDP), Vocational Training and Employment Centres (VTECs), ParentsNext;
- Commonwealth Indigenous Business and Employment Hubs in NSW and WA;
- local privately run labour hire and recruitment companies with links to Aboriginal and Torres Strait Islander job seekers (suppliers can be found via the Supply Nation Directory);
- local Indigenous associations or Land Councils;
- local Indigenous Business Chambers;
- Reconciliation Australia
- Supply Nation or ORIC public directory;
- Indigenous media;
- government and or community led networking opportunities;
- cultural awareness and diversity training (suppliers can be found via the Supply Nation Directory);

Note: Section 10.0 - Resources provides website links to assist with locating the above services.



4.5 Compliance history

Tenderers must indicate whether their business is currently, or has previously been, subject to MMRs and, if so, how it has performed against those targets.

If your business has no experience with MMRs evidence can be provided of your business's commitment to Indigenous employment or use of Indigenous suppliers through:

- Previous track record of Indigenous employment and use of Indigenous suppliers, including by providing examples or case studies.
- A Reconciliation Action Plan (RAP), or similar that provides a business commitment to Indigenous employment and Indigenous supplier targets.

5.0 Contracting

In addition to the information provided in an Indigenous Participation Plan, the awarded contract will contain clauses relating to the MMR. The clauses will outline:

- the employment and supply use target that has been agreed with the procuring official
- the agreed Indigenous Participation Plan
- a requirement to report on progress against the targets via the IPPRS
- that any confidentiality provision within the contract does not apply to the MMR and the Commonwealth may publish details on the MMR target contained in the contract including details of performance against the target.

A draft form of contract will be included in the approach to market documentation. This provides potential suppliers an opportunity to see what conditions will be required under the contract.

The procuring official may choose to incorporate the [model contract clauses](#) available on the NIAA website.

5.1 Successful Tenderers - Contract Negotiations

5.1.1 Agreeing and managing the mandatory minimum requirements

If your business is awarded a contract it will work closely with the procuring official and contract manager to agree and manage the contract, including the MMR targets.

5.1.2 Negotiating Indigenous participation targets

Negotiation and agreement on an appropriate MMR target will be part of the contract negotiation process with the procuring official. The Indigenous Participation Plan will provide a basis for these negotiations, however your business or the procuring official may wish to negotiate changes to these targets (consistent with the IPP) during the life of the contract.

5.2 Reporting progress against targets

Table 3

Contract manager reporting obligations

- Agreed MMR targets
- Reporting start date
- Delivery postcode
- Suppliers' contact details
- Acknowledgement that the contract manager has reviewed the quarterly performance report and optional comments.
- Comments against the final performance report

Supplier's quarterly reporting obligations

- Employment target: contract based
- FTE total workforce
 - FTE Indigenous workforce
 - Subcontractors FTE total workforce
 - Subcontractors FTE Indigenous workforce
- Employment target: organisation based
- FTE total Australian based workforce
 - FTE total Indigenous workforce
-
- Supply-use target:
- Australian Business Number or name of enterprise if no ABN exists.
 - Value of contract/purchase
 - Date of contract/purchase
 - Description of goods/service purchased
 - Whether the contract/purchase was awarded by the supplier or by a subcontractor within their supply chain (direct or indirect contract/purchase)

The IPPRS will cross reference the ABN with Supply Nation and ORIC databases to confirm a business is verified as Indigenous owned.

The IPPRS will issue a reminder to the supplier and contract manager (as listed in the IPPRS) by email when reports are due. Please ensure that the contact details of the person or area in your organisation responsible for reporting are kept up-to-date in the IPPRS.

5.2.1 Reporting

Your business is required to provide the contract manager with quarterly progress reports on Indigenous workforce and supply chain outcomes via the IPPRS for the term of contract.

Quarterly reporting dates are listed in the contract and built into the system. The IPPRS will also send reminders one week prior to these reports being due. It is important that the contact details within the system are kept updated.

Your business is required to report on the following information:

- details of subcontracts or purchases made with Indigenous businesses during the quarter;
- total full-time equivalent workforce for the quarter; and
- total full-time equivalent Indigenous workforce for the quarter.

It may also report on the full-time equivalent Indigenous workforce of any subcontractors for the quarter.

