

Submission  
No 44

**INQUIRY INTO PROCUREMENT PRACTICES OF  
GOVERNMENT AGENCIES IN NEW SOUTH WALES AND  
ITS IMPACT ON THE SOCIAL DEVELOPMENT OF THE  
PEOPLE OF NEW SOUTH WALES**

**Name:** Mrs RHONDA BELL

**Date Received:** 1 March 2024

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The Hon Dr. Sarah Kaine MLC  
Chair, Standing Committee on Social Issues  
NSW Legislative Council  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Dr Kaine,

Re: Inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales

Authors: Rhonda Bell, PhD candidate from UTS Business School and supervisors Professor Simon Darcy, Associate Professor Alice Klettner and Professor Rachel Wilson.

### **Introduction**

Thank you for the opportunity to provide a submission to the Committee.

I am conducting a PhD into the social procurement policies in government infrastructure projects at the UTS Business School. The research focusses on requirements for construction firms to employ people from disadvantaged backgrounds in government projects.

I write this submission together with my PhD supervisors, to present some of the preliminary findings of my research which I believe can offer valuable insights into aspects of the inquiry. The submission particularly relates to point (e) the evaluation criteria used in tenders and how they are weighted and point (g) the ability of NSW procurement practices to provide opportunities for participation diversity, inclusion and participation of disadvantaged groups.

### **Brief Overview of the Research**

The research focusses on the contractual requirements to employ people from disadvantaged backgrounds '*the candidates*' in government infrastructure projects. These requirements arise under the New South Wales (NSW) Procurement Policy Framework and the Infrastructure Skills Legacy Program <sup>1</sup> '*the policies*'. Importantly the study includes the aspect of these policies that allows relevant agencies to request additional employment requirements (usually people from disadvantaged backgrounds) for each project.

Previous research has identified barriers and enablers to the implementation of social procurement in the construction industry generally <sup>2</sup>. The overarching objective of this new research is to explore the impact of the policies during the tender process, implementation and in particular the roles of third-party policy intermediaries. Third party policy intermediaries are individuals from organisations outside the project assisting to implement the policies. These roles vary although broadly they can be the link between the construction firms and not for profit organisations that might supply or train candidates. The research will also find solutions to barriers to the implementation and improve policy design.

The project conducted semi-structured interviews with a range of stakeholders including construction managers, procurement officers and employment leads, policy and construction experts, managers from training institutions and third-party policy intermediaries. Importantly the criterion for inclusion and participation in this study is a direct professional association with the implementation of the policies.

### **Relevance to the Inquiry**

1. The recommendations relate primarily to the following two aspects of the terms of reference:

*(g) how they are weighed in making a decision to award a contract, in particular consideration of:*

*(iii) social, economic and labour market outcomes*

*(iv) subcontracting arrangements*

### **Perceived issues**

2. While firms **increasingly recognise and accept the purpose and importance of the policies**, the **cost of their implementation causes tension**, at least while policies are still awarded or perceived as still awarded on price.
3. Participant firms contend they are **genuinely committed to policy implementation**, and these contentions appear independently supportable. Participants report sometimes not bidding for a project because they were of the view the requirements by a particular agency could not be fulfilled.
4. There is at least anecdotal evidence of **some firms** (not those participating in this study) agree to the policy requirements in the tender process however apprehending policy goals may not be practicable and preferring to pay the relevant fine if applicable or not report accurately.
5. There was considerable support for the view that there are **missed opportunities for candidates** (being people from disadvantaged backgrounds) to be employed particularly at the beginning of some projects. These opportunities were sometimes missed and appear to be **attributable to time pressures and a difficulty locating and training suitable candidates** fulfil the requirements.

## Suggested solutions

6. Greater transparency about the weight given to the ‘non-cost factors’ in the tender process plus **greater reward and weight** given for the proven successful implementation of these policies.
7. Some participants suggested a **hybrid system** where firms could receive a rating for successfully implementing these policies.
8. Some of the solutions outlined below may also assist the above-mentioned issues.

*(g) The NSW Government's procurement practices, in particular its ability to:*  
*(ii) improve opportunities for quality training and workforce participation*  
*(iii) provide opportunities for diversity, inclusion, and the participation of disadvantaged groups, including women and minorities.*

## Policy Design Issues

9. As a broad observation it is noted that in addition to the compulsory employment requirements under the Infrastructure Skills Legacy Program, each relevant **agency can request additional employment requirements** for each project. While there are advantages to this it can create **tension** particularly with tendering practices and potentially exacerbates other issues (below).
10. Specifically, participants reported that **subcontractors have difficulties meeting these requirements** if for example ‘*the next contract*’ suddenly requires a specific measurable step [such as a particular quota for a different disadvantaged group]. This may conflict with or create ambiguities with previous requirements or priorities. It may even conflict with prior goal setting and associated pro-activity. Unfortunately, it can sometimes have a collateral **effect of providing less support for the identified candidates** compared with an equally supportive but more consistent approach within agencies.
11. Participants also report that **despite embedding a disadvantaged priority group into their employment structure, this will not be taken into account in the awarding of another project where a different priority group are required** to be employed. The issue is not one of priority for a particular group; to the contrary it is supporting social development it with consistency flexibility and the nurturing benefits of long-term planning.
12. The **policies are not consistently implemented across the relevant portfolio of agencies**. For example, participants reported that where the agency placed greater importance on the policies, this led to higher expectations in terms of accountability and implementation.

