

**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: Unions NSW

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Procurement practices of government agencies in NSW and its impact on the social development of the people of NSW

Inquiry by Parliament of NSW Standing
Committee on Social Issues

Unions NSW Submission
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About Unions NSW

Unions NSW is the peak body for trade unions and union members in New South Wales. We have 48 affiliated trade unions and trades and labour councils, who collectively represent more than 600,000 union members working across all industries in NSW, including in all areas of the NSW public sector.

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Part A: Introduction

1. Unions NSW commends the NSW Legislative Council Standing Committee on Social Issues' (**Committee**) inquiry into the procurement practices of government agencies in NSW and its impact on the social development of the people of NSW. In particular, we commend the breadth of this inquiry, for its focus on all aspects of NSW government procurement, and for prioritising the social development of the people of NSW.
2. The value of the NSW Government's procurement of goods and services is substantial. In the NSW Government submission to this inquiry, the value of total procurement including all goods, services and construction was valued at more than \$40 billion in the 2022-23 financial year¹. In its 2023-2024 budget, on infrastructure expenditure alone, the NSW Government stated that it will be spending \$116.5 billion to the 2026-27 financial year².
3. Given the substantial value of NSW Government procurement, the potential for procurement to positively impact on the social development is self-evidently significant. However, over the past decade, the previous Government's procurement decisions and practices for many NSW government agencies have deprioritised the economic and social development of NSW and its people, in favour (often unsuccessfully)³ of pursuing the lowest cost. As such, the past decade has seen NSW miss out on significant opportunities for both social and economic development of its people through the strategic use of procurement policy. It has also led to project cost blow outs which, in hindsight, would have seen the money better invested in companies in NSW or Australia⁴.
4. In our submission, we provide recommendations in three key areas where the NSW Government can improve its procurement practices to positively impact on the social and economic development of NSW and its people.
5. **First, the NSW government can contribute positively to the social development of NSW by procuring locally made products from local manufacturers in key strategic areas.** We focus on two specific case studies: personal protective equipment (PPE) and transport infrastructure and provide recommendations as to how the NSW Government can develop and improve NSW's sovereign capability by bringing back local manufacturing to NSW. These issues and our recommendations are contained in **Part C**.

¹ NSW Small Business Commissioner, [Submission No 3 to Parliament of NSW Standing Committee on Social Issues, 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](#) (8 January 2024).

² Infrastructure NSW, '[NSW Infrastructure Pipeline](#)' (webpage, accessed 1 June 2024).

³ See Part C, Case Study 2 of this Submission.

⁴ Felix Zerbib '[Build it Here: The economic cost of offshoring major transport projects in NSW](#)' (The McKell Institute, June 2021).

6. **Second, the NSW government must ensure that companies in receipt of procurement contracts observe ethical and best practice labour standards.** In consultation with our affiliates, many examples of poor labour standards undertaken by employers receiving NSW Government contracts were identified. These examples highlight the reputational risks for the NSW Government whose procurement decisions result in taxpayer dollars being used to fund the undermining of wages and conditions and in some cases rampant wage theft. These issues and our suggested recommendations are dealt with in **Part D**.
7. **Third, the NSW Government must resource an independent statutory body responsible for auditing, compliance, and enforcement of its procurement strategy.** A Secure Jobs Commission would have powers to set the strategic direction for procurement. That strategic direction must be guided by tripartite input (being government, unions and industry). This Commission should be responsible for ensuring compliance with an enforceable NSW Secure Local Jobs code amongst successful tendering entities. These issues and our recommendations are contained in **Part E**.
8. Unions NSW supports the view of economist and academic Marianna Mazzucato in regards to the role of Government expenditure *"The role of government is not to promote growth for growth's sake, but rather to direct growth such that it benefits more people and is sustainable"*.⁵
9. The NSW Government is the single largest employer in the southern hemisphere⁶. Its expenditure has significant direct and indirect impacts on the wages and conditions of hundreds of thousands of workers. The NSW Government has an obligation to its citizens to use its procurement powers responsibly, including to support the growth of domestic industry and to ensure labour rights and standards of its citizens are respected across its supply chains.

⁵ Mariana Mazzucato, ['This is a bold opportunity to refocus Australia's economy'](#), *Australian Financial Review* (online, 13 May 2024).

⁶ NSW Government Public Service Commission, [Public Service Commission Annual Report 2019-2020](#) (online, 2020), p 58.

Part B: List of all recommendations

10. Unions NSW's full list of **14 recommendations** for this inquiry are as follows:

Recommendation 1: The NSW Government should introduce weightings for 'public good' considerations in the awarding of procurement contracts.

These 'public good' considerations should include, but not be limited to:

- suppliers who can provide local content, jobs creation and ethical supply chains;
- best practice labour rights and conditions as well as an established and on-going relationship with its workforce and their industrial representatives;
- the supplier's history as an employer such as industrial disputes, breaches and WHS record;
- suppliers who can demonstrate a commitment to local investment, local job creation, use of local content and increasing state government revenue;
- additional weightings for job creation in regions with industry decline; and
- the 'whole-of-life' costs and economic impacts of outsourcing or offshoring procurement contracts.

The appropriate weightings for these considerations would be determined by the NSW Government in consultation with employee and employer representatives.

Unions NSW believes that 30% is an appropriate floor for such weightings.

Recommendation 2: Mandate 50% local content (exclusive of labour costs) for major state government contracts.

Recommendation 3: Trial '*set budget*' procurement contracts for contracts of \$10 million or more, in which the contract specifies a set monetary budget value.

Under a set budget contract, the tendering entities would no longer compete on lowest cost, but rather on other considerations such as use of local content, job creation, timeframes or other matters.

Following this trial, the NSW Government should provide a summary of impact and consider further steps.

Recommendation 4: Make '*best practice labour rights and standards*' and '*ethical supply chains*' key values of the NSW Government Procurement Policy Framework or other relevant procurement guidelines.

Recommendation 5: The NSW Government to begin tripartite consultation on developing an NSW Secure Jobs Code, using the ACT Secure Local Jobs code as a model.

This consultation would resolve issues such as which industries are specified for coverage by the Code, the value threshold of contracts covered by the code, the validity period for certification under the Code, the process for certification, compliance and enforcement measures to enforce the Code, and other associated issues.

The NSW Secure Local Jobs Code would require tendering for government contracts to undertake Code certification to ensure compliance with all relevant laws and support adoption of best practise workplace relations and health and safety practises. The code would include an assessment of tenderers' ethical treatment of workers, to be considered alongside other non-financial value for money assessments including ethical conduct.

This two-stage process ensures that procurement is in line with government procurement rules, guarantees that tenders are not determined solely based on economic considerations at the expense of ethical considerations, and protects government against the reputational risks associated with engaging tenderers with unethical employment practices.

Where possible the terms in any government procurement contract should mirror the code, ensuring the contract can be cancelled or modified where the certificate-holder is non-compliant.

Recommendation 6: Mandate additional weightings for companies with existing worker agreements for contracts worth \$10 million or more.

