

Targets for Minimum Indigenous Employment or Supply Use in Major Australian Government Procurements — Follow-up

[Across Entities](#)

© Commonwealth of Australia 2025

ISSN 1036–7632 (Print)

ISSN 2203–0352 (Online)

ISBN 978-1-923405-35-6 (Print)

ISBN 978-1-923405-36-3 (Online)

Except for the content in this document supplied by third parties, the Australian National Audit Office logo, the Commonwealth Coat of Arms, and any material protected by a trade mark, this document is licensed by the Australian National Audit Office for use under the terms of a Creative Commons Attribution-NonCommercial-NoDerivatives 3.0 Australia licence. To view a copy of this licence, visit <http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

You are free to copy and communicate the document in its current form for non-commercial purposes, as long as you attribute the document to the Australian National Audit Office and abide by the other licence terms. You may not alter or adapt the work in any way.

Permission to use material for which the copyright is owned by a third party must be sought from the relevant copyright owner. As far as practicable, such material will be clearly labelled.

For terms of use of the Commonwealth Coat of Arms, visit the *Australian honours system* website at <https://www.pmc.gov.au/honours-and-symbols/australian-honours-system>.

Requests and inquiries concerning reproduction and rights should be addressed to:

Chief Operating Officer
Corporate Management Group
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Or via email:

communication@anao.gov.au.



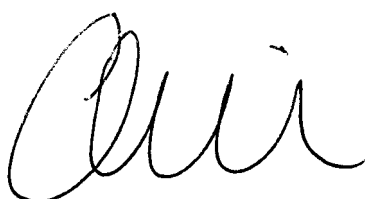
Canberra ACT
3 June 2025

Dear President
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit across entities. The report is titled *Targets for Minimum Indigenous Employment or Supply Use in Major Australian Government Procurements — Follow-up*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website — <http://www.anao.gov.au>.

Yours sincerely



Dr Caralee McLiesh PSM
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office (ANAO). The ANAO assists the Auditor-General to carry out their duties under the *Auditor-General Act 1997* to undertake performance audits, financial statement audits and assurance reviews of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Australian Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

For further information contact:
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Phone: (02) 6203 7300
Email: ag1@anao.gov.au

Auditor-General reports and information about the ANAO are available on our website:
<http://www.anao.gov.au>

Audit team

Ashley Stephens
Rebecca Storen
Benjamin Foreman
Jillian Hutchinson
Lily Engelbrethsen
Kai Clark
Megan Cook
Jennifer Eddie
Christine Chalmers

Contents

Summary and recommendations.....	7
Background	7
Conclusion	8
Supporting findings.....	9
Recommendations.....	13
Summary of entity responses	15
Key messages from this audit for all Australian Government entities	17
Audit findings.....	19
1. Background	20
Introduction	20
Rationale for undertaking the audit	29
Audit approach	30
2. Administration of mandatory minimum requirements	32
Was tailored guidance developed that was based on stakeholder consultation?	34
Was a reporting strategy implemented?.....	41
Was an evaluation strategy implemented?	47
3. Exemptions from the mandatory minimum requirements.....	54
Have exemptions been appropriately managed?.....	55
4. Compliance with the mandatory minimum requirements	61
Were procurement protocols updated to ensure compliance?	64
Did entities establish reporting processes to ensure regular reporting?	73
Were controls and risk-based assurance activities established?	81
Appendices	91
Appendix 1 Entity responses	92
Appendix 2 Improvements observed by the ANAO	99
Appendix 3 Mandatory minimum requirements industry coverage.....	101
Appendix 4 Aboriginal and Torres Strait Islander Participation Targets in Major Procurements audit recommendations.....	102
Appendix 5 Contract sampling for mandatory minimum requirements compliance testing.....	103
Appendix 6 Portfolio mandatory minimum requirements reporting compliance	109



Audit snapshot

Auditor-General Report No.40 2024–25

Targets for Minimum Indigenous Employment or Supply Use in Major Australian Government Procurements — Follow-up



Why did we do this audit?

- ▶ The mandatory minimum requirements (MMRs) are targets for minimum Indigenous employment and/or supply use for certain Australian Government contracts.
- ▶ The policy objective of the MMRs is to ensure Indigenous Australians gain skills and economic benefit from some of the larger pieces of work that the Commonwealth outsources, including in remote areas.
- ▶ In 2020, the Auditor-General made six recommendations to improve administration of and compliance with the MMRs. This audit examined implementation of the recommendations.



Key facts

- ▶ Compliance with the MMRs is mandatory for non-corporate Commonwealth entities.
- ▶ The National Indigenous Australians Agency (NIAA) is the policy owner of the Indigenous Procurement Policy, of which the MMRs are one component.
- ▶ Between July 2016 and September 2024, entities reported 870 MMR contracts worth a total of \$45.2 billion.



What did we find?

- ▶ Entities partly implemented agreed recommendations from Auditor-General Report No. 25 2019–20.
- ▶ As the policy owner, the NIAA largely implemented two recommendations relating to MMR administration. It did not complete a third recommendation to implement an evaluation strategy.
- ▶ The departments of Defence, Education and Home Affairs largely implemented agreed recommendations relating to MMR compliance. The NIAA; the Department of Employment and Workplace Relations; and the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts partly implemented them.



What did we recommend?

- ▶ The Auditor-General made four recommendations to the NIAA as policy owner, and four recommendations to implementing entities.
- ▶ Entities agreed to the recommendations, except for one recommendation relating to MMR exemptions that the NIAA partly agreed to.

\$69.3 billion

value of 1,475 contracts exempted by entities from the MMRs between July 2016 and September 2024

72%

of 116 finalised MMR contracts were assessed by entities to have met MMR targets

42%

of 84 sampled MMR contracts were on track to meet MMR targets

Summary and recommendations

Background

1. Reducing the disparity between Indigenous and non-Indigenous economic outcomes has been a longstanding goal of Australian governments. The *National Agreement on Closing the Gap* aims to strengthen economic participation and development of Aboriginal and Torres Strait Islander people and their communities.¹ Increasing opportunities for Indigenous economic participation has also been an area of interest for the Australian Parliament.²
2. The Indigenous Procurement Policy (IPP) was established in 2015 with the objective ‘to stimulate Indigenous entrepreneurship, business and economic development, providing Indigenous Australians with more opportunities to participate in the economy’.³ One of three elements of the IPP are the mandatory minimum requirements (MMRs), which are targets for minimum Indigenous employment and/or supply use for Australian Government contracts valued from \$7.5 million in certain specified industries.⁴ The National Indigenous Australians Agency (NIAA) is responsible for administering the IPP, including the MMRs.

Rationale for undertaking the audit

3. The stated policy objective of the MMRs is to ‘ensure that Indigenous Australians gain skills and economic benefit from some of the larger pieces of work that the Commonwealth outsources, including in Remote Areas’.⁵ Compliance with the MMRs is mandatory for non-corporate Commonwealth entities. The MMRs were established in July 2015 and became binding on contractors from 1 July 2016.
4. Auditor-General Report No. 25 2019–20 *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements* was undertaken to provide assurance that the MMRs were being effectively administered and selected entities were complying with them.⁶ The audit concluded that while the MMRs were effectively designed, their administration had been undermined by

1 The *National Agreement on Closing the Gap* includes the outcome ‘Strong economic participation and development of Aboriginal and Torres Strait Islander people and communities’ and an associated target related to the proportion of Aboriginal and Torres Strait Islander people aged 25–64 who are employed. *National Agreement on Closing the Gap* [Internet], 2020, available from <https://www.closingthegap.gov.au/national-agreement> [accessed 12 March 2025].

2 House of Representatives Standing Committee on Indigenous Affairs, *Report on Indigenous Participation in Employment and Business* (2021); Joint Standing Committee on Northern Australia, *The engagement of traditional owners in the economic development of northern Australia* (2022); Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Inquiry into economic self-determination and opportunities for First Nations Australians* (2024).

3 National Indigenous Australians Agency (NIAA), *Indigenous Procurement Policy (IPP)*, NIAA, Canberra, 2020, p. 8, available from https://www.niaa.gov.au/sites/default/files/documents/publications/ipp-guide_0.pdf [accessed 27 June 2024].

4 *ibid.*, pp. 8–9.

5 Australian Government, *Commonwealth Indigenous Procurement Policy*, 1 July 2015, p. 32.

6 The audited entities were: Department of Defence; Department of Education; Department of Employment, Skills, Small and Family Business; Department of Home Affairs; Department of Infrastructure, Transport, Cities and Regional Development; and NIAA. The entities were selected for the audit on the basis of the number and nature of MMR contracts they held.

ineffective implementation and monitoring by the policy owner and insufficient compliance by the selected entities.⁷ The audit made six recommendations to improve administration of and compliance with the MMRs, which were all agreed to.

5. Auditor-General reports identify risks to the successful delivery of government outcomes and provide recommendations to address them. The tabling in the Parliament of an agreed response to an Auditor-General recommendation is a formal commitment by the entity to implement the recommended action. Effective implementation of agreed Auditor-General recommendations demonstrates accountability to the Parliament and contributes to realising the full benefit of an audit.⁸

6. This audit examines whether the NIAA; Department of Defence (Defence); Department of Education (Education); Department of Employment and Workplace Relations (DEWR)⁹; Department of Home Affairs (Home Affairs); and Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (Infrastructure) have effectively implemented agreed recommendations from Auditor-General Report No. 25 2019–20. Entities' implementation of agreed recommendations will help provide assurance to the Parliament about whether the MMRs are meeting the objective of stimulating Indigenous entrepreneurship, business and economic development and providing Indigenous Australians with opportunities to participate in the economy.

