



NSW Parliamentary Inquiry

## **Nook Studios | Additional Information 2**

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### **Further information about procurement schemes**

#### **Contingency Workplace Scheme**

The scheme is **mandatory** under Procurement Board Direction [PBD-2021-04 Approved procurement arrangements](#).<sup>1</sup>

*The Contingent Workforce Scheme:*

- *has the advantage of not 'locking-up' a market, with new suppliers being able to register at any time*
- *allows flexible arrangements, including adding new categories (buyers) and role types (suppliers)*
- *reduces the professional indemnity and public liability insurance requirements of suppliers from \$20 million to \$5 million, other than transport where specific insurances apply.*

*The scheme encourages small and medium businesses (SMEs) to apply by allowing application by category and by region.*

Contingent labour is for **'recruiters only'**.

*"Contingent labour is defined as a person who works for a buyer (for example, a government agency) but is paid by a supplier (a recruitment agency)."*<sup>2</sup>

Source: [buy.nsw — Contingent workforce scheme information](#)

The Contingent Workforce Scheme defines the source of contingent workers as coming from **recruiters only**.

The exclusive nature of this scheme is arguably a problem for small businesses, other diverse suppliers and also for the NSW Government.

By expanding the source of workers beyond recruiters, the NSW Government could be creating a mutually beneficial ecosystem. One important benefit is allowing the government to access a workforces of diverse specialist businesses, who can deliver outcomes and capability uplift through their expertise, ways of working and the values of the businesses they represent — rather than simply having the required skills that are reviewed by often non-expert recruiters, and no wider team to call upon if the worker experiences any technical challenges in the role.

### **ICT Professional Services Scheme missing research, design and engagement as a primary category**

While ICT Professional Services Scheme and the Contingent Workforce Scheme have similar categories, the ICT Professional Services Scheme is missing **research, design and engagement** as primary categories. And so, when NSW Government representatives are seeking these types of workers, they may go to the Contingent Workforce Scheme, where only recruiters are able to provide those workers.

A recruiter seeking to fulfil a day rate contract also creates a system effect that takes expertise and talented workers away from small businesses. For example we receive regular approaches from recruiters to fulfil design roles that we could and should be able to provide directly. Small businesses should not need to go through a ‘middle person’ to be able to contract with the government. Businesses are at risk of being gutted by recruiters - unless changes are made to make it easier for businesses to supply and buyers to find and engage us.

A better designed system could keep the workers within the small business, supply the expertise but help the business to grow. As happens in companies supplying developers and other technical roles more easily engaged via the ICT scheme.

Reform would be in line with the listed objectives of the NSW Government contingent workforce strategy, especially:

- *introduce best practice services and systems to drive value*
- *attract increased numbers of skilled candidates to NSW Government*
- *enhance procurement processes and systems for more effective and efficient*
- *deployment of the contingent workforce increase opportunities for **participation by small and medium enterprises** by reducing red tape*

## **Contingent Labour Scheme includes some conditions which may be onerous for small and new businesses that are not recruiters**

The scheme rules include:

### *Vendor Management System*

*2.9.1 The Principal may implement a Vendor Management System (VMS) in relation to the engagement of Contingent Workers by Eligible Customers. It is anticipated that the VMS selected will be accessed via the internet by both Eligible Customer and the Supplier. All Suppliers on this Scheme agree to work with the VMS at no additional cost to the Customer. All Suppliers agree to accept recipient created tax invoices (RCTI).*

Vendor Management Systems may be a burden and additional costs for small businesses providing a small number of people. The benefit of these systems is that data will be captured about roles, rates, and people who are performing roles for analysis.

In clause 2.13 relating to financial capability and stability, new businesses are ruled out, as a '3 year financial record' is required. This poses a risk of exclusion for some small businesses such as ours who pay our staff but reinvest all profits into our social purpose and innovation. For example we run at a loss, because innovation costs are recouped through research and development grants provided by the federal government.

### *2.13 Financial Capacity and Stability*

*Suppliers seeking admission to the Scheme must be financially viable and demonstrate a record of financial viability over a 3-year period immediately prior to their Application for entry to the Scheme and/or meet any necessary financial security provisions requested by the Principal Representative. The Supplier must be able to provide uninterrupted payment of Contingent Workers' entitlements engaged for the purposes of this Scheme. The Principal reserves the right to audit Supplier's financial records prior to acceptance to the Scheme and for verification purposes during the course of the Scheme.*

We can understand the benefits for the Contingent Workforce in assisting agencies to manage large amounts of people required for large infrastructure projects, however labour hire practices are impacting other small businesses in this sector and leading to business closures. The recent revelations about the CFMEU and connections to labour hire firms is case in point.

An issue that could be overcome is the lack of data for transparency, analysis, and learning about new skill sets, approaches, and market needs.

## **Project and program contributors records**

One of our advocacy areas explored further in our Yuwaya Ngarra-lit work is what needs to be done to connect government policies, budgets and project and program initiatives to outcomes.

