

Tuesday, 8<sup>th</sup> January 2019

Kathleen de Kleuver  
Black Economy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

[Blackeconomy@treasury.gov.au](mailto:Blackeconomy@treasury.gov.au)

Dear Ms de Kleuver,

**RE: Draft Procurement Policy Feedback Submission**

RCSA is the peak industry body for the recruitment, staffing and workforce solutions industry in Australia, representing some 3000 corporate and individual members.

I am writing to provide some feedback with respect to the draft procurement policy guidelines released in November last year, in light of the Black Economy Taskforce report.

The RCSA welcomes the government's initiative in strengthening integrity within government procurement processes. The RCSA has been in the forefront of encouraging supply chain integrity with our industry-leading Workforce Services Provider Certification scheme known as StaffSure.

Whilst we are certainly pleased with the government's strategy of leading by example in demonstrating best practice principles in the wider Australian economy, our feedback with regards to the draft procurement policy are as follows.

**Commencement**

The scheduled start date of 1 July 2019 for the commencement of the new procurement process is a reasonable commencing date as it falls in a new financial year. However, some members have raised concerns about the Australian Tax Office's (ATO) capacity to cope with a rapid influx of Statement of Tax Record (STR) requests.

The uncertainties stem from the already sluggish turnaround process when communicating with the ATO, especially as it heads towards the end of the financial year. Our members are concerned about the impact this may have on the timeliness of their tender submissions.

If the ATO is unable to deliver STR requests within the stated four business day timeframe, the process may adversely impact tender submission by members. Resource constraints at the ATO, let alone the demanding end of financial year commencement date, is likely to result in a strained ATO with ever increasing deadlines.

***A commencement date that is more suitable to the ATO, in order to cope with a high influx of STR requests is ideal for the RCSA as it will result in more definite turnaround times, and a smoother commencement experience, especially at the all-imperative initial stage of the policy.***

## Policy Requirements

Whilst members are satisfied with the policy requirement considerations, we are concerned of the record keeping requirements imposed on first-tier sub-contractors.

As per the policy requirements, in the event a contract is awarded and sub-contractors are engaged to the value exceeding \$4 million, the prime contractor is obligated to hold STR of the relevant subcontractors.

***We are concerned that that this requirement maybe subject to exploitation by rouge primary contractors and subcontractors. Our members have noted that since it is the primary contractor's responsibility to ensure they hold a copy of the subcontractor's STR, overtime, a mixture of poor record keeping, fear of audit and a lack of transparency will result in rogue sub-contractors suppling to primary contractors.***

***What is more concerning is that a fear of audit and harm to the procurement contract, may result in primary contractors continuing operations without disclosure in the wake of an engaged rouge sub-contractor, thereby corrupting the supply chain and creating an uneven playing field for vigilantly responsible tenderers.***

## Applying the rules to New and Foreign Tenderers

RCSA members are concerned that the hurdle requirements for new and foreign entities are disproportionally low compared to the stringent independent (ATO) assessments imposed on domestic entities. New and Foreign entities have little to prove beyond statement declarations by the entity in question.

***Members are concerned that the new procurement policy unintentionally favours new and foreign entities as they are treated as "having a satisfactory tax record" merely with the submission of appropriate declarations. Hence, foreign and new firms will be able to trade on equal footing with other suppliers who must prove a good tax record over an extended period.***

***Furthermore, The RCSA believes that such easing of requirements for new and foreign tenderers whilst concurrently imposing stringent STR requirements for established and domestic tenderers may pave an easy route and may even encourage phoenixing activity.***

### Applying the rules to Sub-Contractors

The RCSA is also concerned about the imposed STR reporting being restricted to primary contractors and the first-tier sub-contractors, as limiting the STR obligation up to first-tier sub-contractors is likely to result in corruption further down the supply chain.

**These concerns were explicitly raised in the recent senate enquiry into the exploitation of general and specialist cleaners working in retail chains for contracting or subcontracting cleaning companies, where ‘pyramid contracting’ along with phoenixing activity were specifically mentioned.**

**Unless government tenders intend on limiting subcontracting to a single tier past the primary contract holder, in order to level the playing field it is best that STR requirements be extended to sub-contracting parties regardless of the subcontracting tier. Otherwise, the framework may be subject to exploitation by rouge contractors using complex pyramid contracting and phoenixing.**

I thank you for extending the opportunity for the RCSA to submit feedback with regards to the procurement policy initiative and apologise that our submission was not provided by the 21 December 2018 deadline. Should you have any further questions, please do not hesitate to contact me.

Yours sincerely,



Charles Cameron  
Chief Executive Officer

## About RCSA

RCSA is the peak industry body for recruitment, staffing and workforce solutions in Australia and New Zealand representing over 3,000 Corporate and Individual Members.

RCSA promotes and facilitates professional practice within the recruitment and staffing industry. It sets the benchmark for industry standards through representation, education, research and business advisory support to our member organisations and accredited professionals who are bound by the ACCC authorised RCSA Code for Professional Conduct through membership.

RCSA is a proud member of the World Employment Confederation, the voice of the employment industry at global level, representing labour market enablers in 50 countries and 7 of the largest international workforce solutions companies.