Audit objective and criteria

7. The audit objective was to assess whether selected entities effectively implemented agreed recommendations from Auditor-General Report No. 25 2019–20 *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*.

8. To form a conclusion against the objective, the following high-level criteria were adopted.

- Did the NIAA implement recommendations related to the administration of the MMRs?
- Does the NIAA manage exemptions to the MMRs effectively?
- Did selected entities implement recommendations related to their compliance with the MMRs?

Conclusion

9. Almost five years after the recommendations were agreed to, entities had partly implemented recommendations from Auditor-General Report No. 25 2019–20 *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*. Although the NIAA had

7 Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, ANAO, Canberra, 2020, para. 9–12, available from <https://www.anao.gov.au/work/performance-audit/aboriginal-and-torres-strait-islander-participation-targets-major-procurements>.

8 ANAO, *Audit Insights: Implementation of Recommendations* [Internet], 30 June 2021, available from <https://www.anao.gov.au/work/audit-insights/implementation-recommendations-0> [accessed 5 December 2024].

9 The Department of Employment and Workplace Relations was selected for inclusion in the current audit on the basis that it assumed functions of the Department of Employment, Skills, Small and Family Business, which was examined in the 2019–20 audit.

improved guidance for entities and sought to increase MMR reporting compliance, a recommendation for the NIAA as the policy owner to implement an evaluation strategy was not completed. The NIAA has not demonstrated whether the MMRs are improving Indigenous economic participation. A risk related to the inappropriate use of exemptions was not managed. Recommendations intended to address the risk that reporting on MMR contracts is incomplete and inaccurate were partly implemented by audited entities. Reforms to the Indigenous Procurement Policy were announced in February 2025 without a clear understanding of the policy's effectiveness.

10. The NIAA largely implemented two of three recommendations relating to its administration of the MMRs: to develop guidance on the MMRs for Australian Government entities and contractors; and to implement a strategy to increase MMR reporting compliance. The NIAA did not complete a third recommendation as it developed but did not implement an MMR evaluation strategy. Additional commitments made by the NIAA in response to two recommendations were not met.

11. Contracts subject to the MMRs may be exempted by entities for valid reasons established in the Indigenous Procurement Policy. The inappropriate use of exemptions impedes achievement of the Indigenous Procurement Policy's objectives. The NIAA's management of exemptions has been partly effective. Systems have been set up to allow potentially invalid exemptions. There is a lack of guidance and assurance over the appropriate use of exemptions.

12. Defence, Education and Home Affairs largely implemented the agreed recommendations relating to compliance with the MMRs. The NIAA, DEWR and Infrastructure partly implemented the agreed recommendations. The MMRs are relevant to the approach to market, tender evaluation, contract management, reporting and finalisation phases of a procurement. Compliance with the MMR requirements was higher in the approach to market, tender evaluation and contract management phases than in the reporting and finalisation phases. All entities could do more to ensure contractors' compliance with MMR targets and to gain assurance over reported MMR performance.

Supporting findings

Administration of mandatory minimum requirements

13. Auditor-General Report No. 25 2019–20 recommended that the NIAA develop tailored guidance on managing the MMRs throughout the contract lifecycle in consultation with entities and contractors. The NIAA published updated guidance on managing the MMRs in July 2020, following stakeholder consultation. The guidance included complete information for nine of 14 topics identified as requiring additional guidance in Auditor-General Report No. 25 2019–20. Guidance included incomplete information on MMR exemptions, managing MMR performance reporting, and obtaining assurance over contractors' MMR performance reporting. As at March 2025, guidance had not been updated since July 2020 despite changes to MMR reporting requirements. A commitment to publish guidance tailored for Indigenous businesses was not met. (See paragraphs 2.5 to 2.22)

14. Contractors must report on, and Australian Government entities must assess, performance in meeting agreed MMR targets. Auditor-General Report No. 25 2019–20

recommended that the NIAA implement a strategy to increase entity and contractor compliance with MMR reporting requirements to ensure information in the Indigenous Procurement Policy Reporting Solution (IPPRS) is complete. The NIAA planned and undertook activities aimed at increasing contractors' compliance with MMR reporting requirements and entities' management of reporting non-compliance. These included improvements to the IPPRS and monitoring reporting compliance in Australian Government portfolios. The NIAA closed the ANAO recommendation before planned changes to the IPPRS were implemented. As at February 2025, the IPPRS did not fully support contract managers to meet reporting requirements for all types of MMR contracts. User feedback indicated ongoing access and support issues. While reporting compliance increased between 2022 and 2024, as at June 2024, entities and contractors were not fully compliant with MMR reporting requirements and information in the IPPRS was incomplete. Reforms to the IPP announced by government in February 2025 included potentially increasing transparency of suppliers' performance against MMR targets. (See paragraphs 2.23 to 2.32)

15. Auditor-General Report No. 25 2019–20 recommended that the NIAA implement an evaluation strategy for the MMRs that outlines an approach to measuring the impact of the policy on Aboriginal and Torres Strait Islander employment and business outcomes. Although an evaluation strategy for the MMRs was finalised, it was not implemented. The NIAA has not met requirements to review the effectiveness of a procurement-connected policy every five years. There is no performance monitoring and limited public reporting about the MMRs. (See paragraphs 2.33 to 2.54)

Exemptions from mandatory minimum requirements

16. Between July 2016 and September 2024, 63 per cent (valued at \$69.3 billion) of all contracts recorded in the Indigenous Procurement Policy Reporting Solution (IPPRS) were exempted from the MMRs by relevant entities. The proportion of contracts exempted by entities from the MMRs has increased over time. The IPPRS has been set up by the NIAA to allow entities to record reasons for exemptions. The reason categories in the IPPRS mainly align with the Indigenous Procurement Policy, however include a category called 'other' that does not align. Of exempted contracts, 34 per cent (valued at \$30.2 billion) used the exemption category 'other'. The NIAA advised the ANAO that some contracts exempted for 'other' reasons were exempted because they are in practice non-compliant with the Indigenous Procurement Policy. Entities' use of the 'other' exemption category for non-compliant contracts obscures the degree of non-compliance with the MMRs and is not appropriate. The NIAA does not provide complete guidance on the use of exemptions, or assurance over the legitimacy of exemptions. The NIAA has not considered the strategic implications of exemption usage for the achievement of policy objectives. (See paragraphs 3.1 to 3.13)

Compliance with mandatory minimum requirements

17. Auditor-General Report No. 25 2019–20 recommended that all audited entities review and update their procurement protocols to ensure procuring officers undertaking major procurements that trigger the MMRs comply with required steps in the procurement process.

- As at December 2024, all entities updated their procurement protocols for MMR requirements. One component of this was the development of detailed internal guidance.

As at December 2024, Defence, Education, Home Affairs and Infrastructure's guidance identified key MMR requirements for the approach to market to contract management phases of the procurement lifecycle. DEWR's guidance and the NIAA's internal guidance did not identify all key MMR requirements.

- Aside from Home Affairs, all entities' contracts were largely compliant with the MMRs at the approach to market, tender evaluation and contract management phases of the procurement lifecycle. Home Affairs' contracts was partly compliant. Defence's compliance was poorer for contracts resulting from panel procurements.
- All audited entities could improve tender evaluation processes by including an IPPRS search on tenderers' past MMR compliance.
- In summary: Defence, Education, and Infrastructure largely implemented the 2019–20 recommendation, and the NIAA and DEWR partly implemented it. Home Affairs' guidance was appropriately updated, however it has not consistently ensured that procuring officers undertaking major procurements that trigger the MMRs comply in practice with the required steps. (See paragraphs 4.3 to 4.18)

18. Auditor-General Report No.25 2019–20 recommended that all audited entities establish processes, or update existing processes, to ensure contract managers and contractors regularly use the IPP Reporting Solution (IPPRS) for MMR reporting.

- Defence, Education and Home Affairs' internal guidance identified key IPPRS reporting requirements, while the NIAA, DEWR and Infrastructure's internal guidance did not identify all key requirements.
- For a sample of contracts, the NIAA's MMR reporting was timely and based on accurate IPPRS data. For the other five entities, there were issues with both timeliness and accuracy. None of the five entities consistently followed up on late contractor reporting.
- When a contract variation is published on AusTender, IPPRS data is not consistently updated. This means a contract may be identified as on track to meet the MMR target based on incorrect values or a contract may move to the finalisation step prematurely as the end date is inaccurate.
- In summary: Defence, Education and Home Affairs largely implemented the 2019–20 recommendation, and the NIAA, DEWR and Infrastructure partly implemented it. (See paragraphs 4.19 to 4.37)

19. Auditor-General Report No. 25 2019–20 recommended that after guidance has been provided by the policy owner, all audited entities establish appropriate controls and risk-based assurance activities for active MMR contracts.

- As the policy owner, the NIAA published guidance in July 2020 that has a short overview on how MMR performance information could be verified.
- All six entities established at least some controls and arrangements to gain assurance over contractors' MMR performance reporting. Controls and arrangements were more developed in Education and Home Affairs.