## Other issues

13. With some exceptions participants **perceived the policies to have created short term social value** but often fall short of creating social sustainability. While preliminary findings indicate the project-based nature of the construction industry is a contributing factor it does not sufficiently explain this failure which is undoubtedly multi-factorial.
14. A **significant practical problem that participants report** is if a job or apprenticeship ends prematurely or their role on a project is completed candidates may not know where to find assistance and require support to find another job.

## Policy framework suggestions for improvement

15. Overall, while allowing flexibility and recognising there will be different priority groups around specific projects, **streamlining of employment requirements across the relevant agencies will assist implementation**. This also recognises that specific barriers to employment for each group vary <sup>3,4</sup>.

## The role of the Third-Party Policy Intermediaries

16. There were a range of **improvements to the policy design canvassed by participants**. Briefly, several critical and cost-effective roles have emerged that might be established to support the implementation of these policies:

- (a) In the context of these policies individual **third party policy intermediaries assist to bring together firms and not for profit organisations** that might supply candidates together. Third-party policy intermediaries have been explored in developed areas of policy studies such as health<sup>5</sup>.

Participants report **not being able to find and train candidates in time** once a project starts. **Platforms available are not always suitable for project-based nature of the construction**. Specifically, and practically, the **creation of this role would help head contractors** or subcontractors find organisations that might supply suitable candidates. This role could be funded through expansion of similar roles in the Industry Capability Network or one of the larger training organisations.

- (b) The **employment lead or procurement officer** within a project that deals with the subcontractors who largely are responsible for implementing these policies **is critical**

**to the successful implementation of these policies** <sup>6</sup>. However, candidates require ongoing support from outside the project<sup>7</sup>. Generally, construction managers who operate under considerable time and cost pressures cannot assist candidates. It is **critical that there is an individual the candidates and ideally the on-sight construction managers can contact if any issues arise**. This role could be fulfilled by the organisation that has supplied the candidates or by a training institution.

- (c) As outlined above participants indicated that candidates may not know who to contact for help to find another job if a position ends prematurely or at the completion of a project. Practical measures to assist candidates may include a **dedicated hotline to assist candidates to find other opportunities**. This role might also be an expansion of an existing role within larger training organisations.

## **Conclusion**

Notwithstanding the findings outlined here the project documented multiple instances where these policies were implemented successfully and accordingly had a significant positive impact on the candidates involved.

## Authors

Rhonda Bell completed an undergraduate degree in law and has practiced as a Solicitor and then Barrister for many years. Rhonda completed a master's degree at the University of Technology, Sydney in Not-for-Profit Management part time. Rhonda is currently undertaking a PHD fulltime on the implementation of the social procurement policies in government infrastructure projects focussing on the requirements to employ people from disadvantaged backgrounds.

Professor Simon Darcy specialises in developing inclusive organisational approaches for diversity groups, including people with disability. Professor Darcy has had research published in leading international journals. Professor Darcy has also co-authored of a number of books. Professor Darcy's work has spanned tourism, sport management, events, volunteers, transport, employment, entrepreneurship, the built environment and disability services. His work is characterized by an evidence-based approach to changing practice in the business, government and not-for-profit sectors.

Associate Professor Alice Klettner is a Senior Lecturer in the Business School, University of Technology Sydney. Her research is interdisciplinary, bridging the boundaries of law, management and finance with an underlying interest in psychology. She has published on a broad range of topics including the role and responsibilities of boards of directors; regulation of corporate sustainability; gender diversity in leadership and business and human rights. Associate Professor Klettner teaches in the areas of business law and ethics, corporations' law, strategic management and leadership, corporate governance, corporate social responsibility, and sustainability.

Professor Rachel Wilson is the Professor of Social Impact and an internationally recognised expert in education. Professor Wilson is currently Associate Head of School, Teaching and Learning. Professor Wilson has a long track record of diverse social science research looking at education, work, health, management, leadership, public policy and broader human development. She has extensive expertise in research and evaluation for social impact; and is committed to driving social change through leadership in education. Professor Wilson holds degrees in psychology, audiology, teaching and research methods, and completed her PhD at Oxford in 2002. Professor Wilson has extensive experience in educational committee work, research reviews, evidence briefs for policy, and she provides expert analysis and comment for government and media. She has held senior positions in government, corporate and not-for-profit organizations and currently sits on two Boards.

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