Recommendation 7: For all major contracts, the tendering Government department must obtain economic and financial analysis from the NSW Treasury of providing it the service inhouse as a comparison to the private supplier's tenders.

This analysis must consider the 'whole of life' costs and economic impacts of choosing suppliers that will result in outsourcing or offshoring the tender work.

Recommendation 8: The NSW Government should legislate an independent body to:

- Oversee and provide advice to the Government on implementation of its procurement policy,
- Audit and enforce compliance with the NSW Secure Local Jobs Code.

The commission would be headed by a Commissioner with independent decision making and responsibility for monitoring and enforcement of the Government's procurement policy including but not limited to the NSW Secure Local Jobs Code.

The commission would include an advisory body made of up representatives from the NSW Government, employee and industry representatives.

The commission should also include separate industry advisory bodies with employee and employer representation to reflect that the procurement needs of industries may differ.

Recommendation 9: The NSW Government would publish analysis of procurement contracts of \$1B with mandatory consideration of wider public good and economic benefit.

Recommendation 10: The NSW Government develop a range of compliance and enforcement measures for suppliers who deliberately and/or continuously fail to meet the conditions of their tender, including but not limited to the NSW Secure Local Jobs Code.

Recommendation 11: Grant registered trade unions standing to bring complaints or evidence of non-compliance by successful suppliers with the NSW Local Secure Jobs Code for investigation by the relevant statutory body.

Recommendation 12: Develop capacity of NSW Government procurement officers with respect to industrial legislation and instruments to promote compliance with the NSW Local Secure Jobs Code.

Recommendation 13: The NSW Government to maintain a public register of NSW Secure Local certified suppliers. This measure will ensure that there is transparency and accountability for the suppliers in fulfilling their stated obligations under the NSW Local Secure Jobs Code.

Recommendation 14: The NSW Government should consider partnering with non-government bodies to run industrial compliance programs in industries with heavy use of government procurement contracts.

Part C: Bringing back local manufacturing to NSW

11. In the past few decades, the story of manufacturing in NSW and Australia has been one of continued decline. Manufacturing was 25% of our country's GDP post-war in the 1960s⁷ and has declined to just 5.7% of our GDP.⁸
12. Up until the COVID-19 pandemic in 2020, a dominant view of Australia's manufacturing decline was that it was a natural trajectory of advanced economies such as Australia and as such, there was no cause for concern over the decline.
13. In this submission, the union movement continues to argue this is a complacent and not a sustainable policy position especially post-COVID. We argue the NSW Government should be proactively bringing back manufacturing in strategic areas to NSW in areas that will economically and socially develop the manufacturing capacity of NSW.
14. NSW should also have an industry policy which aggressively supports manufacturing capacity within NSW especially in innovative and internationally competitive products.
15. There are many misconceptions why the decline of manufacturing in Australia is no cause for concern.
16. The first misconception is NSW and Australia are part of an internationalised community where free trade and global cooperation enable us to secure products not made in Australia from another country making them⁹. The COVID-19 pandemic has shown this view is not universally true, for example, the accessibility of Personal Protective Equipment (PPE) and medical supplies.
17. At the start of the COVID-19 pandemic, when all countries were unable to source the necessary PPE and medical supplies, Australia could not rely on the global supply chain to source sufficient products. Countries who were key manufacturers and exporters of these goods adopted policies limiting or ceasing the exporting of these goods to protect the health of their own citizens (This issue is further addressed in Case Study 1).
18. The second argument often cited is Australia's lack of cost-competitiveness and capacity in manufacturing due to the higher business costs. Statements from the former Premier and ministers of the previous NSW Liberal National Government are emblematic of this view.

⁷ See Productivity Commission, '[Trends in Australian Manufacturing](#)' (August 2003): "Manufacturing accounted for one in four dollars of national output in the 1960s, but only one in eight by the turn of the century."

⁸ Reserve Bank of Australia, '[Composition of the Australian Economy Snapshot](#)' (online 9 May 2024).

⁹ Jim Stanford, '[Pandemic Shows Australia Needs Domestic Manufacturing](#)', *The Australia Institute* (online, 27 April 2020).

19. The former Minister for Transport Andrew Constance argued the justification for the manufacture of NSW transport infrastructure is because local manufacturing is 25% more expensive.¹⁰ Similarly, on the capacity of NSW manufacturing, former NSW Premier Gladys Berejiklian said, “Australia and NSW are not good at building trains, that’s why we have to purchase them”.¹¹
20. The repeated budget blowouts in the offshored manufacture of trains, trams, buses and ferries under the previous Government seriously calls into question the accuracy of the view that manufacturing in NSW and Australia lacks cost-competitiveness. For example, some of the budget blowouts on transport infrastructure is more than the “25%” cost premium touted by the former Transport Minister. Our view is there are important social and economic reasons to support and increase domestic manufacturing capacity in key initiatives (This issue is further addressed in Case Study 2 and the remainder of Part B)¹².

Why local manufacturing is important to the social development of NSW

21. Local manufacturing is important to the social and economic development of NSW for several reasons. Firstly, the multiplier effects of local manufacturing on domestic supply chains. Manufacturers rely on inputs from other sectors of the economy, whether primary, secondary or tertiary, to produce their goods:

“These supply chain relationships explain why, when a major manufacturing facility opens (or, unfortunately, closes), the impact on regional and national labor markets is magnified. Jobs in supply industries (some of which may be several steps removed from the final manufacturing customer) are also ultimately affected. These ‘multiplier effects’ are especially strong in manufacturing (and much higher than in other sectors) because of the industry’s more developed and complex supply chain.”¹³

22. Unions NSW believes it is important the NSW Government, in its procuring from manufacturers, consider whether a local manufacturer positively contributes to the economic and social development of NSW by creating local jobs or boosting other sectors of the local economy.

¹⁰ Sarah Gerathy, ‘[NSW inter-city train fleet to be built overseas](#)’, ABC News (online, 18 August 2016).

¹¹ Connor Pearce, ‘[Berejiklian criticised for NSW train manufacturing comments](#)’, RailExpress (online, 3 September 2020)

¹² Felix Zerbib ‘[Build it Here: The economic cost of offshoring major transport projects in NSW](#)’ (The McKell Institute, June 2021)

¹³ Jim Stanford, ‘[A fair share for Australian manufacturing: Manufacturing renewal for the post-COVID economy](#)’, (The Centre for Future Work at the Australian Institute, July 2020), p 13.

23. The second reason is strengthening our supply chain security, so we are not susceptible to manufacturing shortages in key areas of the economy as a result of international shocks outside Australia's control.
24. Finally, domestic manufacturing significantly contributes to productivity growth through innovation. As argued by Dr Stanford¹⁴, the manufacturing industry's inherent characteristics naturally drive investments in research and development, particularly in process automation, as manufacturing is more prone to automation than industries like the service sector. Even when service industry tasks are automated or supported by new technologies, these technologies are inherently created or produced by the manufacturing sector. NSW's domestic manufacturing sector has the capacity to provide productivity enhancements across the broader economy.