- For a sample of contracts examined, none of the entities consistently undertook assurance activities to verify contractor performance reporting. Defence undertook the most assurance activity.
- In summary: all entities partly implemented the 2019–20 recommendation. (See paragraphs 4.38 to 4.59)

Effectiveness of the mandatory minimum requirements

Based on MMR performance information reported by Australian Government entities and contractors, the number and value of MMR contracts have grown since the introduction of the Indigenous Procurement Policy (IPP) in 2015. In 2016–17, 17 contracts with MMR targets for Indigenous employment and/or supply use were awarded, with a total value of \$756.4 million. In 2023–24, 189 MMR contracts were awarded with a total value of \$5.9 billion. Between 1 July 2016 and 30 September 2024, 870 MMR contracts were awarded by 52 Australian Government entities with a total value of \$45.2 billion. Indigenous employment and/or supply use targets established under the MMR contracts were reported to be met for 72 per cent of completed MMR contracts.^a

The majority of MMR contracts were reported to be meeting established employment and supply use targets. These results, however, were based only on contracts where reporting was complete. As at June 2024, 28 per cent of MMR contracts in the reporting phase were not compliant with MMR reporting requirements. Reporting relies on contractor information, and entities largely had not undertaken activities to verify that MMR performance information was accurate.

While the application of the MMRs is trending upwards, between July 2016 and September 2024, 1,475 contracts valued at \$69.3 billion were ‘exempted’ by entities from the MMRs, often for reasons that are unclear.

There is a lack of performance information and evaluation data that allows for the impact and outcomes of the IPP to be assessed. The NIAA’s public reporting on the IPP does not provide information on the MMRs’ effectiveness. It is unclear if the IPP’s objectives of stimulating Indigenous entrepreneurship, business and economic development, and providing Indigenous Australians with more opportunities to participate in the economy, are achieved. While the Indigenous business sector has grown since the introduction of the IPP, in November 2024 the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs highlighted limitations in available data on the economic contribution of the sector and the impact of policies to support Indigenous economic participation.^b

Note a: Based on 161 contracts where an assessment outcome was reported as at 30 September 2024.

Note b: Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Inquiry into economic self-determination and opportunities for First Nations Australians* (2024), pp. 13–19, 39–40.

Recommendations

20. This report makes eight recommendations.

Recommendation no. 1
Paragraph 2.21 To support Australian Government entities and contractors to comply with the mandatory minimum requirements (MMRs), in consultation with entities and contractors, the National Indigenous Australians Agency review and update MMR guidance material to ensure that it:

- (a) accurately reflects the current process for managing MMR reporting in the Indigenous Procurement Policy Reporting Solution and provides guidance on appropriate reporting timeframes;
- (b) provides sufficient information to support entities to implement risk-based assurance activities for MMR contracts; and
- (c) provides sufficient information for entities and contractors on suitable evidence to support performance reporting.

National Indigenous Australians Agency response: *Agreed.*

Recommendation no. 2
Paragraph 2.45 The National Indigenous Australians Agency establish a process to ensure it meets Australian Government requirements placed on policy owners of procurement-connected policies, including reapplication for recognition as a procurement-connected policy.

National Indigenous Australians Agency response: *Agreed.*

Recommendation no. 3
Paragraph 2.52 The National Indigenous Australians Agency:

- (a) complete and publish an evaluation of the effectiveness of the mandatory minimum requirements in contributing to meeting the objectives of the Indigenous Procurement Policy; and
- (b) develop mandatory minimum requirements performance measures to enable ongoing monitoring.

National Indigenous Australians Agency response: *Agreed.*

Recommendation no. 4
Paragraph 3.11 To ensure exemptions are accurately recorded in the Indigenous Procurement Policy Reporting Solution, non-compliance with the Indigenous Procurement Policy can be appropriately identified, all applicable contracts are subject to the mandatory minimum requirements reporting and assessment process, and the Indigenous Procurement Policy is achieving its policy objectives, the National Indigenous Australians Agency:

- (a) amend its protocols to ensure that it is not treating non-compliance with mandatory minimum requirements as an exemption or exclusion;
- (b) consider what scenarios that are consistent with allowable exclusions and exceptions within the Indigenous Procurement Policy are not covered by existing categories in the Indigenous Procurement Policy Reporting Solution and therefore whether the 'other' category is still justified and required;
- (c) when implementing recommendation 1, provide additional guidance to Australian Government entities on the use of exemption categories, which includes information on when it is appropriate to classify a contract as an 'exemption', and when it is appropriate and inappropriate to use the exemption category of 'other'; and
- (d) implement a risk-based assurance process to ensure that reported exemptions or exclusions are legitimate.

National Indigenous Australians Agency response: *Agreed to parts a–c, Not agreed to part d.*

Recommendation no. 5
Paragraph 4.7

The National Indigenous Australians Agency and Department of Employment and Workplace Relations update internal procurement guidance to better support procuring officers undertaking major procurements that trigger the mandatory minimum requirements to comply with required steps in the procurement process.

National Indigenous Australians Agency response: *Agreed.*

Department of Employment and Workplace Relations response: *Agreed.*

Recommendation no. 6
Paragraph 4.16

Department of Home Affairs strengthen controls to ensure compliance with the mandatory minimum requirements at the approach to market, tender evaluation and contract management phases of major procurements.

Department of Home Affairs response: *Agreed.*

Recommendation no. 7
Paragraph 4.24

The National Indigenous Australians Agency; Department of Employment and Workplace Relations; and Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts establish, strengthen or update guidance to ensure contract managers and contractors appropriately use the Indigenous Procurement Policy Reporting Solution for mandatory minimum requirements reporting.

National Indigenous Australians Agency response: *Agreed.*

Department of Employment and Workplace Relations response:
Agreed.

Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts response: *Agreed.*

Recommendation no. 8
Paragraph 4.53

All audited entities meet their responsibility under the Indigenous Procurement Policy to establish or strengthen processes to ensure contract managers undertake appropriate activities to ensure contractors' compliance with mandatory minimum requirements (MMR) targets and verify that reported MMR performance information is accurate.

National Indigenous Australians Agency response: *Agreed.*

Department of Defence response: *Agreed.*

Department of Education response: *Agreed.*

Department of Employment and Workplace Relations response:
Agreed.

Department of Home Affairs response: *Agreed.*

Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts response: *Agreed.*

Summary of entity responses

21. Extracts of the proposed audit report were provided to the NIAA, Defence, Education, DEWR, Home Affairs and Infrastructure. Entities' summary responses are provided below. Entities' full responses are provided at Appendix 1.

National Indigenous Australians Agency

The National Indigenous Australians Agency (NIAA) welcomes the findings of the audit.

The primary purpose of the Indigenous Procurement Policy (IPP) is to stimulate Indigenous entrepreneurship, business and economic development, providing Indigenous Australians with more opportunities to participate in the economy. The Mandatory Minimum Requirements (MMR) are a key component of this policy.

Prior to the implementation of the policy in 2015, Indigenous businesses secured limited business from Commonwealth procurement. The policy has significantly increased the rate of purchasing from Indigenous businesses.

The NIAA is proud to take the lead on behalf of the Commonwealth in providing advice on how to best meet the requirements of the IPP. The NIAA provides advice to Commonwealth entities through its many publications and its dedicated IPP team. Within the resources available, the NIAA has also invested in providing ICT tools and support to assist Commonwealth entities with their responsibility to ensure accurate reporting on targets and MMRs.

As with all other elements of the Commonwealth Procurement Rules, it is the responsibility of each Commonwealth entity to meet the obligations of the IPP. The NIAA welcomes the ANAO's

recommendations on how it can improve the advice it provides to entities to meet their obligations.

Department of Defence

Defence welcomes the ANAO Audit Report assessing whether selected entities effectively implemented the agreed recommendations from Auditor-General Report No. 25 2019–20 *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*.

Defence agrees to the recommendation directed at all audited entities to establish or strengthen processes to ensure contract managers undertake appropriate activities to ensure contractors' compliance with the mandatory minimum requirements (MMR) targets and verify that reported MMR performance information is accurate.

As the Commonwealth's largest procurer, Defence is proud of its significant commitment towards supporting the long-term growth and sustainability of the Indigenous business sector, and will continue working with the National Indigenous Australians Agency to improve the monitoring and reporting of the MMR targets.

Department of Education

The Department of Education welcomes this report. The report recognises the significant efforts the department has made to implement changes recommended by the ANAO's performance audit of February 2020, however the department acknowledges the need to continue its efforts to strengthen its processes to ensure contract managers undertake appropriate activities to ensure contractors' compliance with mandatory minimum requirements (MMR) targets and verify that reported MMR performance information is accurate.

Education is already making progress towards meeting the report's recommendation, including working with contract managers to ensure that assurance activities are performed more consistently, and that contract managers regularly review and verify contractor reports. Education will continue to engage with departmental contract managers to ensure that MMR contracts are actioned in the IPPRS within the audit's recommended timeframes.

Education notes the audit's broader messages to all entities on the importance of strengthening procurement processes to ensure tenderers' Indigenous Participation Plans are assessed and that assessments are appropriately documented. Education has added additional information to its intranet guidance on the process required when evaluating tender responses for MMR contracts, and its guides on approaching the market and evaluating and selecting suppliers. In addition, Education has updated its Evaluation Plan templates to include MMR requirements as part of the evaluation process, where applicable.

Education are regular participants in the Commonwealth Procurement and Contract Management Community of Practice and participate in networking opportunities across the Australian Public Service, including informal knowledge sharing across entities.

Department of Employment and Workplace Relations

The Department of Employment and Workplace Relations (DEWR) acknowledges the Australian National Audit Office's (ANAO) report detailing the outcomes of the follow up audit of Targets for minimum Indigenous employment or supply use in major Australian Government procurements.