It is recommended that the inclusion of both employment and supplier use data in quarterly reporting, regardless of whether your business has an Indigenous employment target or a supplier use target. This will allow a straightforward transition if your business adopts a revised target during the term of the contract.

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The IPPRS cross matches Indigenous businesses identified in your reporting with the Supply Nation and Office for the Registrar of Indigenous Corporations (ORIC) databases as part of compliance checks.

5.2.2 Reporting against employment targets (contract-based MMR)

Progress against contract based MMR employment targets is calculated using the average number of hours an Indigenous person has worked to deliver on the contract. To calculate the average, suppliers report quarterly on the total number of Indigenous FTE deployed on the contract and the total number of FTE deployed on the contract for that quarter.

A supplier's final performance against employment targets at the end of the contract term is calculated using the total number of Indigenous FTE and the total number of FTE reported by the supplier each quarter and dividing the total by the number of quarters within the reporting period.

5.2.3 Subcontractors' workforces

For a contract-based target, suppliers may choose to report the total number of Indigenous FTE and the total number of FTE employed by sub-contractors on the contract each quarter. This data is added to the contractor's totals before determining the weighted average of Indigenous FTE as a percentage of all FTE for the period.

To determine whether the MMR target has been met at the end of the term of the contract, the IPPRS will calculate the weighted average FTE by adding the total number of Indigenous FTE and the total number of FTE reported by the supplier each quarter and dividing by the number of quarters within the reporting period to find the weighted average.

5.2.4 Employment targets (organisation-based MMR)

A supplier's progress against organisation-based MMR employment targets is calculated using the average number of hours an Indigenous person has worked to deliver on the contract. To calculate the weighted average, suppliers report quarterly on the total number of Indigenous FTE employed by the organisation and the total number of FTE employed by the organisation in Australia each quarter.

At the end of the initial term the IPPRS will calculate the weighted average FTE by adding the total number of Indigenous FTE and the total number of FTE reported by the supplier each quarter and dividing by the number of quarters over the initial term to find the weighted average.

Where a supplier has multiple contracts that contain organisation based MMR contracts (that contain different start and end dates) the supplier will only need to report once each quarter. The IPPRS will use the date ranges of the quarterly report and the start and end date of associated contracts to allocate the workforce data accordingly. This is important as each contract is assessed against the average weighted FTE employed over the term of each individual contract.

5.2.5 Supply-use targets (contract-based MMR)

For contract-based MMR targets, the supplier may report any subcontract or purchase made with an Indigenous business that is directly related to delivery of the contract.

Each quarter the supplier will report the details of the Indigenous business that they have contracted with or purchased with that quarter through the IPPRS. This may include purchases and contracts with Indigenous businesses undertaken by subcontractors engaged to deliver the contract. At the end of the contract term, the total value of contracts and purchases awarded to an Indigenous business will be measured as a percentage against the value of the contract to determine if the MMR target was met.



5.2.6 Supply-use targets (organisation-based MMR)

For organisation-based MMR supply use targets the supplier reports each quarter the total value of their Australian supply chain and value of contracts awarded to Indigenous businesses. The IPPRS measures the Indigenous supply use as a percentage against the organisation's Australian supply chain.

Where the supplier has multiple contracts that contain organisation based MMR contracts (that contain different start and end dates) the supplier will only need to report once each quarter. The IPPRS will use the date of the purchase and the start and end date of associated contracts to allocate the supply use data accordingly. This is important as each contract is assessed against the average value of Indigenous supply use against the value of the organisation's total Australian supply chain over the term of that contract.

5.2.7 Compliance with MMR targets

At the end of the contract your business must submit a final report against the Indigenous Participation Plan which identifies whether the MMR have been met and whether the Indigenous Participation Plan was complied with.

Final compliance with MMR targets is calculated once the contract has been completed and the final report has been submitted and assessed via the IPPRS.

5.2.8 Information on past performance

A compliance rating for each completed MMR contract associated with your business is retained on the IPPRS. This information can only be viewed by Commonwealth entities for the purpose of contract management, aggregate IPP reporting and to support the assessment of future tender proposals from your business. Compliance information relating to your business can be viewed through the IPPRS.