Case study 1: Personal Protective Equipment (PPE) and medical supplies

25. The experience of NSW and Australia with PPE and medical supplies during the COVID-19 pandemic supports the arguments Unions NSW has made above.
26. At the commencement of the COVID-19 pandemic in early 2020, there was a shortage of PPE for health workers. The consequences of PPE shortages are obvious and well-known especially on an unvaccinated workforce. Without PPE, health workers could not protect themselves against infection and risked taking COVID home to unvaccinated family members and to those they shared their homes. From as early as March 2020 the lack of PPE had serious health implications as it *"forced hospitals to stop elective surgeries and left aged care providers with serious threats to their ability to deliver services"*.¹⁵
27. The COVID-19 pandemic exposed the weakness in Australia's reliance on the global supply chain for PPE and medicines. At the start of the COVID-19 pandemic, Australia imported most of its PPE from China. As China (and the rest of the world) was grappling with protecting the health of its own population, it implemented export restrictions on PPE. Meanwhile, onshore in Australia, there was only one factory manufacturing surgical masks (Med-Con in Victoria) and only one on-shore manufacturer of respirators (ResMed)¹⁶.

¹⁴ Jim Stanford, '[Pandemic Shows Australia Needs Domestic Manufacturing](#)', *The Australia Institute* (online, 27 April 2020).

¹⁵ Christopher Knaus, '[Aged care providers with Covid-19 cases had to ask for PPE from emergency stockpile](#)', *The Guardian* (online, 1 April 2020).

¹⁶ Grace Tobin, '[Coronavirus fires up production at Australia's only medical mask factory](#)', *ABC News* (online, 27 March 2020); Emma Koehn, '[Tale of two markets: How ResMed has won and lost during the COVID crisis](#)', *The Sydney Morning Herald* (online, 5 July 2020).

28. Similarly, when Remdesivir was found to be one of the first drugs to work against COVID-19, the United States purchased almost all the supply, leaving none for the rest of the world¹⁷.
29. When Australia finally obtained supplies of face masks in mid-2020, the Therapeutic Goods Association (TGA) deregistered at least 286 face mask products for not being of surgical grade under TGA regulations¹⁸. The TGA also concluded if those masks were used in medical environments it may *increase*, rather than decrease the spread of COVID¹⁹.
30. Given so many face mask products purchased by Australians were not TGA approved the level of waste was high. In February 2022, it was reported NSW Health had discarded \$775.8 million worth of PPE²⁰. It is estimated this was half of the NSW Health's PPE stockpile at the time and included \$150 million worth of face masks which failed to meet Australian standards.²¹
31. Over the course of 2020, virtually all Australian state and territory governments had to established schemes to boost the local PPE supply chain.²²
32. It may have been cheaper to purchase PPE and medical supplies from an overseas supplier. However, this case study demonstrates in a pandemic or other emergency, Australia may be unable to rely on global supply chains as:
- goods may not be available to purchase; or
 - Australia cannot reliably assess the quality of goods in an emergency setting.
33. This case study is a cautionary tale for our governments. We must examine whether we have supply chain security in key areas of manufacturing susceptible to international trading shocks. Our governments must identify and provide investment in key areas of manufacturing to safeguard the wellbeing of our citizens and the social and economic development of NSW.

¹⁷ ['US criticised for hoarding world's supply of coronavirus drug remdesivir'](#), ABC News (online, 2 July 2020).

¹⁸ Melissa Davey, ['Hundreds of types of face masks withdrawn in Australia amid safety fears'](#), The Guardian (online, 7 August 2020).

¹⁹ Melissa Davey, ['Hundreds of types of face masks withdrawn in Australia amid safety fears'](#), The Guardian (online, 7 August 2020).

²⁰ Crystal Wu, ['NSW Opposition Leader Chris Minns slams state government for throwing out \\$775 million worth of faulty and expired PPE'](#) Sky News (online, 3 February 2022).

²¹ Crystal Wu, ['NSW Opposition Leader Chris Minns slams state government for throwing out \\$775 million worth of faulty and expired PPE'](#) Sky News (online, 3 February 2022).

²² Christopher Knaus, ['Manufacturing face shields within days: how Australian industry is pivoting to fight coronavirus'](#), The Guardian (online, 5 April 2020).

Case study 2: Transport infrastructure: trains, trams, ferries and buses

34. The second case study relies on the report '*Build It Here*' commissioned by Unions NSW and undertaken by the McKell Institute in June 2021.²³
35. *Build It Here* assessed six major public transport procurements of the former NSW Coalition Government. It identifies the economic and social cost of offshoring these projects. The projects analysed by this report were:
- New Intercity Fleet;
 - New Suburban Fleet;
 - Sydney Metro;
 - Light Rail Trams;
 - Sydney Ferries; and
 - B-Line Buses.
36. The report found in a majority of the projects, 4 out of 6, the supposed financial savings of offshoring relative to domestic production of the projects would have been more than offset by broader economic benefits to NSW had the projects been manufactured domestically.
37. In the case of the two other projects the report found "...the overall cost savings...is marginal and may be eroded when factoring in other costs such as delays and design flaws²⁴".
38. The argument commonly presented in favour of offshoring major government procurement contracts is the supposed lower financial costs. This was a constant refrain of former Transport Minister Constance that manufacturing locally is 25% more expensive. The cost blowouts identified in the McKell Institute's '*Build It Here*' report clearly contradicts the position of the former Coalition Government.
39. What is missing from NSW government procurement analysis is the consideration of a broader 'public good' outside of the initial cost of the contract, which was seen with the projects above inevitably run over budget. Unions NSW believes in the process for the procurement of major government projects (such as the transport infrastructure contracts considered by the McKell Institute) benefits in addition to a narrow view of "cost" should be taken into account. Some of the areas for inclusion include but are not limited to local job creation, increased industry capacity,

²³ Felix Zerbib '[Build it Here: The economic cost of offshoring major transport projects in NSW](#)' (The McKell Institute, June 2021).

²⁴ Felix Zerbib '[Build it Here: The economic cost of offshoring major transport projects in NSW](#)' (The McKell Institute, June 2021), p 4.

increased taxation revenue, and the indirect economic benefits to associated industry or supporting services.

40. Broader 'public good' considerations are not a new idea in Australia. These considerations are already a component of the Commonwealth's Procurement Rules²⁵. The rules require government procurement officials to consider whether procurement provides "broader economic benefit" such as "providing skills and training that benefit Australian communities, employing workers in Australia, employing apprentices or trainees in Australia, paying taxes in Australia, contributing to positive social outcomes in Australian communities, such as engaging unemployed people."²⁶
41. In our case study of transport infrastructure projects, the McKell Institute report estimates approximately 1,746 direct and 2,445 indirect jobs could have been created if four of the six transport infrastructure projects contracts had not been offshored.²⁷ The creation of jobs in NSW is an example of how the incorporation of "public good" considerations can provide for the social development of NSW as well as provide economic benefits to the state.
42. We hope the current NSW Government can reverse the practice and consequence of the previous LNP Coalition NSW Government's narrow "cost-focused" approach to procurement. As has been shown, there is value in considering the public good in procurement decisions, rather than taking a narrow "cost-focused" approach, which paradoxically in the projects discussed above, cost the NSW Government more money than if the NSW Government had decided to onshore the production of these projects.