DEWR is committed to delivering compliant procurement processes that deliver the expected business outcomes. This includes ensuring compliance with the Indigenous Procurement Policy

and that our high value (as defined by the Indigenous Procurement Policy) contracts are properly managed and reported on. Starting from a low maturity level, we have been on a continuous journey of improvement since the Department's creation in July 2022 (following a Machinery of Government change). We acknowledge and accept the ANAO's findings and commit to implementing their recommendations as part of our broader procurement maturity program of work.

Department of Home Affairs

The Department of Home Affairs is committed to the implementation of the Government's policy objective to drive growth in Aboriginal and Torres Strait Islander businesses and employment.

The Department agrees with the two recommendations made by the Auditor-General aimed at improving the Department's compliance with mandatory minimum requirements (MMR) of the Indigenous Procurement Policy throughout the procurement and contract management phases, and will strengthen its processes, guidance, reporting and assurance activities to achieve this.

Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts

The department supports the policy objectives of the Indigenous Procurement Policy and the achievement of the Mandatory Minimum Requirements (MMR) as a key element of the IPP. This follow up audit, which examined all five of the department's procurements that triggered the MMR, has highlighted the need for further improvement in aspects of the department's arrangements for meeting the MMR. The department is committed to making the necessary improvements to its processes.

Key messages from this audit for all Australian Government entities

22. Below is a summary of key messages, including instances of good practice, which have been identified in this audit and may be relevant for the operations of other Australian Government entities.

Policy implementation

- The policy owner of a whole-of-government policy is responsible for the stewardship of that policy. As part of their stewardship role, the policy owner should actively monitor the implementation of the policy and whether the policy is effective in achieving its stated purpose and outcomes. This includes understanding entities' implementation of the policy; monitoring the appropriateness of exemptions from the policy; working with entities to address implementation issues and instances of non-compliance; and evaluating the long-term impacts of the policy.
- All Australian Public Service employees are stewards. To support implementation of whole-of-government policies, Australian Government officials should work with each other across agencies to share knowledge, learn about good practice and innovate.

Procurement

- Under the Commonwealth Procurement Rules, compliance with procurement-connected policies is mandatory for non-corporate Commonwealth entities and prescribed corporate Commonwealth entities. Central procurement areas can support compliance by: actively

promoting awareness of policy requirements; ensuring that procurement templates are up to date; and providing training and operational support to procuring officers and contract managers.

- The requirement for entities and contractors to comply with the Indigenous Procurement Policy and other procurement-connected policies continues to apply through machinery-of-government changes. Entities undergoing a machinery-of-government change should plan appropriately and maintain appropriate records to ensure that policy requirements continue to be met.

Governance and risk management

- Auditor-General reports and recommendations seek to address risks to the successful delivery of government outcomes. To ensure risks are appropriately managed, entities should close agreed recommendations based on robust evidence that the intent of the recommendation has been met.

Audit findings

1. Background

Introduction

1.1 Australian governments have committed to improving economic outcomes for Aboriginal and Torres Strait Islander people under the National Agreement on Closing the Gap.¹⁰ The Indigenous Procurement Policy (IPP) was established in 2015 with the objective ‘to stimulate Indigenous entrepreneurship, business and economic development, providing Indigenous Australians with more opportunities to participate in the economy’.¹¹ When announcing the release of the IPP guidelines in May 2015, the Minister for Indigenous Affairs stated:

Through governments working more closely with Indigenous businesses, we will be able to provide the jobs, skills and training to get more First Australians into meaningful employment.¹²

1.2 As a procurement-connected policy¹³ under the Commonwealth Procurement Rules (CPRs), compliance with the IPP is mandatory for non-corporate Commonwealth entities.¹⁴ There are three key elements of the IPP.

- Procurement targets — Annual value and volume targets for the Australian Government and each Australian Government portfolio for procuring goods and services from Aboriginal and Torres Strait Islander enterprises.
- Mandatory set aside — A requirement to ‘set aside’ all remote area procurements, and all non-remote area domestic procurements, with a value of \$80,000 to \$200,000 (other than in certain exempt categories), to determine whether an Aboriginal and Torres Strait Islander business could deliver value for money before the procuring entity approaches the broader market.

10 Outcomes of the *National Agreement on Closing the Gap*, made in July 2020 between all Australian governments and the Coalition of Aboriginal and Torres Strait Islander Peak Organisations, include ‘Aboriginal and Torres Strait Islander youth are engaged in employment or education’ and ‘Strong economic participation and development of Aboriginal and Torres Strait Islander people and communities’. Closing the Gap, *National Agreement on Closing the Gap*, available from <https://www.closingthegap.gov.au/national-agreement> [accessed 1 July 2024].

11 National Indigenous Australians Agency (NIAA), *Indigenous Procurement Policy (IPP)*, NIAA, Canberra, 2020, p. 8, available from https://www.niaa.gov.au/sites/default/files/documents/publications/ipp-guide_0.pdf [accessed 27 June 2024].

12 Minister for Finance and Minister for Indigenous Affairs, ‘Indigenous business gets a lift with new procurement guidelines’, media release, 25 May 2015.

13 Procurement-connected policies are Australian Government policies that the government has agreed to connect to the Commonwealth Procurement Rules. The purpose of procurement-connected policies is to support government policy objectives through the Commonwealth’s use of procurement activities. (Department of Finance, *Commonwealth Grants and Procurement Connected Policies (RMG 415)*, November 2024, paras. 8–10, 14, available from <https://www.finance.gov.au/government/procurement/buying-australian-government/procurement-connected-policies> [accessed 12 December 2024]).

14 *Public Governance, Performance and Accountability Act 2013*, sections 15 and 21; Australian Government, *Commonwealth Procurement Rules*, July 2024, paragraph 4.9. The IPP states that corporate Commonwealth entities are ‘encouraged to use best endeavours to apply the IPP’.

- Mandatory minimum requirements (MMRs)¹⁵ — Targets for minimum Indigenous employment and/or supply use for high-value Australian Government contracts in certain specified industries.¹⁶

Mandatory minimum requirements

1.3 The MMRs are the third element of the IPP. The MMRs were established in July 2015 and became binding on contractors from 1 July 2016. The stated policy objective of the MMRs in 2015 was to ‘ensure that Indigenous Australians gain skills and economic benefit from some of the larger pieces of work that the Commonwealth outsources, including in Remote Areas’.¹⁷ The MMRs require targets for minimum Indigenous employment and/or supply use be included in Australian Government contracts that are:

- valued at \$7.5 million or more (GST inclusive);
- in one of 19 specified industry categories (with some sub-category exemptions)¹⁸ (see Appendix 3); and
- wholly delivered in Australia.¹⁹

1.4 Once an Australian Government entity identifies that the MMRs apply to a procurement, it is required to advise tenderers of their obligations under the IPP at the approach to market stage. Tenderers can elect to apply:

- a contract-based target — a minimum of four per cent Indigenous employment and/or contractor use specifically for the contracted good or service; or
- an organisation-based target — a minimum of three per cent Indigenous employment and/or contractor use across the operations of the contractor’s Australian-based organisation.

1.5 Tenderers must specify how they plan to achieve the MMRs in an Indigenous Participation Plan, which must be considered by the entity as part of the tender evaluation process and form a schedule to the contract between the entity and the contractor. Where a component of the contract will be delivered in a remote area, the entity must ensure that there is a contractual requirement to deliver ‘significant Indigenous employment, or supplier use outcomes in that area’.²⁰ For remote-area contracts with contract-based MMR targets, the MMR target must be greater than four per cent.

15 NIAA also refers to the MMRs as ‘mandatory minimum Indigenous participation requirements’.

16 NIAA, *IPP*, pp. 8–9.

17 Australian Government, *Commonwealth Indigenous Procurement Policy*, 1 July 2015, p. 32.

18 From 1 July 2020, the MMRs were expanded from an initial eight industry categories. NIAA, *New milestone for Indigenous Business*, NIAA, Canberra, 2020, available from <https://www.niaa.gov.au/news-and-media/new-milestone-indigenous-businesses> [accessed 12 December 2024].

19 The MMRs do not apply to procurements subject to paragraph 2.6 of the CPRs, which allows the accountable authority of an entity to set aside the CPRs where necessary for ‘restoration of international peace and security’ or ‘to protect human health’, among other reasons. NIAA, *IPP*, pp. 20–21.

20 To determine what would be required to deliver a ‘significant’ Indigenous employment or supply use outcome, the IPP states that the tenderer should have regard to the local context (for example, the local employment market and the number of Indigenous businesses, workers and job seekers and their skills, capabilities, qualifications and training). Australian Government, *Commonwealth Indigenous Procurement Policy*, 1 July 2015, p. 22.

Responsibilities for meeting the mandatory minimum requirements

1.6 The National Indigenous Australians Agency (NIAA) was established as an Executive Agency in 2019. Under its Executive Order, the NIAA's responsibilities include:

- leading and coordinating the Australian Government's policy development, program design and implementation, and service delivery for Aboriginal and Torres Strait Islander peoples; and
- analysing and monitoring the effectiveness of programs and services for Aboriginal and Torres Strait Islander people, including programs and services delivered by bodies other than the Agency.²¹

1.7 Responsibility for the IPP transferred from the Department of the Prime Minister and Cabinet to the NIAA on 1 July 2019 through a machinery-of-government change. As the policy owner for the IPP, the NIAA is responsible under the CPRs for administering, reviewing and providing information on the IPP as required. Specifically, the NIAA's responsibilities include:

- developing and publishing the policy;
- monitoring and publishing performance information;
- administering the Indigenous Procurement Policy Reporting Solution (IPPRS), an online reporting system used to record data on MMR contracts;
- supporting entities and contractors to comply with MMR reporting requirements; and
- monitoring and reviewing the effectiveness of the policy.²²

1.8 Australian Government entities are responsible for their compliance with the IPP, including the MMRs. This involves ensuring that:

- procuring officials and contract managers understand their obligations under the IPP;
- MMR targets are included in contracts, in line with the policy intent;
- contractors report performance against MMR targets in the IPPRS²³ and that this data is complete and accurate²⁴; and
- contract managers monitor and manage contractors' performance in achieving MMR targets.²⁵

1.9 MMR requirements through the procurement lifecycle are illustrated in Figure 1.1.

21 Commonwealth of Australia, *Order to Establish the National Indigenous Australians Agency as an Executive Agency*, 29 May 2019 (commenced 1 July 2019), available from <https://www.legislation.gov.au/C2019G00474/latest/text> [accessed 3 March 2025].