5.2.9 Indigenous Procurement Policy Reporting Solution (IPPRS)

The IPPRS is the central Commonwealth database used to record data on the IPP and managed by the NIAA. Suppliers are required to enter online progress reports against MMR targets into the IPPRS over the term of each contract.

The IPPRS also includes MMR ratings from completed contracts, which are used by procuring officials when assessing new submissions subject to MMR requirements.

If your business does not already have access to the IPPRS, the procuring official will provide your nominated contact with access to the system at no cost. The IPPRS is a Microsoft Dynamics 365 web application and is accessible via a compatible web browser and desktop operating system. A [welcome pack for industry contractors \(Guide 4.\)](#) is available on the NIAA website and provides information on using the IPPRS.

Note: Section 10.0 - Resources provides other useful links on accessing IPPRS.

6.0 Records Management

Suppliers are expected to maintain internal records in accordance with records management requirements detailed in their contract. Such records must support claims relating to Indigenous employment and the use of Indigenous businesses in supply chains. Agencies can request this documentation and/or audit it.

When reporting via the IPPRS the indigeneity of a businesses in confirmed via a data matching of the ABN with Supply Nation and ORICs database. Suppliers should maintain records of the indigeneity of businesses that are not verified as being registered with ORIC or with Supply Nation at the time a report was submitted.

7.0 Achieving MMR targets - Indigenous employment

If your business has agreed to Indigenous employment targets you will likely need to recruit and retain Indigenous employees into your workforce.

Your business can access a range of support services and programs to assist in the recruitment of job-ready Indigenous employees and, if required, provide post-placement wrap-around support for your business and your employees. These are outlined in section 7.1

Developing a relationship with local Indigenous communities in the region(s) where the contract is to be delivered is a useful first step in the process to identify potential Indigenous employees. If your business does not have existing relationships, it could make contact with a local employment services provider, a local Indigenous land council, or other Indigenous community organisations. The NIAA regional networks may also assist (refer to Section 10.0 – Resources).

7.1 Commonwealth employment services and post-placement support for Indigenous employees

The Australian Government offers a range of services, at no additional cost, that can assist businesses identify Indigenous employees and provide pre- and post-placement support to assist in the employee in settling into the job. These include:

[jobactive](#) is the Government’s recruitment service that helps connect employers with job seekers in 1,700 locations in metropolitan and regional areas. jobactive providers can offer a tailored recruitment service at no cost to businesses.

[Transition to Work](#) provide intensive, pre-employment support to improve the work-readiness of young people and help them into work (including apprenticeships and traineeships) or education.

[Disability Employment Services \(DES\)](#) helps people with disability, injury or health condition find work and keep a job. Assistance can include employment preparation, workplace modifications and ongoing support to help employers.

[Community Development Program \(CDP\)](#) is the Government’s employment and community development service in remote Australia. CDP Providers can assist your business to recruit staff, including Indigenous Australians, across remote Australia.



7.4 Compliance with anti-discrimination legislation

To support compliance with MMRs your business may need to adopt a recruitment strategy to increase the representation of Indigenous Australians in your workforce. Employers may be concerned about breaching anti-discrimination laws when explicitly recruiting Indigenous Australians, however these laws include 'special measures' provisions to support access to opportunities for disadvantaged racial groups. The [Australian Human Rights Commission](#) has published advice on complying with Commonwealth, state and territory anti-discrimination laws.

7.5 Verification of Indigeneity

Your business should take reasonable steps to verify whether a potential employee is an Aboriginal and/or Torres Strait Islander person. Reasonable steps could involve providing employees with an opportunity to indicate their Indigeneity, in writing, as part of employment commencement paperwork. In providing such a statement, employees should be notified of possible consequences for providing a false statement.

8.0 Achieving MMR targets - Indigenous supply chain

If your business has agreed to Indigenous supplier targets you will likely need to increase the number of Indigenous businesses that your businesses contracts with or purchases from.

For contract-based targets, your business can count purchases and contracts that your subcontractors have made with Indigenous businesses toward your Indigenous supplier use target, to the extent these subcontracts relate to the delivery of the contract. This can be achieved by including appropriate Indigenous supplier use targets and reporting requirements in your contracts with subcontractors.