²⁵ Australian Government Department of Finance, '[Commonwealth Procurement Rules: Achieving value for money](#)' (13 June 2023)

²⁶ Australian Government Department of Finance, '[Consideration of broader domestic economy benefits in procurement](#)' (July 2022).

²⁷ Felix Zerbib '[Build it Here: The economic cost of offshoring major transport projects in NSW](#)' (The McKell Institute, June 2021), p 12.

Recommendations: Framework for bringing back local manufacturing

43. Unions NSW's three recommendations below would assist the NSW Government in designing a procurement policy which promotes public good considerations and supports domestic manufacturing capacity in NSW.

Recommendation 1: The NSW Government should introduce weightings for 'public good' considerations in the awarding of procurement contracts.

These 'public good' considerations should include, but not be limited to:

- suppliers who can provide local content, jobs creation and ethical supply chains;
- best practice labour rights and conditions as well as an established and on-going relationship with its workforce and their industrial representatives;
- the supplier's history as an employer such as industrial disputes, breaches and WHS record;
- suppliers who can demonstrate a commitment to local investment, local job creation, use of local content and increasing state government revenue;
- additional weightings for job creation in regions with industry decline; and
- the 'whole-of-life' costs and economic impacts of outsourcing or offshoring procurement contracts.

The appropriate weightings for these considerations would be determined by the NSW Government in consultation with employee and employer representatives.

Unions NSW believes that 30% is an appropriate floor for such weightings.

Recommendation 2: Mandate 50% local content (exclusive of labour costs) for major state government contracts.

Recommendation 3: Trial 'set budget' procurement contracts for contracts of \$10 million or more, in which the contract specifies a set monetary budget value.

Under a set budget contract, the tendering entities would no longer compete on lowest cost, but rather on other considerations such as use of local content, job creation, timeframes or other matters.

Following this trial, the NSW Government should provide a summary of impact and consider further steps.

Part D: Ensuring respect for labour standards

44. It is accepted in modern NSW and Australia that our governments have an obligation in conjunction with employers to create safe and healthy workplaces, create and maintain secure jobs and ensure all workers are paid appropriately.
45. As a *direct* employer of 400,000 public sector employees, the NSW government has enacted laws that affirm its desire, as the direct employer, to have effective and fair employment arrangements in the public sector,²⁸ and protect its employees against harm to their health, safety, and welfare.²⁹ Recently, the NSW Government has also reaffirmed its commitment to be an employer of choice.³⁰
46. Through its procurement of goods and services, the NSW Government is an *indirect* hirer of workers. We are not aware of any single source that quantifies the total number of workers NSW Government procurement indirectly hires, however the number is significant within the NSW economy. Further the impact of the NSW Government on the prevailing wages and conditions across the NSW labour market through procurement is also significant.
47. Unions NSW encourages the Committee to map the number of indirect jobs funded by NSW Government procurement, given a focus of the inquiry is labour laws and the breadth of the terms of this inquiry (i.e. “the current state of procurement”).
48. Our affiliated unions have provided estimates of the number of indirect jobs flowing from government procurement decisions:
- a. UWU estimates that approximately 7,000 cleaners are employed under whole-of-government contracts;³¹
 - b. PSA estimates that approximately 4,218 workers are hired under contract labour arrangements in various government agencies;³² and
 - c. ASU estimates that there are approximately 4,000 contract workers at Sydney Water out of a possible 7,000 total workers.³³

²⁸ [Government Sector Employment Act 2013 \(NSW\) s 4\(a\)\(ii\)](#).

²⁹ [Work Health and Safety Act 2011 \(NSW\) s 3\(1\)\(a\)](#).

³⁰ See for example, Public Service Commission, [State of the NSW Public Sector Report 2022](#), p 5 (“These initiatives will promote the NSW public sector as an employer of choice.”).

³¹ United Workers Union, [‘NSW School Cleaners Say End This Failed Privatisation: United Workers Union Report on the Contracting of School and Whole-Of-Government Cleaning Services’](#) (February 2024), p 3.

³² Public Service Association, [Answers to Questions on Notice](#), Parliament of NSW Standing Committee on Social Issues, 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 (13 September 2023).

³³ Australian Services Union, [Answers to Questions on Notice](#), Parliament of NSW Standing Committee on Social Issues, 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 (22 October 2023).

49. The NSW Government should concern itself with the labour rights and standards experienced by workers from the companies it procures products and services. Not doing so exposes the government to risks including reputational risks associated with taxpayer dollars indirectly funding incidents of wage theft, poor work health and safety standards, or modern slavery.
50. Unions NSW believes this Committee should be ensuring there is a robust framework within the procurement policy which incorporates Environment, Social and Governance (ESG) requirements and meets community expectations of business and government. In indirectly hiring workers, taxpayers of NSW would expect the NSW Government not to engage labour hire companies with a history of wage theft, poor work and health safety standards, who engage in modern slavery, whose workforce is made up of insecure workers, or refuse to recognise the rights of workers to freedom of association.
51. Presently, the NSW Government Procurement Policy Framework³⁴ lists five goals:
- a. "value for money";
 - b. "fair and open competition";
 - c. "easy to do business";
 - d. "innovation"; and
 - e. "economic development, social outcomes and sustainability".
52. The NSW procurement framework makes no mention of ensuring labour rights and standards are upheld beyond compliance with the *Modern Slavery Act 2018* (NSW). The framework makes only a single reference to consultation with unions or employee representatives for the narrow purposes of the purchasing of fleet when deviating from the existing policy.

NSW should implement a Secure Local Jobs Code for procurement

53. The NSW Government should ensure its providers of labour services are meeting their legal requirements to maintain appropriate labour standards. Unions NSW believes the implement of a Secure Local Jobs Code for procurement would assist in maintaining appropriate labour standards.
54. In preparing the submission, Unions NSW reviewed the how other States and Territories ensure their providers of labour maintain appropriate labour rights and standards. Unions NSW is of the view the ACT's Secure Local Jobs Code is the most effective model³⁵. The ACT Secure Local Jobs Code applies to contracts of any value for construction, cleaning, security, traffic management and services and to

³⁴ NSW Government Treasury, [NSW Government Procurement Policy Framework](#) (March 2024).

