30 October 2026

Ms Lavinia Gracik-Anczewska
Workforce Exploitation Branch
Department of Employment and Workplace Relations
GPO Box 9828
Canberra ACT 2601

via email: securejobsframework@dewr.gov.au

Dear Ms Gracik-Anczewska

Draft Secure Australian Jobs Framework

The Australian Small Business and Family Enterprise Ombudsman (the ASBFEO) welcomes the opportunity to make a submission to the Department of Employment and Workplace Relations' (DEWR) consultation on the proposed Secure Australian Jobs Framework (the Framework) and the consequential amendments to the Commonwealth Supplier Code of Conduct.

The ASBFEO supports workplaces that are safe, lawful and provide fair pay and conditions. In a small business context, workplace arrangements should also enable employers and employees to discuss and agree arrangements that work for both parties, within the requirements of the *Fair Work Act 2009*.

We acknowledge that the proposed Framework is intended to promote good employment practices among businesses delivering goods and services to the Australian Government, including secure work and fair treatment of workers, fair wages and conditions, safe workplaces, gender equality and diversity, and local workforce capability. However, some of the indicators in the Framework go beyond what is necessary to comply with existing workplace laws or do not reflect the operating realities of many small businesses who contract to government. It is therefore likely that expectations set by the Framework will be difficult for many small businesses to meet.

This is particularly important where expectations are applied through supply chains. Small businesses operating as subcontractors may be required to demonstrate compliance with expectations designed for larger businesses, despite having fewer resources, less specialist capability and different workforce arrangements.

This may increase barriers to participation for small businesses, increase compliance and delivery costs, and ultimately prices paid by government. It may also create broader labour market effects if businesses competing for government work offer wages and conditions that cannot be sustainably matched by small businesses operating in non-government markets who are compliant with their *Fair Work Act* obligations. This could draw workers towards government-contracted activity and exacerbate labour and skills shortages elsewhere in the economy.

Given these issues, the ASBFEO is concerned that the proposed Framework:

- may duplicate or overlay existing workplace, procurement and other regulatory requirements without clearly identifying the regulatory gap it is intended to address
- provides insufficient clarity about how procurement officials will assess whether businesses demonstrate compliance with the Framework, or how reporting requirements for larger entities will be applied to small business

- includes indicators that go beyond what is required to comply with existing workplace obligations and may not be proportionate to the size, capability and operating circumstances of small businesses
- even if exemptions are considered for small businesses, our experience reviewing other compliance regimes that place obligations on larger enterprises has found that those enterprises invariably pass reporting and assurance requirements down their supply chain to small suppliers.

Taken together, the expectations set by the proposed Framework risk making it more difficult or costly for small businesses to compete for Commonwealth contracts or participate in government supply chains. This would undermine the Government's objective of sourcing 25% of Commonwealth procurement below $1 billion and 40% of procurement below $20 million from small and medium enterprises, and may reduce competition and diversity in the government supplier market.

The Framework risks duplicating and undermining existing regulatory frameworks

The ASBFEO is concerned that there is not a clear policy rationale for requiring suppliers to the Commonwealth to meet higher expectations beyond those established through existing legislation and the Commonwealth Supplier Code of Conduct. The Supplier Code already sets robust expectations in relation to ethical behaviour, professional conduct, risk management and compliance with relevant laws. It also addresses several of the areas covered by the proposed Framework, including work health and safety, workplace rights and entitlements, human rights and modern slavery risks in supply chains, and diversity.

Where the Framework seeks to set expectations beyond existing legal requirements, the ASBFEO considers there should be a clear policy rationale for doing so and impact analysis that includes an assessment of whether the expectations are proportionate and risk-based for businesses of different sizes and operating circumstances.

As the Supplier Code of Conduct applies to suppliers and their subcontractors, demonstrating compliance with the Framework is likely to require tenderers to request information, evidence or assurances from businesses throughout their supply chain. This would extend compliance to businesses not directly subject to those obligations and as a result, obligations that currently apply to larger businesses — such as modern slavery and workforce gender equality reporting — would effectively pass through to small businesses in Commonwealth supply chains. Increasing the cost and complexity of Commonwealth procurement would only discourage small business participation.

Clarify compliance requirements

The ASBFEO is concerned that, while the proposed Framework states that it is not intended to alter or override existing legislative, regulatory or contractual obligations, it does set expectations that in some areas are beyond what is required under the law. Procurement officials will need to assess business tenders against these expectations, but there is no guidance or information on how this will be done.