8.1 Indigenous businesses

A useful way to identify Indigenous businesses is to refer to the [Indigenous Business Direct](#) business directory. This is a free service, funded by the NIAA that provides verified details of more than 2000 Indigenous businesses across a broad range of industry sectors.

Your business could also consider paying to become a member of Supply Nation. Supply Nation offers member organisations a range of benefits including a dedicated relationship manager and provide introductions to Indigenous businesses.

Your business could contact an **Indigenous Business and Employment Hub**, funded by the NIAA under the Indigenous Business Sector Strategy, to see if they can assist in identifying Indigenous businesses that might suit your procurement needs.

There are two Hub locations;

- the [NSW Indigenous Business and Employment Hub](#) located in Liverpool Western Sydney which is delivered by the NSW Aboriginal Land Council; and
- the [WA Indigenous Business and Employment Hub](#) located in Burwood Perth which is delivered by the Wirrpanda Foundation.

Your business could also consider attending an **Indigenous Business Trade Fair**. NIAA funds Supply Nation to host trade fairs annually in metropolitan and regional areas across Australia. This provides a useful opportunity to meet Indigenous business owners with the aim of making commercial connections.



Indigenous Chambers of Commerce are another useful source of information and connections with Indigenous businesses that could potentially be integrated into your supply chain. A list of local Indigenous Chambers of Commerce is provided in the Resources section.

9.0 Contract variations

During the term of a contract, your business may identify the need to adopt a different approach to meeting the MMR. The contract manager may agree to revise the targets in the Indigenous Participation Plan at any time during the term of the contract providing any changes are consistent with the MMR.

The contract manager, will ensure that new targets are reflected in a revised Indigenous Participation Plan in the varied contract and MMR targets are updated within the IPPRS. Changes must be agreed by both parties in writing and are carried out in accordance with the terms and conditions of the contract.



10.0 Resources

1. Australian Bureau of Statistics
<https://www.abs.gov.au/websitedbs/D3310114.nsf/Home/2016%20search%20by%20geography>
2. NIAA Regional Office Network
<https://www.niaa.gov.au/contact-us/regional-network-addresses>
3. Australian Human Rights Commission
<https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/targeted-recruitment>
4. Indigenous Procurement Policy
<https://www.niaa.gov.au/resource-centre/indigenous-affairs/commonwealth-indigenous-procurement-policy>
5. Guide 4 - Welcome pack for Industry Contractors
<https://www.niaa.gov.au/resource-centre/indigenous-affairs/welcome-pack-industry-contractors>
6. How to use the IPPRS
<https://www.niaa.gov.au/ipprs>
7. Guide 5 - NIAA Model Clauses
<https://www.niaa.gov.au/resource-centre/indigenous-affairs/indigenous-procurement-policy-model-clauses>
8. IPPRS Contractor Portal
<https://www.niaa.gov.au/ippcp>
9. RIPP Map data
<https://www.niaa.gov.au/resource-centre/indigenous-affairs/ripp-map-data>
10. The United Nations standard products and services code (UNSPSC)
<https://www.niaa.gov.au/resource-centre/indigenous-affairs/united-nations-standard-products-and-service-codes>
11. Department of Finance – Selling to Government
<https://www.finance.gov.au/business/selling-government-procurement>
12. Commonwealth Procurement Rules
<https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules>
13. ORIC – Registered Corporations database
<https://register.oric.gov.au/PrintCorporationSearch.aspx?state=SA>
14. Indigenous Land and Sea Corporation
<https://www.ilsc.gov.au/>
15. Aboriginal Land Councils
<https://www.creativespirits.info/aboriginalculture/selfdetermination/aboriginal-land-councils>
16. Supply Nation - Indigenous Business Directory



34. Mandurah Hunter Indigenous Business Chamber

<http://www.mandurahhibc.com.au/>

35. Aboriginal Business Directory WA

<http://abdwa.com.au/>



Attachment A

Case Study One: Life cycle of a MMR with a contract-based target.

The Department of Land and Wildlife Conservation (DLWC) seek to procure services to restore sand dunes in Bryon Bay estimated to be valued at \$10 million.

As the procurement is valued at over \$7.5 million and will be delivered wholly in Australia, it is likely to be subject to the MMR.