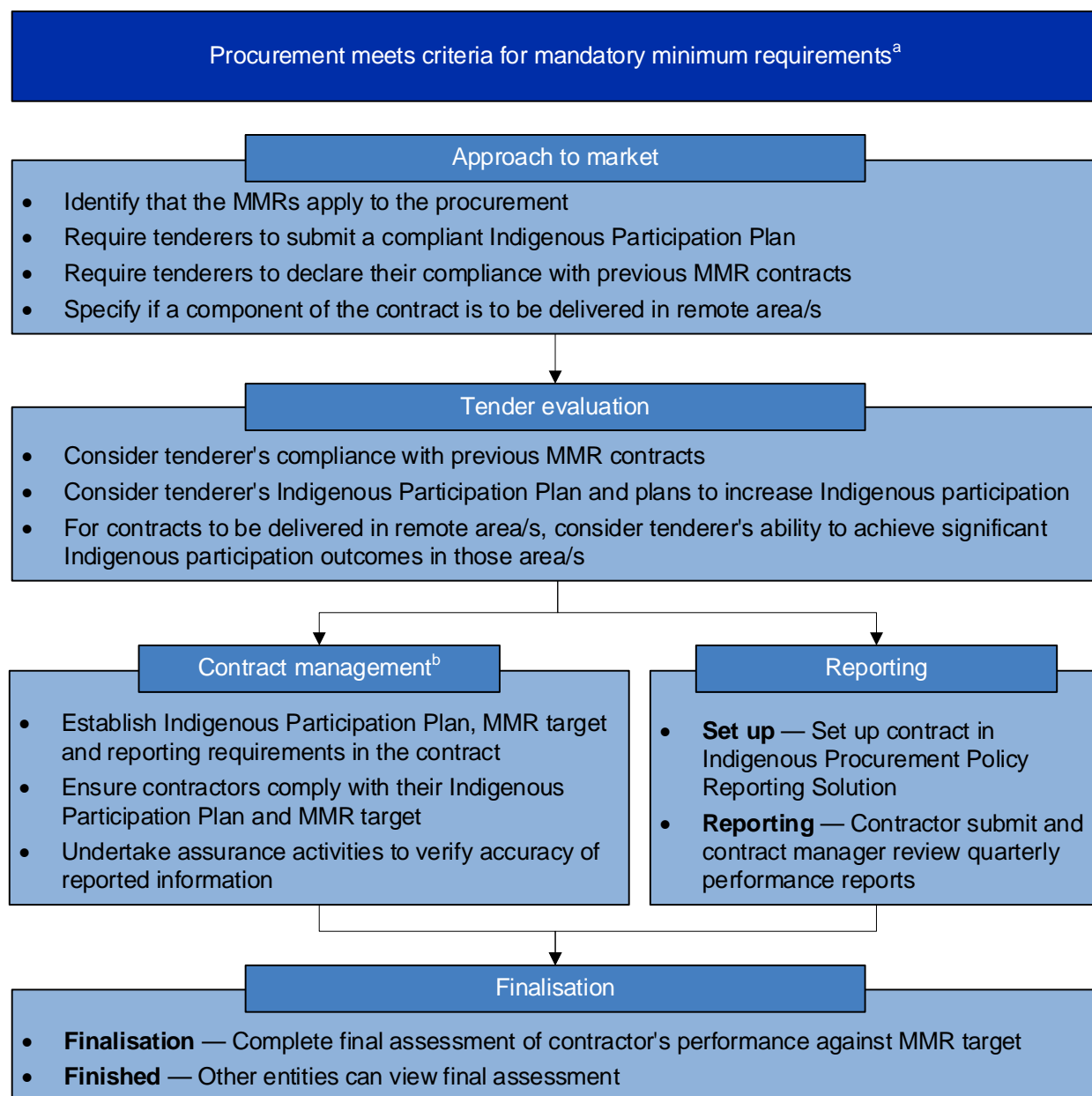
22 NIAA, *IPP*, pp. 32–33.

23 After the IPPRS launched, entities were asked to retrospectively submit reports on MMR contracts for July 2016 to December 2017. Development of the IPPRS was examined in Auditor-General Report No.25 2019–20 *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, ANAO, Canberra, 2020, para. 3.20–3.23, available from <https://www.anao.gov.au/work/performance-audit/aboriginal-and-torres-strait-islander-participation-targets-major-procurements> [accessed 3 May 2024].

24 NIAA, *IPP*, p. 33.

25 *ibid.*, pp. 32–33.

Figure 1.1: Mandatory minimum requirements — procurement and contract management process



Note a: The MMRs may apply to procurements from standing offers or panel arrangements. When establishing new panels, entities must identify in the approach to market and deed of standing offer that the MMRs will apply to procurements from the standing offer. Entities undertaking a standing offer must ask the contractor to provide, and must consider as part of the procurement evaluation, an Indigenous Participation Plan and compliance with previous MMR contracts when the contract or order meets the MMR criteria. Panel procurements to which the MMRs apply are subject to the same requirements as other procurements in the contract management, reporting and finalisation phases.

Note b: If a contract subject to the MMRs is varied, any variation to the Indigenous Participation Plan and MMR target must comply with the IPP. If a contract not subject to the MMRs is varied and the variation results in the contract meeting the MMR criteria or presents an opportunity for increased Indigenous participation in the delivery of the contract, the entity may negotiate with the contractor to voluntarily apply the MMRs.

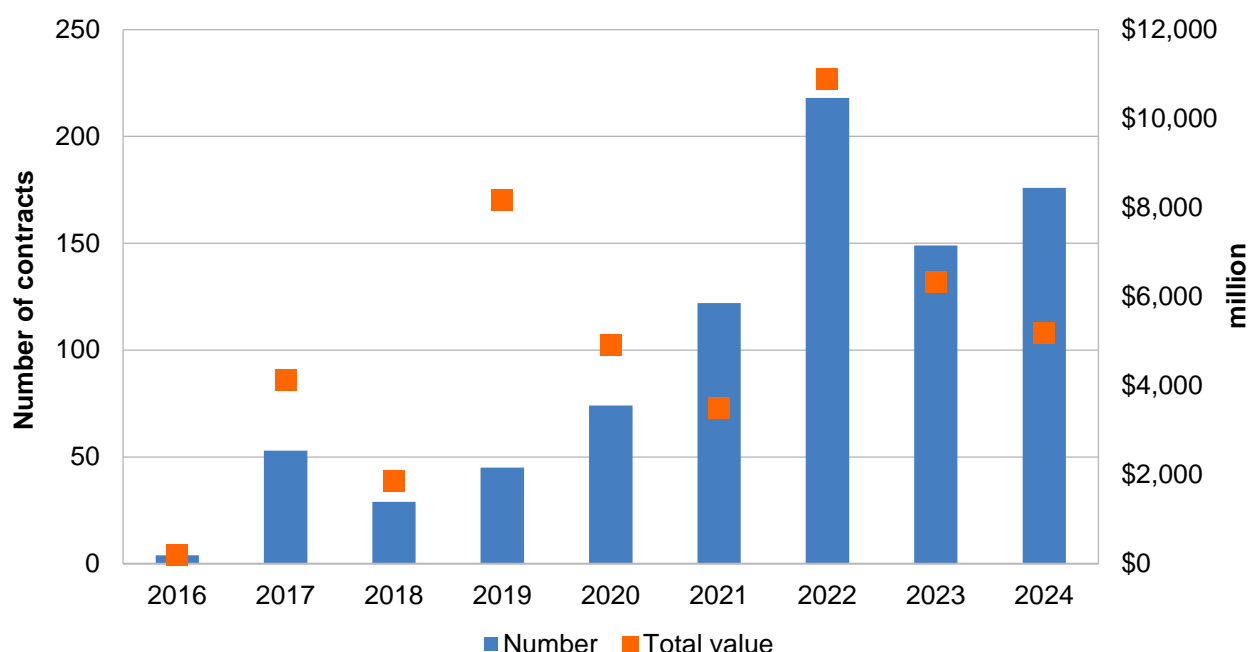
Source: ANAO summary of NIAA documentation.

Application of the mandatory minimum requirements

1.10 As at December 2024, the NIAA's most recent public reporting on MMR contracts²⁶ was in February 2024, based on data to 30 September 2023. The NIAA reported that, between 1 July 2016 and 30 September 2023, MMR contracts with a total value of \$36.3 billion were awarded to 313 contractors.²⁷ Based on IPPRS data, as calculated by the NIAA, the total value of contracts meeting the MMR criteria over the same period was \$103.9 billion. The total value of all Australian Government contracts reported to AusTender between 1 July 2016 and 30 June 2023 was \$462.3 billion.²⁸

1.11 As at 30 September 2024, the IPPRS included data on 870 MMR contracts commenced between 1 July 2016 and 30 September 2024 with a total value of \$45.2 billion²⁹ (Figure 1.2). The 870 contracts were held by 52 Australian Government entities. A further 1,475 contracts were exempted by entities from the MMRs over the same period.