Clarity is also needed on whether indicators that relate to current obligations that apply to larger businesses — such as modern slavery and workforce gender equality reporting — will impose requirements on small businesses, either as a direct supplier to government or as subcontractor to a larger organisation.

If the Framework is to proceed the Government must clarify how compliance will be assessed in Commonwealth procurement, including whether requirements will be imposed on small

businesses tendering directly or participating in larger businesses' supply chains. In particular, the Government must clarify:

- how procurement officials will assess a tendering business against the Framework, including how that assessment will take account of the business's size, capability and circumstances.
- what information or evidence businesses will be required to demonstrate compliance with the Framework
- whether indicators linked to existing statutory reporting regimes, including modern slavery and workplace gender equality reporting, will apply to small businesses that are otherwise outside the legislative thresholds for those regimes.

Recognising small business operating realities

The impacts of the Framework should be considered in the context of how small businesses operate and participate in Commonwealth procurement.

Small businesses generally operate with leaner workforces and administrative structures than larger businesses and usually do not have dedicated human resources, policy and legal or compliance functions. Procurement requirements that rely on formal policies, reporting processes and sophisticated administrative systems can therefore impose proportionately greater costs on smaller suppliers, and create barriers to participation.

Small businesses participating in procurement also need to retain sufficient flexibility to respond to the project-based nature of government contracting. Many small businesses maintain a core permanent workforce and employ additional staff or engage specialist capability once a contract is secured. Expecting a small business to maintain a history of a workforce of permanent employees and have in place systems and organisational structures akin to much larger firms, regardless of whether project work is secured, would impose costs that are likely to be unsustainable.

The ability of small businesses to maintain workforce flexibility is also relevant to expectations around gender equality and diversity. The ASBFEO supports efforts to improve workforce diversity; however, smaller businesses have fewer recruitment opportunities through which to influence the composition of their workforce and may need to recruit according to the skills and labour available when work is secured.

This challenge is more acute for small businesses in regional areas, where access to suitably skilled workers is a persistent problem. Given these circumstances, expectations relating to workforce composition or diversity outcomes may further constrain a small business's capacity to respond to changing workforce requirements. The Framework should recognise these labour market realities and avoid setting expectations that may be unrealistic for individual small businesses to influence or demonstrate.

Similar considerations apply where small businesses participate indirectly through larger suppliers. Specialist and technical small businesses may lack the scale to tender for an entire project but contribute specialist expertise through subcontracting arrangements with principal contractors. Stakeholder consultation identified this as an important pathway for smaller technical consultancies to participate in major projects.

These operating characteristics do not necessarily indicate poorer employment practices or lower standards. Rather, they illustrate that how a small business operates can be different to that of a larger organisation. If a Framework is to be implemented it must allow for small businesses to remain agile and responsive to changing project and labour-market conditions and ensure that the expectations it sets are proportionate to their size, capacity and operating realities.

It is also important to recognise that the vast majority of small business operators are self-employed and participation in government procurement can provide a vital business opportunity which may lead to growth and expansion. Irrespective of any potential growth, their contribution to the economy and community is not diminished as a non-employing entity. If the Framework encourages preferences for businesses which are themselves employing entities, this may lead to the unintended exclusion of worthy self-employed small businesses.

Implementation

If the Framework proceeds, implementation must ensure that it does not create a barrier to small business participation in Commonwealth procurement. The expectations it sets must be risk-based and proportionate to the size and circumstances of the supplier and the nature and value of the procurement — this includes a recognition that small businesses can achieve good workplace outcomes without maintaining the formal systems, workforce structures and administrative capability of larger organisations. It is also important that procurement officials are provided with clear guidance on how to evaluate a potential supplier against the Framework.

Consideration must also be given to potential impacts the proposed Framework could have beyond Commonwealth procurement. Government procurement should not distort competition for scarce labour or make it more difficult for small businesses undertaking non-government work to attract and retain workers. This is particularly important in regional and specialist labour markets where access to appropriately skilled workers may already be constrained.

I additionally note that the proposed Framework is being considered at a time when small businesses are already navigating significant legislative changes and regulatory reforms across a range of settings including taxation, reporting and the payments system to name only a few. These changes are also happening within a challenging global and domestic environment. Additional obligations which impact small businesses (including where those impacts are indirect) will contribute to these burdens and will be unlikely be welcomed by small businesses, their advisers and representatives.

If you require any further information, please do not hesitate to contact the Policy and Advocacy team via email at advocacy@asbfeo.gov.au.

Yours sincerely



Lynda McAlary-Smith

Australian Small Business and Family Enterprise Ombudsman