To confirm, the responsible procuring officer conducts a search of *Erosion Control Services* on the UNSPSC website. The search produces a code of 70131503. The first two digits of that code – 70 – correspond with the broader industry category *Farming, fishing, forestry and wildlife contracting services*, an industry category subject to the MMR.

The procuring officer searches the electronic [IPP interactive map](#) and confirms that Byron Bay, the delivery location, is not defined as a remote location and therefore the higher MMR remote targets do not need to apply.

DLWC issues an approach to market (ATM) inviting potential suppliers to participate in the procurement. The ATM includes the MMR model clauses that require tenderers to submit an Indigenous Participation Plan. The DLWC tender documents include the requirement for the evaluation panel to consider tenders' past performance against the MMR and the draft contract (included in the ATM) includes MMR model clauses that require the successful tender to report quarterly against the MMR via the Commonwealth's IPPRS.

Roberto, owner-manager of Erosion Be Gone, is registered to receive AusTender alerts. Roberto reviews the ATM documentation. Roberto determines his company can meet a MMR contract-based target of 4 per cent, comprising 1 per cent employment and 3 per cent supply-use.


Since Roberto plans to quote \$11 million, the 3 per cent supply use target will require Roberto to use Indigenous businesses to deliver at least \$330,000 of the project.

Roberto has an existing relationship with a business that he knows is at least 50% Indigenous owned that he will use to supply landscaping equipment. Roberto uses the Supply Nation directory to identify two other businesses that he confirms can provide the required specialist vehicle and signage for the project.

Roberto calculates that he will require two additional staff to deliver on the project at Byron Bay. He searches for employment service providers on <https://jobsearch.gov.au/serviceproviders> to identify the local employment service providers. Based on a conversation with the local provider he is confident he can recruit at least one employee that identifies as Aboriginal to work on the project.

Roberto includes these details in the Indigenous Participation Plan as part of the tender submission alongside the current rates of Erosion Be Gone Indigenous employment and supply use. Roberto declares that Erosion Be Gone has never been subject to the MMR before and therefore does not have any past performance information to include.

The DLWC tender evaluation panel searches the IPPRS to confirm if tenders have previously been subject to the MMR. The panel considers strategies to meet MMR targets outlined in the Indigenous Participation Plans. It is confirmed Erosion Be Gone has not been subject to the MMR before. The panel forms the view that Erosion Be Gone's Indigenous Participation Plan has a clear strategy to connect with Indigenous businesses and job seekers.



Erosion Be Gone is assessed as the preferred supplier (having regard to the tender evaluation criteria and overall value for money assessment) and enters into a contract. DLWC publishes a contract notice on AusTender.

The IPPRS identifies (through data-matching with AusTender) DLWC has awarded a contract likely subject to the MMR and emails an alert to the DLWC portfolio contact.

The portfolio contact identifies the relevant contract manager who confirms that the contract is subject to the MMR. The contract manager enters the MMR targets included in the contract and the postcode for the delivery location into the system. The contract manager also enters the relevant email address for Erosion Be Gone – ideally the email address will allow for potential turnover or absence with the contracted firm so the company continues to comply. The IPPRS sends Erosion Be Gone an email to initiate quarterly reporting.

Each quarter Erosion Be Gone receives an email from the IPPRS reminding them to report. For each report, Roberto enters the total number of FTE working on the dune regeneration project and the total number of FTE that identify as indigenous working on the project.

Roberto also enters the ABN of the Indigenous businesses that he has engaged in the delivery of the project alongside the value of the purchase/contract, date of purchase and a brief description of the purchase. The IPPRS data matches the ABN with Supply Nation and ORIC to confirm these businesses are verified as at least 50 per cent Indigenous owned. For Indigenous businesses not registered with Supply Nation or ORIC, Erosion Be Gone is required to maintain documents confirming they have made appropriate checks to confirm the businesses are at least 50 per cent Indigenous owned.

The DLWC contract manager receives an email from the IPPRS after Roberto has submitted a quarterly report. The contract manager is required to review the report, acknowledge receipt of the report in the system and may make any comments for Erosion Be Gone's attention.