³⁵ ACT Government (Procurement ACT), [Secure Local Jobs Code](#).

contracts greater than \$200,000 for services or works where labour is the highest component within the contract (with some exemptions).³⁶

55. The ACT Secure Local Jobs Code requires tendering entities to obtain a Secure Local Jobs Code certificate through an independent audit.³⁷ The Government's compliance body is the Secure Local Job Code Registrar who is responsible for assessing the audit report, certificate application and past compliance with requirements under the Code. Upon certification, the entity submits a self-assessed declaration called the Ethical Treatment of Workers Evaluation as part of the tender assessment process.³⁸ The list of Code-certified entities are then published online in a public register.³⁹
56. The ACT Secure Local Jobs Code is an effective two-gate model for ensuring workplace rights and conditions are of the highest standards in industries in significant receipt of Government funding or procurement.
57. Unions NSW recommends the NSW Government begin a tripartite consultation with business and unions to develop a NSW Secure Jobs Code, using the ACT's Secure Local Jobs Code as a model. This consultation would resolve issues such as:
- a. a list of industries to be specified or exempt from coverage of the Code;
 - b. the value threshold of contracts covered by the code;
 - c. the validity period for certification under the Code; and
 - d. the process for certification, compliance and enforcement measures to enforce the Code.
58. Case studies 3 to 5 illustrate instances of NSW Government procurement of a substantial value, where the service providers exhibit highly questionable labour practices. We believe if a NSW Secure Local Jobs Code is to be established and enforced as a condition for procurement contracts, the NSW Government would be able to influence, mitigate, or even prevent instances of poor labour practices.
59. Further, if service providers continue to engage in flagrant breaches of labour laws, the NSW Government must be able to terminate their engagement of these companies.

³⁶ ACT Government (Procurement ACT), [Secure Local Jobs Code: Business](#).

³⁷ ACT Government (Procurement ACT), [Secure Local Jobs Code: Apply](#).

³⁸ ACT Government (Procurement ACT), [Secure Jobs Local Code: Ethical Treatment of Workers Evaluation](#)

³⁹ ACT Government (Procurement ACT), [Secure Jobs Local Code: Code Certified Entities](#). As at 7 June 2024, the website shows 2,365 certificates issued.

Case study 3: NSW Government cleaning contracts

60. In 1994, the NSW Government outsourced government cleaning services to the private sector. This decision to outsource cleaning services to the private sector was predominantly ideological, given the NSW Government Cleaning Service at the time of outsourcing was turning “a healthy profit of \$13 million in 1991-92, and again in 1992-93”.⁴⁰
61. In 2024, the failures of the outsourcing of NSW Government cleaning are undeniable. In recent research conducted by the United Workers Union (UWU), they found the three decades system of privatised cleaning in NSW led to a decline of both cleaning and labour standards.⁴¹
62. We commend the report of the UWU analysing the poor state of NSW Government contract cleaning and their submission to this committee.⁴²
63. The UWU report found ongoing poor work health and safety issues. This concern was already known in the 1990s when outsourcing began,⁴³ and it has only been exacerbated in three decades since. For example, a cleaner is expected to complete, on average, 600 plus cleaning tasks per day allocates 43 seconds per task, the pressure of which can lead to injuries within the workplace.⁴⁴ This finding correlates with iCare data which places school cleaners as the 5th highest of 500 jobs classifications in workers compensation premiums and demonstrates an unacceptable rate and severity of the work injuries suffered by school cleaners. By this measure, cleaning is currently as dangerous an occupation as construction work.
64. To confirm this point below is a table of the top 10 occupations by workers compensation premiums below:

⁴⁰ George Argyrous, “Book Review: Lyn Fraser, Impact of Contracting Out of Female NESB Workers: Case Study of the NSW Government Cleaning Service, Ethnic Communities Council of NSW Inc, 1997.” (1998) 9(1) *The Economic and Labour Relations Review*, pp150-154 at p 151.

⁴¹ United Workers Union, [‘NSW School Cleaners Say End This Failed Privatisation: United Workers Union Report on the Contracting of School and Whole-Of-Government Cleaning Services’](#) (February 2024).

⁴² United Workers Union, [‘NSW School Cleaners Say End This Failed Privatisation: United Workers Union Report on the Contracting of School and Whole-Of-Government Cleaning Services’](#) (February 2024).

⁴³ George Argyrous, “Book Review: Lyn Fraser, Impact of Contracting Out of Female NESB Workers: Case Study of the NSW Government Cleaning Service, Ethnic Communities Council of NSW Inc, 1997.” (1998) 9(1) *The Economic and Labour Relations Review*, pp150-154.

⁴⁴ United Workers Union, [‘NSW School Cleaners Say End This Failed Privatisation: United Workers Union Report on the Contracting of School and Whole-Of-Government Cleaning Services’](#) (February 2024), pp 3 and 6-8.

Top 10 Workers Compensation Premiums, NSW, by occupation⁴⁵

Rank	Industry Classification	WIC Rate
#1	Professional Footballers	12.72%
#2	Concrete Construction Services	12.72%
#3	Shearing Services	10.44%
#4	Furniture Delivery and Removal Service	10.19%
#5	Cleaning Services (NSW Government Schools and Sites Contracts)	9.69%
#6	Log Sawmilling	9.69%
#7	Demolition	9.46%
#8	Bricklaying Services	9.46%
#9	Cement Rendering and Plastering	9.46%
#10	Line Fishing	8.78%

65. It appears the NSW Government has taken an active decision to ignore the behaviour of the companies procured to undertake government cleaning. It can only be assumed in the procurement process and the monitoring of the contracts there is no oversight by the government, nor any obligation legal or otherwise on the contractor to ensure there is a safe workplace for the individuals undertaking the cleaning work.
66. The cost of engaging private cleaning services for the government has seen little or marginal increase in pay accompanied by an increase in the pressure on workers leading to the provision of an unsafe environment for these workers. Given these factors it is hard to see how the government is getting value for money as a taxpayer and as custodian of the nominal insurer iCare.
67. While the cost of contracts has increased from 36% to 58% since 2019, the modern award pay rates of cleaners, which cleaners commonly receive, has increased only by 19.10%. The pay of cleaners in NSW lags other states and territories. The lowest classified cleaner in NSW is paid \$24.07 per hour, compared to \$25.76 per hour in Tasmania, \$27.81 per hour in ACT, \$29.64 per hour in WA and \$30.24 in Queensland.⁴⁶ Even on these low rates of pay, underpayments are commonly reported with 52% of school cleaners reporting problems receiving pay in the past 5 years and 64% of cleaners reporting an unsatisfactory response from their employer upon raising the issue.⁴⁷

⁴⁵ Table adapted from United Workers Union, ['NSW School Cleaners Say End This Failed Privatisation: United Workers Union Report on the Contracting of School and Whole-Of-Government Cleaning Services'](#) (February 2024), p 8.

⁴⁶ United Workers Union, ['NSW School Cleaners Say End This Failed Privatisation: United Workers Union Report on the Contracting of School and Whole-Of-Government Cleaning Services'](#) (February 2024), pp 3 and 6-8.

⁴⁷ United Workers Union, ['NSW School Cleaners Say End This Failed Privatisation: United Workers Union Report on the Contracting of School and Whole-Of-Government Cleaning Services'](#) (February 2024), pp 9-11 and 13.

