

Submission
No 51

**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**

Organisation: Council for Intellectual Disability

Date Received: 7 March 2024



Submission to inquiry

Procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales

Contact

Jim Simpson, Senior Advocate

Who we are

NSW Council for Intellectual Disability (CID) is a disability rights organisation led by people with intellectual disability. For more than 65 years we have been working to ensure a community where all people with intellectual disability are included and valued.

We speak up on the big issues, we provide information and learning opportunities, we empower individuals and communities.

Focus of our submission

This submission focuses on the need for procurement practices to enhance the employment of people with disability, in particular people with intellectual disability.

This issue falls within the following terms of reference of the inquiry:

- (c) the evaluation criteria used in tenders and how they are weighted in making a decision to award a contract, in particular consideration of....
 - (iii) social, economic and labour market outcomes
- (f) the New South Wales 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

ABN: 25 001 318 967

A: Level 2, Suite 203, 418A Elizabeth Street, Surry Hills, NSW 2010

P: 1800 424065 **E:** info@cid.org.au **W:** www.cid.org.au

Basically, there are two kinds of employment that people with intellectual disability experience:

- “Open” employment where a person with intellectual disability works alongside their non-disabled peers in an ordinary workplace. This is an inclusive work environment.
- “Australian Disability Enterprises” (formerly called sheltered workshops) where people with intellectual disability work together, usually doing repetitive and basic work at very low wages. This is a segregated work environment.

In this submission, we argue that government procurement practices should favour businesses that employ people with disability, specifically including people with intellectual disability, alongside non-disabled peers in an inclusive workplace.

The statutory framework

The UN Convention on the Rights of Persons with Disability Article 27 says that people with disability have the right to work on an equal basis with others in an accessible and inclusive work environment. This specifically includes employing persons with disability in the public sector and governments promoting employment of people with disability in the private sector.

The Disability Inclusion Act 2014 NSW includes:

- An object “to promote the independence and social and economic inclusion of people with disability” (section 3(b))
- A general principle that “People with disability have the right to participate in and contribute to social and economic life and should be supported to develop and enhance their skills and experience” (section 4(3))

Employment and people with intellectual disability in Australia

“Employers don’t see us as people. They need to stop judging and stereotyping people and start seeing us as human” – CID Project Worker.

Rates of employment for people with intellectual disability are far below rates in the general public, as shown by [data from the ABS](#). There are many barriers to open employment for people with intellectual disability. Some of the key barriers identified by people with intellectual disability are:

- Poor attitudes towards people with intellectual disability, particularly from employers.
- Lack of knowledge and support for employers who want to hire people with intellectual disability.
- Lack of role modelling from government about how to effectively and inclusively employ people with intellectual disability
- The “polished pathway” from school to Australian Disability Enterprises.

There is a common misconception amongst employers that people with intellectual disability cannot do “normal” jobs. Rather than being in open employment alongside peers without disability, it is assumed that people with intellectual disability should be in segregated employment in Australian Disability Enterprises.

By contrast, we at CID employ many people with intellectual disability as integral parts of our various project teams.

Job Support, a NSW disability employment service which specialised in working with people with intellectual disability has a success rate of approximately 65% in finding open employment for people with intellectual disability. <https://jobsupport.org.au/our-results/>

We have also been running NDIS Information Linkages and Capacity Building projects that build the employment skills and confidence of people with intellectual disability and employers.

CID’s More Than Just a Job Program provides training for government and non-government employers to make them confident and capable employers of people with intellectual disability. Our Inclusion Works program works similarly with local councils.

Based on our experience and best practice, CID recommends the following strategies for employers to provide fair employment opportunities to people with intellectual disability:

- Ensuring there is specific expertise in human resources and diversity teams.
- Providing relevant information in accessible formats, in particular Easy Read.
- Adjusting capability frameworks and job classification systems. Instead of having fixed capabilities and roles, job descriptions and levels should be adapted.
- Strength based assessment of prospective employees.
- Job carving (carving out duties for an employee with intellectual disability, including, where appropriate, moving duties between employees) or customised employment (creating a new role) to capitalise on individual strengths.
- Tailored training and supervision.