In fulfilling its reporting obligations, Erosion Be Gone is able to track progress and make early adjustments to ensure his company's performance remains on track. During the life of the contract, Roberto may seek a contract variation to change the employment and supply use combination of the MMR target. In considering the request the DLWC contract manager confirm if the proposed change complies with the MMR. At the end of the contract, Erosion Be Gone's final performance against its MMR target is calculated by the IPPRS.

This performance history will be accessed by evaluation panels when Erosion Be Gone tenders for other contracts subject to the MMR.



Case Study Two: Life cycle of a MMR with an organisation-based target

The Department of Hydro-Energy (DHE), based in Canberra, seeks a feasibility study to upgrade a dam in the Cairns water catchment area. DHE estimate the procurement is valued at \$20 million.

As the procurement is valued over \$7.5 million and delivered wholly in Australia it is likely subject to the MMR.

A search for Dam Engineering on the USPSC website produces a code of 81101507. The first two digits of that code – 81 – correspond with the broader industry category Engineering and Research and Technology Based Services, an industry sector subject to the MMR.

The procuring officer searches the electronic [IPP interactive map](#) and confirms Canberra, the delivery location is not defined as a remote location and the higher remote MMR targets will not need to be applied.

DHE issues an ATM that includes model clauses requiring the inclusion of an Indigenous Participation Plan in the tender submission. The DHE tender evaluation document includes the requirement to consider tenderers' past performance against the MMR and the draft contract (included in the ATM) includes model clauses requiring quarterly reporting against the MMR targets via the IPPRS.

Owner-manager, Sunita is registered to receive alerts via AusTender. Sunita reviews the ATM and determines that her company, JJ Engineering can meet an organisation-based MMR target of 3 per cent, comprising 2 per cent employment and 1 per cent supply-use. JJ Engineering has an active contract with the Department of Land and Wildlife Conservation (DLWC) that also contains a 3 per cent organisation based MMR target.

Sunita includes these details in the Indigenous Participation Plan in the tender submission, along with details of JJ Engineering's current rate of Indigenous employment and supply use. Sunita also declares that JJ Engineering has been subject to, and complied with, the MMR in the past and is currently subject to an organisation based MMR target through a contract with DLWC.

The DHE tender evaluation panel searches the IPPRS to confirm if tenders have previously been subject to the MMR. DHE confirms that JJ Engineering has previously complied with the MMR and is currently reporting against an organisation based MMR target contained in a DLWC contract. DHE also considered whether or not the strategy outlined in JJ Engineering's Indigenous Participation Plan is likely to support the achievement of the MMR over the life of the DHE contract.


JJ Engineering becomes the preferred supplier and enters a contract with DHE. DHE publishes a notice of this contract on AusTender.

The IPPRS identifies (through data-matching with AusTender) DHE has awarded a contract likely subject to the MMR and emails an alert to the Portfolio contact. The Portfolio contact identifies the relevant contract manager. The contact manager confirms that the MMR applies to the contract and enters the organisation based MMR target, the delivery postcode and Sunita's email address into the IPPRS. Sunita receives an email from the IPPRS to initiate quarterly reporting.

The contract requires Sunita to report JJ Engineering's performance against the organisation-based target in the IPPRS at least quarterly. However, suppliers are able to report more frequently against organisation-based MMR targets. Sunita has previously decided to report against the DWLC contract monthly as this aligns with other reporting requirement in her organisation. Sunita will only need to submit one report each month to meet the requirement of both contracts.

The IPPRS emails Sunita an alert when the report is due.

Sunita reports JJ Engineering's total FTE for their Australian based operations for that month and the total Indigenous FTE employed as part of JJ Engineering's Australian based operations for that month.



Sunita also reports the total Australian based supply chain spend for JJ Engineering for that month and all purchases and contracts JJ Engineering made with an Indigenous business that month.

The IPPRS uses the information to calculate performance to date against the DLWC and the DHE contracts. Sunita is able to track her progress against both contracts and make early adjustments to ensure her company's performance remains on track.

The DHE and the DLWC contract managers receive an email when Sunita submits the report and are able to review the reports and make comments in the system.

At the end of the DHE contract end, JJ Engineering's final performance against its MMR target is calculated by the IPPRS. This information is available to other Commonwealth officials required to consider the JJ Engineering's past performance in tender evaluations.