When summarising the outcome or a milestone of a project this would also be an opportunity to accurately record who was involved in a project or program and what they contributed.

For example the film and television industry credits allow for the formal acknowledgement and recognition of every business and individual that contributed. It makes it very clear about who was on the crew, what they did, and what it took to create the product.

Governments should be able to have a system that allows the public to track who is and/or has been contracted. A similar approach would also allow government representatives who had exposure to a project they thought was effective, to easily discover who was involved and then invite that supplier to be part of an appropriate procurement process related to a current project.

These credits would also allow suppliers to connect interested buyers to an official record of their contribution on government projects, which may be more reliable than statements on their own website or other channels. This would also help stop businesses from taking credit for work they did not do.

### **Plan, Source, Manage**

Lastly, we believe the Plan, Source, Manage Framework needs to be updated in order for the government to deliver social value and development.

The framing is currently on 'business needs' which obviously impacts approaches and outcomes - and the design of schemes.

We recommend the Committee read the OECD Good Practice Principles for Public Service Design and Delivery in the Digital Age. <sup>3</sup>

The OECD Good Practice Principles for Service Design and Delivery in the Digital Age have been developed by the OECD Working Party of Senior Digital Government Officials (E-Leaders) and reflect the combined insights of service design and delivery principles gathered from across OECD member countries. This includes Australia and NSW.

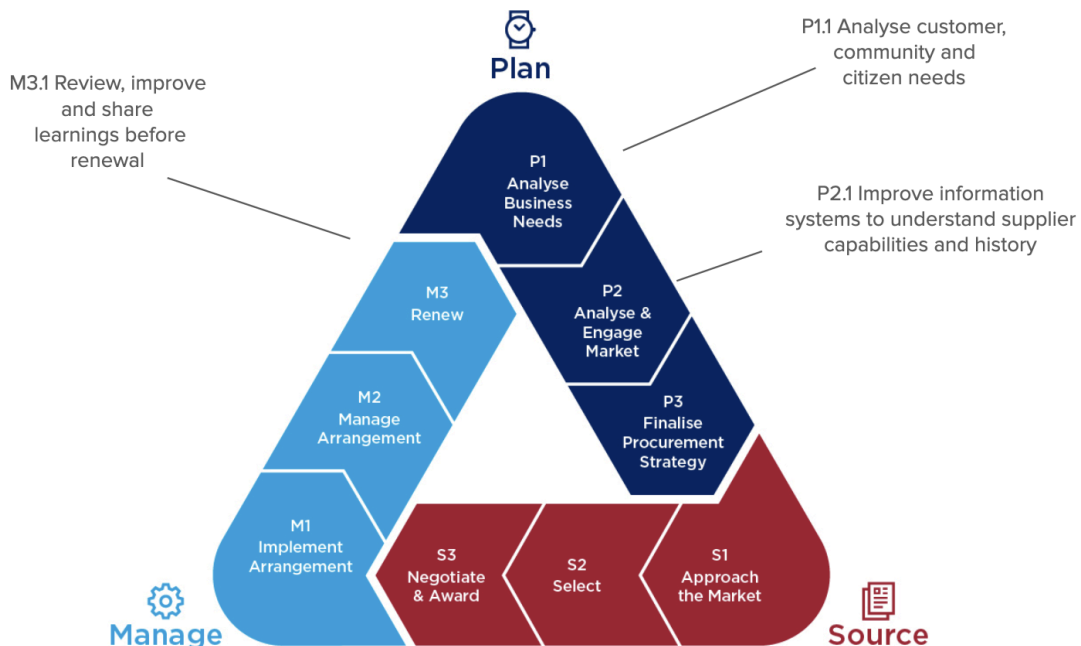
These nine Good Practice Principles are arranged under the three pillars of:

- build accessible, ethical and equitable public services that prioritise user needs, rather than government needs
- deliver with impact, at scale and with pace
- be accountable and transparent in the design and delivery of public services to reinforce and strengthen public trust

NSW Government's 'plan, source, manage' procurement framework, is noticeably missing any analysis of customer, community and citizen needs, as well as any reflection and continuous improvement step before renewal.

To be able to deliver substantial social value and better services procurement needs to be properly deconstructed and designed bottom up. This includes new ways of working such as agile procurement.

To meet contemporary societies needs and ensure that decisions are not creating more harm than good - we recommend scenario and consequence mapping exercises become an integral part of the legal and policy redesign processes.



Sources:

1. <https://arp.nsw.gov.au/pbd-2021-04-approved-procurement-arrangements/>
2. <https://www.info.buy.nsw.gov.au/schemes/contingent-workforce-scheme>

3. [https://www.oecd.org/en/publications/2022/11/oecd-good-practice-principles-for-public-service-design-and-delivery-in-the-digital-age\\_f3845ec3.html](https://www.oecd.org/en/publications/2022/11/oecd-good-practice-principles-for-public-service-design-and-delivery-in-the-digital-age_f3845ec3.html)