68. By contrast, the estimated profits of the current cleaning contracts are between \$103 to \$144 million, over 5 years.⁴⁸ The salary of CEOs of the major companies winning NSW Government cleaning contracts overshadow the pay of cleaners by at least a factor of 94:1 up to 173:1.⁴⁹

Company	CEO pay (2022)	Ratio of CEO vs cleaner pay
Serco	\$7.8M	173:1
ISS Facility Services	\$4.83M	107:1
Ventia	\$4.25M	94:1

69. The issue of cleaners being constantly injured at work and poorly paid, while taxpayer money is being used to line the pockets of multinational companies and their executives, is not a model of social or economic development for NSW. Unions NSW supports the UWU in calling for the NSW Government to engage in direct employment of government cleaners and to be an industry leader of 'best practice labour rights and standards' and 'ethical supply chains'. Improved standards and outcomes for workers can only be achieved through a rigorous NSW Government Procurement Policy Framework.⁵⁰
70. Unions NSW supports the UWU recommendation for the NSW Government to support safe, secure, and decent jobs in the security and cleaning industries by requiring the contractors they engage to adhere to industry best practice codes of conduct by including fair employment framework terms within lease terms when the Government is a tenant in buildings.⁵¹

Case study 4: NSW Government contract with 7Eleven to provide opal card services

71. In 2014 the NSW Government entered a partnership with retail franchise chain 7-Eleven to sell and recharge Opal Cards on the public transport network.⁵² The NSW Government decided at the time Opal Cards would not be sold at train stations as was the arrangement with paper tickets, opting instead to partner with the existing

⁴⁸ United Workers Union, ['NSW School Cleaners Say End This Failed Privatisation: United Workers Union Report on the Contracting of School and Whole-Of-Government Cleaning Services'](#) (February 2024), p 12.

⁴⁹ Table adapted from United Workers Union, ['NSW School Cleaners Say End This Failed Privatisation: United Workers Union Report on the Contracting of School and Whole-Of-Government Cleaning Services'](#) (February 2024), p 5.

⁵⁰ United Workers Union, [Submission No 38 to Parliament of NSW Standing Committee on Social Issues, 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](#) (1 March 2024).

⁵¹ United Workers Union, [Submission No 38 to Parliament of NSW Standing Committee on Social Issues, 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](#) (1 March 2024).

⁵² 'Opal transport cards available at Sydney's 7-Elevens and coming to Woolworths', *The Sydney Morning Herald* (online, 8 August 2014).

network of a private company⁵³. This decision resulted in numerous redundancies for ticket-sellers across the NSW transport network⁵⁴.

72. In August 2015, a joint ABC Four Corners and Fairfax investigation found widespread evidence of wage theft and exploitation, predominantly amongst migrant workers, was occurring across the 7-Eleven franchise network⁵⁵. The exploitation ranged from “cash-back schemes, paying unlawful flat rates to workers, and falsifying records.”⁵⁶
73. On 7 September 2015, the Shop, Distributive and Allied Employees Association, NSW Branch (SDA) wrote to the then Transport Minister Constance to raise concerns about 7-Eleven’s serious breaches of labour laws while being the key partner of the NSW Government in selling Opal Cards. The SDA sought assurances from then-Minister Constance if it was not already a requirement 7-Eleven be compliant with all labour laws in order to fulfil its partnership with the Government, then the Minister should make it a condition of the contracts. We are advised Minister Constance never responded to the correspondence.
74. In 2020, 7-Eleven was ordered to pay back \$175 million in stolen wages to more than 4,000 workers across its franchise network.⁵⁷ As far as we can ascertain, the NSW Government has never sought to require compliance with labour laws as a key condition in the continuation of the NSW Government’s partnership with 7-Eleven to provide Opal Cards. Nor has the NSW Government undertaken an audit of the labour conditions of 7-Eleven’s workforce before engaging as a key provider of Opal Cards.

Case study 5: NSW Government with Amazon web services

75. In 2022, the NSW Department of Customer Service entered a \$57.6 million three-year deal with Amazon Webs Services (AWS) to procure cloud services⁵⁸. The Department of Customer Service joined a range of other NSW Government entities such as Service NSW in the use of AWS for its cloud and data storage⁵⁹. AWS is a subsidiary of its Global parent company Amazon who operate across a range of industries, most prominently in e-commerce. According to its website AWS is a ‘world-leading cloud

⁵³ Jacob Saulwick and Ben Grubb, [Kiosks give Opal card users option to travel 'anonymously'](#), *The Sydney Morning Herald* (online, 28 July 2014).

⁵⁴ Jacob Saulwick, [‘Sydney Trains ticket-sellers set to lose their jobs’](#), *The Sydney Morning Herald* (online, 9 December 2013).

⁵⁵ Emilia Terzon, [‘7-Eleven to pay \\$98m after franchisees allege its model was 'a lemon' based on wage theft’](#), *ABC News* (online, 6 April 2022).

⁵⁶ Rachel Clayton, [‘7-Eleven owners pay more than \\$173 million to employees five years after wages scandal revealed’](#), *ABC News* (online, 30 October 2020).

⁵⁷ Nick Bonyhady, [‘Allan Fels says 7-Eleven's \\$173m wage theft bill should have been higher’](#), *The Sydney Morning Herald* (online, 30 October 2020).

⁵⁸ Justin Hendry, [‘NSW DCS signs AWS megadeal for \\$57.6m’](#), *Itnews* (online, 3 June 2022)

⁵⁹ Justin Hendry, [‘Service NSW goes 100 percent AWS for digital products’](#), *Itnews* (online, 10 December 2021)

*technologies that help any organization and any individual build solutions to transform industries, communities, and lives for the better*⁶⁰.

76. There have been repeated global instances of worker exploitation across the Amazon parent company supply chain including:

- a. The Guardian revealing ambulances had been called more than 600 times to one of Amazon's UK retailers over three years due to workplace incidents⁶¹;
- b. being criticised for its treatment of delivery riders and drivers, many of whom reported failure to pay wages, no overtime pay, and intimidation by management and work schedules that made them feel *"pressured to drive at dangerously high speeds, blow stop signs, and skip meal and bathroom breaks"*⁶²;
- c. in 2023, Amnesty International reported contracted workers in Amazon warehouses in Saudi Arabia were *"cheated of their earnings, housed in appalling conditions and prevented from finding alternative employment or leaving the country"*⁶³;
- d. workers collapsing from workplace pressure in warehouses in the United Kingdom⁶⁴;
- e. a research article by Bristol University found warehouse workers in the US filed federal complaints against Amazon for discriminating against them *"based on race and religion, Muslim Somali and East African warehouse workers were given more physically challenging jobs, and less likely to be given promotions and training opportunities"*⁶⁵;
- f. an investigative piece, New York Times delved into Amazon's systematic short-changing of *"new parents, patients dealing with medical crises and other vulnerable workers on leave"*⁶⁶;
- g. video reviewers based in India shared harrowing experiences, as each of them *"get through up to 8,000 videos a day"* with a high accuracy requirement of between 95% - 99.5%, they cannot blink or move while reviewing videos. They are paid as little as £212 per month and suffer from serious health conditions such as damaged eyes⁶⁷; and

⁶⁰ ['About AWS'](#), AWS (online, date unknown, accessed 1 June 2024).