Employment of people with intellectual disability in the NSW government sector

Under the previous NSW government, one of the Premier’s Priorities was that, by 2025, 5.6% of government sector jobs would be filled by people with disability. However the [State of the Public Sector Report 2021](#) said that only 2.5% of government sector employees had disability and this number in fact had fallen from 3.8% since 2012.

The government does not collect data on employment rates for people with different kinds of disability. However, CID's enquiries strongly indicate that there are very few people with intellectual disability in government jobs.

Prior to the 2023 election, the Labor Party committed to reaching the above 5.6% target and undertook to improve recruitment and retention of employees with disability, specifically including people with intellectual disability (Email from Kate Washington, Shadow Minister for Disability Inclusion, to CID dated 14 March 2023).

Requirements in procurement practices

We are not aware of any requirements in NSW Government procurement practices that contractors employ people with disability in mainstream jobs. For example, the [Infrastructure Skills Legacy Program | NSW Government](#) includes requirements for major construction contractors to meet minimum requirements in employment of women, young people and Aboriginal people but has no requirements for employment of people with disability.

This is anomalous since construction contractors will tend to have many more entry level jobs than the public sector and therefore easy scope to employ people with intellectual disability.

Conversely, the Buy NSW site includes encouragement for government agencies to buy from Australian Disability Enterprises (ADEs) [Australian disability enterprises | info.buy.nsw](#).

The NSW Government Small and Medium Enterprise and Regional Procurement Policy also encourage government agencies to buy from small and medium enterprises including "disability employment organisations" which again will at least generally be ADEs.

What the Disability Royal Commission (DRC) recommended

The DRC recommended wide ranging national action to improve open employment opportunities for people with disability including governments adopting and implementing targets for employment of people with disability, with a specific focus on people with cognitive disability. (Recommendations 7.18 – 7.22)

Most relevant to this submission, the DRC recommended that governments "adopt procurement policies that ... favour businesses able to demonstrate ... employment opportunities for people with disability in open, inclusive and accessible settings, including people with intellectual disability or cognitive impairments". (Recommendation 7.23)

The NDIS should embed an "open employment first" approach in its employment strategy (Recommendation 7.29).

The Australian Government Department of Social services should develop a plan to support people to move from ADEs into open employment options.
(Recommendation 7.30)

The majority of Commissioners recommended that Australian Disability Enterprises be transformed into “social firms” providing workplaces in which employees with disability can work alongside non-disabled peers receiving support to undertake work task, develop skills and transition to further open employment.

In CID’s view, ADEs should at least be reformed into desegregated social enterprises offering a range of pathways including into fully open employment.

Benefits of moving to a social firm model with an emphasis on transitioning to open employment

The DRC saw people with disability as gaining significant economic and social benefits from ADEs moving to a social firm model with an emphasis on transition to open employment.

Employees with disability would be provided with opportunities to engage in professional development, including pursuing tertiary education. There would be clear pathways for progression and promotion in the organisation and enhanced opportunities to move into open employment.

The move to social firms should involve significant support for both people with disability and local employers. This support would include specific interventions such as transition planning for individual employees and training local employers to adopt customised employment approaches.

CID sees transition to a social firm model as benefitting local businesses by increasing their ability to secure and retain talent from a diverse range of potential employees and thus increase productivity of the business overall.

Recommendations to the inquiry

NSW government procurement practices should include the following:

1. For major contracts, a requirement that the contractor employ a substantial number of people with disability, specifically including a substantial number of people with intellectual disability.
2. A general preference for engaging contractors who provide open employment to people with disability, specifically including people with intellectual disability.
3. A gradual phasing out of preference for Australian Disability Enterprises unless they demonstrate a commitment to transitioning into being desegregated social firms that provide pathways to further open employment.