Figure 1.2: Mandatory minimum requirements contracts by year, July 2016 to September 2024^a



Note a: Number and total value of contracts per year based on contract start dates as recorded in the IPPRS — 2016 covers the period 1 July 2016 to 30 December 2016; 2024 covers the period 1 January 2024 to 30 September 2024

26 For the purposes of this audit report, 'MMR contracts' refers to contracts subject to the MMRs.

27 NIAA, Indigenous Procurement Policy (IPP) [Internet], available from <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-ipp> [accessed 13 December 2024].

28 Department of Finance, 'Statistics on Australian Government Procurement Contracts' [Internet], available from <https://www.finance.gov.au/government/procurement/statistics-australian-government-procurement-contracts> [accessed 13 December 2024].

29 The IPPRS includes one additional contract in the Health, Disability and Ageing portfolio with a start date of 31 March 2015, which pre-dates the establishment of the MMRs (contract value \$790.5 million as at December 2024). MMR targets for the contract were established in the IPPRS in January 2021.

Source: ANAO analysis of IPPRS data. The ANAO has not assured IPPRS data.

1.12 Table 1.1 shows the number and value of MMR contracts, and the number and value of contracts exempted from the MMRs by entities, for each Australian Government portfolio, as at September 2024 (see Table 3.1 and Figure 3.2 for further data on MMR exemptions by portfolio).

Table 1.1: Mandatory minimum requirements contracts and exempted contracts by portfolio, July 2016 to September 2024^a

Australian Government portfolio	Number of MMR contracts	Total value of MMR contracts (\$ m)	Number of exempted contracts	Total value of exempted contracts (\$ m)
Agriculture, Fisheries and Forestry	9	190.2	54	772.0
Attorney-General's	11	294.7	26	517.2
Climate Change, Energy, the Environment and Water	29	488.0	34	646.4
Defence	310	23,274.5	470	35,859.1
Education	15	285.9	69	1,293.2
Employment and Workplace Relations	208	8,293.1	39	670.9
Finance	22	606.4	72	2,491.9
Foreign Affairs and Trade	20	680.4	178	9,441.8
Health and Aged Care	71	2,044.8	130	5,178.3
Home Affairs	47	4,267.8	91	3,455.6
Industry, Science and Resources	10	646.0	47	1,163.2
Infrastructure, Transport, Regional Development, Communications and the Arts	18	278.4	39	1,695.7
Parliamentary Departments	3	40.3	8	210.2
Prime Minister and Cabinet	8	108.8	17	424.2
Social Services	27	1,606.3	103	2,167.8
Treasury	41	1,763.1	83	2,811.4
Veterans' Affairs	21	346.3	15	497.4
Total	870	45,215.2	1,475	69,296.3

Note a: Based on portfolios to which contracts are assigned in the IPPRS as at September 2024.

Source: ANAO analysis of IPPRS data. The ANAO has not assured IPPRS data.

1.13 At the commencement of an MMR contract, the relevant entity is required to set up the contract in the IPPRS to enable the contractor to report their performance against the MMR target. Set up includes specifying the assessment method (whether the contractor's performance will be assessed against a contract-based or organisation-based target and the target level).

- Of the 870 MMR contracts between July 2016 and September 2024, 763 contracts specified an assessment method in the IPPRS. Of these, 391 contracts (51 per cent) have a contract-based target and 372 contracts (49 per cent) have an organisation-based target.³⁰
- As outlined in paragraph 1.4, contractors can elect to meet their MMR target through a contract-based target (minimum four per cent) or an organisation-based target (minimum three per cent). On average, contractors nominate to meet their MMR target through a combination of employment and supply use.
 - For the 391 MMR contracts with a contract-based target, the average sum of the Indigenous employment and supply-use components of the target was 6.3 per cent. For 12 contracts (3.1 per cent), the sum of the Indigenous employment and supply-use components of the target did not meet the minimum value of four per cent.
 - For the 372 contracts with an organisation-based target, the average sum of the Indigenous employment and supply-use components of the target was 6.0 per cent. For 29 contracts (7.8 per cent), the sum of the Indigenous employment and supply-use components of the target did not meet the minimum value of three per cent.

1.14 Once an MMR contract has ended, the relevant entity is required to make a final assessment of whether the contractor has achieved the agreed MMR target over the life of the contract. Of the 870 MMR contracts in the IPPRS shown as commencing between 1 July 2016 and 30 September 2024, 161 (18.5 per cent) had a final MMR compliance assessment recorded in the IPPRS as at September 2024. Of the 161 contracts, the contractor was assessed to have met the MMR target for 116 (72 per cent) (Table 1.2).³¹

Table 1.2: Final compliance assessment of mandatory minimum requirements contracts by portfolio, July 2016 to September 2024^a

Australian Government portfolio	Number of finalised and assessed contracts	Number of contracts assessed as meeting the MMR target	Percentage of contracts assessed as meeting the MMR target (%)	Total value of contracts assessed as meeting the MMR target (\$ m)
Agriculture, Fisheries and Forestry	0	–	–	–
Attorney-General's	2	2	100	104.7

30 An additional 107 contracts had not specified an assessment method.

31 For one contract, the final compliance assessment was blank. An additional 35 contracts had ended but the final compliance assessment process had not been completed.

Australian Government portfolio	Number of finalised and assessed contracts	Number of contracts assessed as meeting the MMR target	Percentage of contracts assessed as meeting the MMR target (%)	Total value of contracts assessed as meeting the MMR target (\$ m)
Climate Change, Energy, the Environment and Water	1	0	0	0
Defence	104	86	83	3,897.1
Education	0	–	–	–
Employment and Workplace Relations	36	17	47	618.1
Finance	4	2	50	38.8
Foreign Affairs and Trade	0	–	–	–
Health and Aged Care	3	3	100	51.8
Home Affairs	3	3	100	70.4
Industry, Science and Resources	0	–	–	–
Infrastructure, Transport, Regional Development, Communications and the Arts	0	–	–	–
Parliamentary Departments	0	–	–	–
Prime Minister and Cabinet	0	–	–	–
Social Services	2	2	100	54.0
Treasury	6	1	17	92.7
Veterans' Affairs	0	–	–	–
Total	161	116	72	4,927.6

Note a: Based on portfolios to which contracts are assigned in the IPPRS as at September 2024.

Source: ANAO analysis of IPPRS data. The ANAO has not assured IPPRS data.

External reviews of the Indigenous Procurement Policy

1.15 Auditor-General Report No. 25 2019–20 *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements* assessed the effectiveness of the administration of the MMRs in achieving policy objectives.³² The audit examined the NIAA's implementation and monitoring of the MMRs and six entities' compliance with the MMRs.³³ The audit found that while the MMRs were effectively designed, their administration had been undermined by ineffective implementation and

32 Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*.

33 The audited entities were: NIAA; Department of Defence; Department of Education; Department of Employment, Skills, Small and Family Business; Department of Home Affairs; and Department of Infrastructure, Transport, Cities and Regional Development. The entities were selected for the audit on the basis of the number and nature of MMR contracts they held.

monitoring by the policy owner and insufficient compliance by entities.³⁴ The audit made six recommendations, which were agreed by the entities (see Appendix 4). The specific entities changed prior to the tabling of the audit report due to machinery-of-government changes.³⁵

1.16 In August 2021, the House of Representatives Standing Committee on Indigenous Affairs tabled its *Report on Indigenous Participation in Employment and Business*. The committee recommended that the NIAA, in consultation with other agencies, consider developing a ‘richer’ measurement of performance and outcomes for the IPP than the number and value of contracts awarded under the policy. The committee stated that performance measures related to employment outcomes and skills transfer would ‘bring the IPP into line with its original aims’.³⁶ The Australian Government agreed to the recommendation in March 2022 (see paragraphs 2.37 and 2.47).³⁷

1.17 In November 2024, the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs released its report *Inquiry into economic self-determination and opportunities for First Nations Australians*. The committee recommended that the Australian Government consider increasing the annual target for Australian Government portfolios procuring goods and services from Aboriginal and Torres Strait Islander enterprises (see paragraph 1.2) and consider the definition of an Indigenous business.³⁸ As at March 2025, the Australian Government had not tabled a response to the inquiry.

1.18 In February 2025, the Australian Government announced reforms to the IPP which addressed elements of the November 2024 parliamentary committee recommendation. The reforms include changing the definition of an Indigenous business under the IPP from 50 per cent Indigenous owned to 51 per cent Indigenous owned or controlled, to take effect from 1 July 2026.

34 Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, para. 9–12.

35 A machinery-of-government change occurs when the government changes the management of Commonwealth responsibilities.

- During the 2019–20 audit, the Department of Education and the Department of Employment, Skills, Small and Family Business were separate entities. On 1 February 2020, prior to the tabling of the audit report, most functions dealt with by Education and the Department of Employment, Skills, Small and Family Business were consolidated within the Department of Education, Skills and Employment (DESE) through a machinery-of-government change. Recommendations in the audit report were directed at DESE.
- On 1 July 2022, through another machinery-of-government change, DESE became the Department of Education and some of its functions were transferred to the new Department of Employment and Workplace Relations.
- On 1 February 2022, the Department of Infrastructure, Transport, Cities and Regional Development became the Department of Infrastructure, Transport, Regional Development and Communications.