⁶¹ Sarah Butler, ['Amazon accused of treating UK warehouse staff like robots'](#), *The Guardian* (online, 1 June 2018)

⁶² Hayley Peterson, ['Missing wages, grueling shifts, and bottles of urine: The disturbing accounts of Amazon delivery drivers may reveal the true human cost of 'free' shipping'](#), *Business Insider* (online, 12 September 2018)

⁶³ ['Saudi Arabia: Migrants workers who toiled in Amazon warehouses were deceived and exploited'](#), *Amnesty International* (online, 10 October 2023)

⁶⁴ Frank Chung, ['We are human beings, not slaves and animals': Brutal conditions inside Amazon warehouse'](#), *News.com.au* (online, 28 November 2021)

⁶⁵ Jake Alimahomed-Wilson and Ellen Reese, 'Surveilling Amazon's warehouse workers: racism, retaliation, and worker resistance amid the pandemic' (2021) 1(1-2) *Work in the Global Economy*, pp 55-73 at p 67.

⁶⁶ Jack Kelly, ['A Hard-Hitting Investigative Report Into Amazon Shows That Workers' Needs Were Neglected In Favor Of Getting Goods Delivered Quickly'](#), *Forbes* (online, 25 October 2021).

⁶⁷ Niamh McIntyre and Rosie Bradbury, ['The eyes of Amazon: a hidden workforce driving a vast surveillance system'](#), *The Bureau of Investigative Journalism* (online, 22 November 2022) .

- h. Amazon's net profits rose by a staggering 84% in 2020 and yet, during this period, at least 1,200 garment workers employed at Amazon's supplier garment factories in Bangladesh were laid off for being union members.⁶⁸
77. There have been similar concerns raised with respect to Amazon's Australian e-commerce operations including issues around freedom of association, pregnancy discrimination, unsafe work practises including unsustainable levels of work intensity⁶⁹. Amazon undertakes extreme levels of workplace surveillance and electronic monitoring including monitoring union activity at all of its sites around the world⁷⁰.
78. Conditions in Amazon's warehouses may be even worse than reported due to the company's strident anti-union position and refusal to engage with workplace representatives. In 2021 Amazon called NSW Police to remove officials from the Transport Workers Union investigating allegations of unsafe work practises at Amazon's Bella Vista parcel pick up facility despite having their legal right of entry documentation⁷¹. Concerns have also been raised with respect to Amazon misleading a Federal Parliamentary inquiry on issues of workplace safety⁷².
79. In 2023, Amazon invited Federal Senator Tony Sheldon and David Smith MP to tour their Kemps Creek facility and stated they were welcome to bring guests. When Senator Sheldon and Mr Smith informed Amazon their guests for the tour would include the Secretary of the SDA, Amazon representatives informed them the SDA official was not welcome to join them on the tour.

⁶⁸ Clare Carlile, '[Global protests against Amazon supply chain abuses](#)', *Ethical consumer* (online, 28 May 2021).

⁶⁹ Margaret Burin, '[They resent the fact I'm not a robot](#)', *ABC News* (online, 28 February 2019).

⁷⁰ Josh Taylor, '[Amazon's reported surveillance of workers could break Australian law, union says](#)', *The Guardian* (online, 25 November 2020).

⁷¹ Josh Taylor, '[Police called to remove union officials from Amazon warehouse in Sydney](#)' *The Guardian* (online, 26 November 2021).

⁷² Max Melzer, '[MPs concerned Amazon may have misled committee over workplace safety concerns, as union brands testimony 'shocking'](#)' *Sky News* (online, 30 August 2023).

Recommendations: Framework for ensure labour rights and standards are upheld across companies engaged by the NSW Government

80. Unions NSW makes the following recommendation with respect to reform of the NSW Procurement policy to ensure labour rights and conditions are adhered to across companies in receipt of NSW Government procurement contracts.

Recommendation 4: Make '*best practice labour rights and standards*' and '*ethical supply chains*' key values of the NSW Government Procurement Policy Framework or other relevant procurement guidelines.

Recommendation 5: The NSW Government to begin tripartite consultation on developing an NSW Secure Jobs Code, using the ACT Secure Local Jobs code as a model.

This consultation would resolve issues such as which industries are specified for coverage by the Code, the value threshold of contracts covered by the code, the validity period for certification under the Code, the process for certification, compliance and enforcement measures to enforce the Code, and other associated issues.

The NSW Secure Local Jobs Code would require tendering for government contracts to undertake Code certification to ensure compliance with all relevant laws and support adoption of best practise workplace relations and health and safety practises. The code would include an assessment of tenderers' ethical treatment of workers, to be considered alongside other non-financial value for money assessments including ethical conduct.

This two-stage process ensures that procurement is in line with government procurement rules, guarantees that tenders are not determined solely based on economic considerations at the expense of ethical considerations, and protects government against the reputational risks associated with engaging tenderers with unethical employment practices.

Where possible the terms in any government procurement contract should mirror the code, ensuring the contract can be cancelled or modified where the certificate-holder is non-compliant.

Recommendation 6: Mandate additional weightings for companies with existing worker agreements for contracts worth \$10 million or more.

Recommendation 7: For all major contacts, the tendering Government department must obtain economic and financial analysis from the NSW Treasury of providing it the service inhouse as a comparison to the private supplier's tenders.

This analysis must consider the 'whole of life' costs and economic impacts of choosing suppliers that will result in outsourcing or offshoring the tender work.

Part E: Fixing the culture of procurement

81. Parts C and D emphasised the importance of NSW Government procurement decisions supporting the growth of domestic industry and ensuring labour standards are enforced. The introduction of broader procurement requirements must be supported by adequate training and resourcing of procurement staff across government and the establishment of a body responsible for compliance.
82. The NSW Government has announced it will establish a NSW Jobs First Commission to “oversee the implementation and growth of local industries, supporting and advocating for local firms in bidding for government tenders” ⁷³.
83. Unions NSW is of the view that a similar body or commission should be established called the Secure Jobs Commission to take a broader role in setting strategic directions for procurement decisions, administering certification of the NSW Secure Local Jobs Code and ensuring compliance with the code and terms of procurement contracts through a range of measures. Such a Commission is in place in Victoria and the Australian Capital Territory to administer their respective procurement codes. We provide these recommendations below, following Case Study 6.
84. To be an effective regulator, the NSW Jobs First Commission must be empowered to:
- a. implement compliance measures ranging from enforceable undertakings, issuing demerit points to non-complaint contractors, to the removal of the procurement contract;
 - b. investigate compliance and hear disputes about non-compliance with terms of the procurement contract or the NSW Secure Local Jobs Code;
 - c. partner with employee and employer representative bodies on programs to improve compliance with labour standards and other requirements for industries with high value contracts (or a large number of procurement contracts);
 - d. maintain a public register of companies certified under the NSW Secure Local Jobs Code; and
 - e. convene a tripartite board comprised with employee and employer representatives. The Commission would be supported by a range of industry stakeholder committees to provide input on specific procurement needs of their industry.
85. Through consultation with our affiliates, we have been made aware of several incidents where the previous Government's failure to engage with industry and employee representatives has led to poor outcomes with respect to the procurement

⁷³ NSW Government (Minister for Domestic Manufacturing and Government Procurement), [‘NSW Government asserts focus on rebuilding domestic manufacturing capability’](#) (Media Release, 22 February 2024)

of goods and services. These issues are explored in more detail in Case Study 6 below.

Case study 6: Lack of consultation and safety issues for the New Intercity Fleet (NIF) and New Regional Fleet (NRF)

86. Through our consultation, we have been advised of several instances where the NSW Government and/or the relevant department's failure to consult with its workforce has resulted in poor outcomes including cost overruns, project delays, and unnecessary antagonism between the previous NSW Government and its workforce.
87. The most prominent example is the previous NSW Government's acquisition of the New Intercity Fleet (NIF) and New Regional Rail Fleet (NRF). The NIF acquisition involved 596 carriages manufactured in South Korea by Hyundai Rotem. The NRF acquisition included 117 carriages produced in Spain by the Momentum Trains consortium.
88. Unions NSW has reviewed the submission by the Rail, Tram & Bus Union NSW Branch where it is identified *"the absence of clear guidelines and oversight has contributed to delays and cost escalation in the procurement process denying Australian workers and their communities from the benefits of participating in the manufacturing process."*⁷⁴
89. Both the NIF and NRF projects were conducted with limited transparency. There was a failure to consult with end-users, specifically those who would operate the new trains. As discussed in Case Study 2, there was a belief by the previous government, often expressed publicly, rejecting NSW and Australia's capacity for domestic manufacturing based on a myth about the high cost of domestic manufacturing. Unfortunately, both projects were plagued with safety issues, project delays, and significant cost blowouts. The previous and current NSW Government has been required to spend in excess of the contract to resolve the issues so the new trains were fit for purpose which could have been simply addressed through consultation and engaging with the end users.
90. For example, the safety issues from the "off the shelf" NIF are well documented and include:
- a. Safety cameras that were not fit for purpose, including: "CCTV...which have no audio and restricted line of sight because of the design of the carriages", "how rain and weather conditions can hamper visual surveillance", "gap between the train and platform is obscured by open doors when the train is

⁷⁴ Rail, Tram and Bus Union (RTBU) NSW Branch, [Submission No 55 to Parliament of NSW Standing Committee on Social Issues, 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](#) (22 March 2024).

stationary, as the external cameras are mounted too closely on the body of the carriages, meaning they can't see if someone falls into the gap on alighting",⁷⁵ "CCTV cameras freezing or presenting blurry images".⁷⁶

- b. Problems with brakes and air conditioning.⁷⁷
- c. The size of the trains: "trains being too wide to fit through some tunnels on the Blue Mountains line, leading to widening work having to be undertaken."⁷⁸
- d. "Messages on digital displays for passengers dropping out."⁷⁹
- e. Crew doors "flying open": "Records of the incidents show doors on the driver's compartment of a new intercity train opened by themselves after it had passed Lapstone station in the Blue Mountains on November 11. It triggered an alarm of a major fault and forced the driver to immediately bring the train to a halt on the Blue Mountains line."⁸⁰

Recommendations: Framework for improving the culture of procurement across the NSW Government

91. Unions NSW makes the following recommendations with respect to improving transparency, compliance, and accountability across procurement decisions by the NSW Government.

Recommendation 8: The NSW Government should legislate an independent body to:

- Oversee and provide advice to the Government on implementation of its procurement policy,
- Audit and enforce compliance with the NSW Secure Local Jobs Code.

The commission would be headed by a Commissioner with independent decision making and responsibility for monitoring and enforcement of the Government's procurement policy including but not limited to the NSW Secure Local Jobs Code.

The commission would include an advisory body made up of representatives from the NSW Government, employee and industry representatives.

The commission should also include separate industry advisory bodies with employee and employer representation to reflect that the procurement needs of industries may differ.

⁷⁵ See Savannah Meacham, '[NSW government pushes ahead with new train fleet despite safety concerns](#)', 9News (online, 12 May 2022).

⁷⁶ See Matt O'Sullivan '[NSW intercity train crew doors flew open during trial](#)', Sydney Morning Herald (online, 12 December 2023).

⁷⁷ See 7NEWS Australia, '[Testing reveals dramatic faults in intercity train fleet](#)' (YouTube, 12 December 2023).

⁷⁸ See 9News Staff, '[Major safety issues revealed in Sydney's new imported train fleet](#)' 9News (online, 22 March 2022).

⁷⁹ See Matt O'Sullivan '[NSW intercity train crew doors flew open during trial](#)', Sydney Morning Herald (online, 12 December 2023).

⁸⁰ See Matt O'Sullivan '[NSW intercity train crew doors flew open during trial](#)', Sydney Morning Herald (online, 12 December 2023).

Recommendation 9: The NSW Government would publish analysis of procurement contracts of \$1B with mandatory consideration of wider public good and economic benefit.

Recommendation 10: The NSW Government develop a range of compliance and enforcement measures for suppliers who deliberately and/or continuously fail to meet the conditions of their tender, including but not limited to the NSW Secure Local Jobs Code.

Recommendation 11: Grant registered trade unions standing to bring complaints or evidence of non-compliance by successful suppliers with the NSW Local Secure Jobs Code for investigation by the relevant statutory body.

Recommendation 12: Develop capacity of NSW Government procurement officers with respect to industrial legislation and instruments to promote compliance with the NSW Local Secure Jobs Code.

Recommendation 13: The NSW Government to maintain a public register of NSW Secure Local certified suppliers. This measure will ensure that there is transparency and accountability for the suppliers in fulfilling their stated obligations under the NSW Local Secure Jobs Code.

Recommendation 14: The NSW Government should consider partnering with non-government bodies to run industrial compliance programs in industries with heavy use of government procurement contracts.

Part F: Conclusion

92. The procurement practices of the NSW Government have significant potential to impact the social development of the state. Our submission has highlighted key areas where reform is necessary to maximise these positive impacts.
93. By implementing a focus on domestic manufacturing, ensuring ethical labour standards, and establishing a robust framework for compliance and transparency, the NSW Government can leverage its substantial procurement spending to drive both economic and social benefits for its citizens.
94. Firstly, prioritising local manufacturing through procurement policy not only supports local job creation but ensure supply chain resilience, previous government failures in this respect were displayed prominently during the Covid-19 pandemic. Strategic investment in local production capabilities, especially in critical industries will fortify NSW against future global disruptions and provide broader economic benefits to the state economy.
95. Second, mandating high labour standards across all government contracts is essential. Our proposed NSW Secure Local Jobs Code will help protect workers' rights, ensure fair wages, prevent exploitative practices and reduce the reputational risks of current Government procurement practices, thereby setting a standard for ethical procurement that aligns with community values and expectations.
96. Finally, Unions NSW supports the creation of an independent statutory body, such as the NSW Jobs First Commission to advocate in the interests of NSW industries but believes it can also play a valuable role in enforcement of these procurement policies. Such a body would ensure compliance with the Secure Local Jobs Code and other regulations, promoting transparency and accountability in government spending.
97. As a major procurer of goods and services, it is imperative that NSW Government has a procurement strategy that reflects its commitment to the welfare of its people, to fostering a robust local economy and to upholding high standards of labour rights and practices. We urge the committee to adopt our recommendations and lead by example in creating a fairer, more resilient, and prosperous NSW.