The *Machinery of Government Changes Guide* provides guidance to entities to support the implementation of machinery-of-government changes. (Australian Public Service Commission and Department of Finance, ‘Machinery of Government Changes Guide’ [Internet], November 2024, available from <https://www.finance.gov.au/government/machinery-government-changes-guide> [accessed 24 February 2025].)

36 House of Representatives Standing Committee on Indigenous Affairs, *Report on Indigenous Participation in Employment and Business* (2021), p. 32.

37 Australian Government, *Australian Government response to the House of Representatives Standing Committee on Indigenous Participation in Employment and Business* (2022).

38 Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Inquiry into economic self-determination and opportunities for First Nations Australians* (2024).

The reforms also include measures related to two of the three elements of the IPP (see paragraph 1.2). There were no changes to the mandatory set-aside.

- Procurement targets — The annual value target for the Australian Government and each Australian Government portfolio for 2025–26 will increase to three per cent (compared with 2.5 per cent under the current policy). The annual value target will increase by a further 0.25 per cent annually to 2029–30.
- Mandatory minimum requirements — the NIAA will explore the feasibility of increasing transparency of contractors' performance against MMR targets.³⁹

Rationale for undertaking the audit

1.19 The stated policy objective of the MMRs is to 'ensure that Indigenous Australians gain skills and economic benefit from some of the larger pieces of work that the Commonwealth outsources, including in Remote Areas'.⁴⁰ Compliance with the MMRs is mandatory for non-corporate Commonwealth entities. The MMRs were established in July 2015 and became binding on contractors from 1 July 2016.

1.20 Auditor-General Report No. 25 2019–20 was undertaken to provide assurance that the MMRs were being effectively administered and selected entities were complying with them.⁴¹ The audit concluded that while the MMRs were effectively designed, their administration had been undermined by ineffective implementation and monitoring by the policy owner and insufficient compliance by the selected entities.⁴² The audit made six recommendations to improve administration of and compliance with the MMRs, which were all agreed to.

1.21 Auditor-General reports identify risks to the successful delivery of government outcomes and provide recommendations to address them. The tabling in the Parliament of an agreed response to an Auditor-General recommendation is a formal commitment by the entity to implement the recommended action. Effective implementation of agreed Auditor-General recommendations demonstrates accountability to the Parliament and contributes to realising the full benefit of an audit.⁴³

39 Minister for Indigenous Australians, 'Strengthening Indigenous Procurement Policy', media release, Parliament House, Canberra, 13 February 2025, available from <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F10163775%22>. The announcement also stated that the Australian Government will review the methodology for calculating and measuring the annual procurement targets, and that NIAA will explore options to address 'black cladding' including easier reporting and education. (NIAA, *The Indigenous Procurement Policy is changing* [Internet], available from <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-changing> [accessed 14 February 2025].)

40 Australian Government, *Commonwealth Indigenous Procurement Policy*, 1 July 2015, p. 32.

41 The audited entities were: Department of Defence; Department of Education; Department of Employment, Skills, Small and Family Business; Department of Home Affairs; Department of Infrastructure, Transport, Cities and Regional Development; and NIAA. The entities were selected for the audit on the basis of the number and nature of MMR contracts they held.

42 Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, para. 9–12.

43 ANAO, *Audit Insights: Implementation of Recommendations* [Internet], 30 June 2021, available from <https://www.anao.gov.au/work/audit-insights/implementation-recommendations-0> [accessed 5 December 2024].

1.22 This audit examines whether the NIAA; Department of Defence; Department of Education; Department of Employment and Workplace Relations⁴⁴; Department of Home Affairs; and Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts have effectively implemented agreed recommendations from Auditor-General Report No. 25 2019–20. Entities' implementation of agreed recommendations will help provide assurance to the Parliament about whether the MMRs are meeting the objective of stimulating Indigenous entrepreneurship, business and economic development and providing Indigenous Australians with opportunities to participate in the economy.

Audit approach

Audit objective, criteria and scope

1.23 The audit objective was to assess whether selected entities effectively implemented agreed recommendations from Auditor-General Report No. 25 2019–20 *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*.

1.24 To form a conclusion against the objective, the following high-level criteria were adopted.

- Did the NIAA implement recommendations related to the administration of the MMRs?
- Does the NIAA manage exemptions to the MMRs effectively?
- Did selected entities implement recommendations related to their compliance with the MMRs?

1.25 This audit is the second of two in 2024–25 examining implementation of recommendations in the Indigenous affairs portfolio. Auditor-General Report No. 14 2024–25 *Implementation of Parliamentary Committee and Auditor-General Recommendations — Indigenous Affairs Portfolio* examined Indigenous Business Australia and the NIAA's implementation of a selection of 25 other agreed parliamentary committee and Auditor-General recommendations.⁴⁵

Audit methodology

1.26 The audit involved:

- review of entities' policies and procedures;
- examination of documentation related to a sample of MMR contracts;
- analysis of data extracted from the IPPRS and AusTender; and
- meetings with relevant entity staff.

44 The Department of Employment and Workplace Relations was selected for inclusion in the current audit on the basis that it assumed functions of the Department of Employment, Skills, Small and Family Business, which was examined in the 2019–20 audit.

45 Auditor-General Report No.14 2024–25, *Implementation of Parliamentary Committee and Auditor-General Recommendations — Indigenous Affairs Portfolio*, ANAO, Canberra, 2024, available from <https://www.anao.gov.au/work/performance-audit/implementation-of-parliamentary-committee-and-auditor-general-recommendations-indigenous-affairs> [accessed 9 December 2024].

1.27 The contract sample comprised 91 MMR contracts held by the selected entities that commenced between 1 July 2020 and 31 December 2023. Details of the contracts and the methodology used to select the sample are provided in Appendix 5.

1.28 The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of approximately \$454,000.

1.29 The team members for this audit were Ashley Stephens, Rebecca Storen, Benjamin Foreman, Jillian Hutchinson, Lily Engelbrethsen, Kai Clark, Megan Cook, Jennifer Eddie and Christine Chalmers.

2. Administration of mandatory minimum requirements

Areas examined

This chapter examines the National Indigenous Australians Agency's (NIAA's) implementation of three agreed recommendations relating to its administration of the mandatory minimum requirements (MMRs) in Auditor-General Report No. 25 2019–20 *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*.

Conclusion

The NIAA largely implemented two of three recommendations relating to its administration of the MMRs: to develop guidance on the MMRs for Australian Government entities and contractors; and to implement a strategy to increase MMR reporting compliance. The NIAA did not complete a third recommendation as it developed but did not implement an MMR evaluation strategy. Additional commitments made by the NIAA in response to two recommendations were not met.

Areas for improvement

The ANAO made three recommendations for the NIAA to review and update MMR guidance; evaluate the effectiveness of the MMRs; and to ensure it is meeting its obligations as the owner of a procurement-connected policy. The ANAO identified one opportunity for improvement for the NIAA to consult with stakeholders on publishing information on contractors' performance against MMR targets.

2.1 In June 2024, the *Public Service Act 1999* (PS Act) was amended to specify 'stewardship' as one of the Australian Public Service (APS) Values, which members of the APS are required to uphold. The PS Act defines the value of stewardship as 'The APS builds its capability and institutional knowledge, and supports the public interest now and into the future, by understanding the long-term impacts of what it does.'⁴⁶

2.2 The Department of Finance's guidance on procurement-connected policies states that the entity responsible for the policy must:

- provide advice on the policy to Australian Government entities and other stakeholders⁴⁷; and
- actively monitor the policy and have an appropriate regime for addressing non-compliance.⁴⁸

2.3 The Australian Government's *Commonwealth Evaluation Toolkit* describes an evaluation as a structured assessment of the value of government programs or activities, aimed at supporting

46 *Public Service Act 1999*, subsection 10(6).

47 Department of Finance, *Commonwealth Grants and Procurement Connected Policies (RMG 415)*, November 2024, para. 14.

48 *ibid.*, para. 8.

improvement, accountability, and decision-making throughout the policy cycle.⁴⁹ The *Commonwealth Evaluation Policy* provides principles for the conduct of evaluations.⁵⁰

2.4 Auditor-General Report No. 25 2019–20 *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements* made three recommendations directed at the NIAA relating to the NIAA's administration of the MMRs (Table 2.1 and Appendix 4). The NIAA agreed to the recommendations and made additional commitments in its response (see Box 1, Box 2 and Box 4).⁵¹ The ANAO's assessment of the NIAA's implementation of the three recommendations considered whether there was supporting evidence that the agreed action had been undertaken and the action met the intent of the recommendation as agreed (Table 2.1).

Table 2.1: Assessment of the NIAA's implementation of agreed recommendations relating to administration of the mandatory minimum requirements

Rec. no.	Recommendation ^a	NIAA status ^b	ANAO assessment
1	National Indigenous Australians Agency develops tailored guidance on managing the MMRs throughout the contract lifecycle in consultation with entities and contractors.	Implemented (September 2020)	Largely implemented ^c (See paragraphs 2.5 to 2.22)
2	National Indigenous Australians Agency implements a strategy to increase entity and contractor compliance with MMR reporting requirements to ensure information in the IPP Reporting Solution is complete.	Implemented (September 2020)	Largely implemented ^c (See paragraphs 2.23 to 2.32)
3	National Indigenous Australians Agency implements an evaluation strategy for the MMRs that outlines an approach to measuring the impact of the policy on Aboriginal and Torres Strait Islander employment and business outcomes.	Implemented (March 2021)	Not implemented ^c (See paragraphs 2.33 to 2.47)

Note a: The NIAA agreed to all recommendations.

Note b: The date is when the NIAA advised its Audit and Risk Committee that the recommendation was closed. The ANAO has taken closure of the recommendation to indicate that the recommendation was considered by the NIAA to be implemented unless closure documentation stated otherwise.

Note c: The ANAO's assessment differed from the NIAA's assessment for the recommendations highlighted in the table.

Source: Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements* and ANAO analysis of NIAA documentation.

49 Treasury, *Commonwealth Evaluation Toolkit* [Internet], available from <https://evaluation.treasury.gov.au/toolkit/what-evaluation> [accessed 5 December 2024].

50 The five key principles stated in the policy are that evaluations need to be: fit for purpose; useful; robust, ethical and culturally appropriate; credible; and transparent where appropriate. (Treasury, *Commonwealth Evaluation Policy* [Internet], available from <https://evaluation.treasury.gov.au/about/commonwealth-evaluation-policy> [accessed 5 December 2024].)

51 Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, paras. 3.17–3.18, 3.35–3.39, 3.46–3.47, available from <https://www.anao.gov.au/work/performance-audit/aboriginal-and-torres-strait-islander-participation-targets-major-procurements> [accessed 3 May 2024].

Was tailored guidance developed that was based on stakeholder consultation?

Auditor-General Report No. 25 2019–20 recommended that the NIAA develop tailored guidance on managing the MMRs throughout the contract lifecycle in consultation with entities and contractors. The NIAA published updated guidance on managing the MMRs in July 2020, following stakeholder consultation. The guidance included complete information for nine of 14 topics identified as requiring additional guidance in Auditor-General Report No. 25 2019–20. Guidance included incomplete information on MMR exemptions, managing MMR performance reporting, and obtaining assurance over contractors' MMR performance reporting. As at March 2025, guidance had not been updated since July 2020 despite changes to MMR reporting requirements. A commitment to publish guidance tailored for Indigenous businesses was not met.

Box 1: Findings from Auditor-General Report No. 25 2019–20 — Recommendation 1

Auditor-General Report No. 25 2019–20 examined whether the policy owner had effectively promoted awareness and understanding of the MMRs to stakeholders. The audit found that while the policy owner had publicised the MMRs, it had not provided entities and contractors sufficient guidance on complying with the MMRs.^a The audit identified topics that required more comprehensive MMR guidance for three stakeholder groups: entity procurement officers; entity contract managers; and contractors.^b

The NIAA agreed to the recommendation to develop more tailored MMR guidance and made the following response:

The NIAA will publish a revised [Indigenous Procurement Policy] policy document and new guidance materials during the first quarter of 2020. This will include tailored guidance on the implementation of the [MMRs] for Commonwealth entities, major contractors and Indigenous businesses, developed in consultation with stakeholders.^c

Note a: Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, paras. 3.9–3.14.

Note b: *ibid.*, paras. 4.11, 4.47.

Note c: *ibid.*, paras. 3.17–3.18.

Stakeholder consultation on revised guidance

2.5 In February 2019, the Australian Government announced changes to the Indigenous Procurement Policy (IPP), including the expansion of the MMRs to new industry categories (see paragraph 1.3). In December 2019, the NIAA developed an implementation plan to support the NIAA's implementation of the changes, which included a timeframe for planned activities and a risk assessment. The implementation plan stated guidance would be developed in consultation with

Australian Government entities, the NIAA regional network⁵², Supply Nation⁵³, major contractors and Indigenous businesses. Deliverables included ‘tailored guidance’ for three audiences: ‘Commonwealth buyers’; Indigenous businesses; and major contractors. The plan stated the guidance would be published on the NIAA website by March 2020.

2.6 Following the tabling of Auditor-General Report No. 25 2019–20 in February 2020, between March 2020 and May 2020, the NIAA revised the implementation plan to include:

- new activities, or additional details for existing activities, in response to the ANAO recommendations;
- a more detailed timeline and extension of the timeframe for publication of the guidance to June 2020⁵⁴; and
- additional details on stakeholder communication activities. There was a stakeholder consultation plan, which identified three stakeholder groups: procurement officials and contract managers; suppliers; and other ‘key stakeholders’.⁵⁵ The plan stated that consultation would involve written feedback and meetings, and that consultation with Australian Government entities would occur through an existing IPP Cross Agency Working Group.⁵⁶ The plan stated that stakeholders would receive feedback.

2.7 In May 2020, the NIAA undertook consultation on three draft MMR guides targeted at procuring officials, contract managers and contractors. NIAA sought written feedback within one to two weeks from 17 Australian Government entities⁵⁷, eight contractors, Supply Nation and NIAA regional managers, and held three meetings with procuring officials, contract managers and NIAA regional managers. Suggestions in feedback included changes to improve clarity and consistency; additional examples and case studies; and additional information on topics such as applying the MMRs to contract variations, assurance over MMR performance reporting, and assessment of contractors’ past MMR performance.

52 The regional network refers to the NIAA regional offices across Australia. (National Indigenous Australians Agency, *Corporate Plan 2024–25*, pp. 25, 50–51.)

53 Supply Nation is a non-government organisation that receives funding from the Australian Government to provide a national directory of Aboriginal and Torres Strait Islander businesses. Listed businesses must be at least 50 per cent owned by Aboriginal and Torres Strait Islander persons; located in Australia; and make the majority of their revenue through providing a product or service (as opposed to grants and donations).

54 An update prepared in March 2020 and provided to the NIAA Audit and Risk Committee in April 2020 revised the implementation timeframe for the recommendation from March 2020 to June 2020 due to reprioritisation of resources related to COVID-19. The update stated this would allow additional time for consultation.

55 Key stakeholders listed in the plan were: the Department of Finance; NIAA regional managers; Supply Nation; and Indigenous Business Direct (Indigenous Business Direct is the directory of verified Aboriginal and Torres Strait Islander businesses provided by Supply Nation). The revised plan dated May 2020 is in draft. NIAA advised the ANAO in July 2024 that it could not locate a more recent version of the document.

56 The IPP Cross-Agency Working Group was established in 2014 as a consultation forum to inform the development of the IPP. The group continued as a forum to support the policy implementation. October 2020 terms of reference state that the group comprises Senior Executive Service procurement officials from ‘all portfolios’. The group meets biannually, and meetings are preceded by meetings of a sub-group of Executive Level 2 officials.

57 The NIAA circulated the draft guides to portfolio departments, the Australian Taxation Office, the Department of Parliamentary Services, Indigenous Business Australia, and Services Australia.

Development of revised guidance

2.8 In June 2020, the NIAA finalised changes to the draft MMR guides in response to stakeholder feedback, including combining the procuring officials' and contract managers' guides and adding additional examples and case studies. Changes largely addressed feedback, but did not include adding information on assurance over MMR performance reporting.

2.9 In June 2020, the NIAA provided a revised IPP to the Minister for Indigenous Australians (the minister). The NIAA advised the minister that the revised policy reflected changes made to the IPP since its establishment in 2015 and clarified details related to the application of the MMRs to panel procurements; contracts wholly or partly delivered overseas; and contracts subject to variations. The NIAA also advised the minister that it was developing guidance material for entity officials, major contractors and Indigenous businesses.⁵⁸ In July 2020, the minister approved the revised IPP and agreed to issue a media release about it and planned guidance material.⁵⁹

2.10 In July 2020, the NIAA published the revised IPP and two new MMR guides (one for Australian Government officials and one for potential suppliers).⁶⁰ The NIAA also updated two existing guides (a guide for contractors on using the Indigenous Procurement Policy Reporting Solution (IPPRS); and a guide for procuring officials and contract managers on model clauses⁶¹ for procurements subject to the MMRs). In July 2020, the NIAA sent the new and existing guides to members of the IPP Cross-Agency Working Group.⁶² The NIAA issued a media release that referred to the guides⁶³ and promoted the guides in the August 2020 issue of the Department of Finance's *Procurement Bulletin*.⁶⁴ The NIAA circulated the guides to contractors for new MMR contracts via the IPPRS from June 2021.⁶⁵

2.11 In July 2020, the NIAA closed the ANAO recommendation. The closure report noted that a guide tailored for Indigenous businesses was under development. The closure of the recommendation was approved by the NIAA Audit and Risk Committee in September 2020.

58 The NIAA also advised the minister that it would aim to develop similar tailored guidance on the mandatory set aside element of the IPP (see paragraph 1.2). The NIAA published a fact sheet on the mandatory set aside in June 2022. (NIAA, *IPP Mandatory Set Aside Factsheet* [Internet], available from <https://www.niaa.gov.au/resource-centre/ipp-mandatory-set-aside-factsheet> [accessed 3 February 2025].)

59 The media release approved by the minister was not issued.

60 NIAA, *Indigenous Procurement Policy (IPP)* [Internet], available from <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-ipp> [accessed 6 December 2024].

61 The guide on model clauses states that entities may insert the model clauses in their approach to market documentation and the resultant contracts to give effect to the requirements for MMR procurements under the IPP.

62 The NIAA provided high-level advice to members of the IPP Cross-Agency Working Group on 'key improvements' made in the consultation process. The NIAA did not provide stakeholders with feedback on suggested changes in line with the NIAA's stakeholder consultation plan.

63 National Indigenous Australians Agency, 'New milestone for Indigenous Businesses', media release, 16 July 2020, available from <https://www.niaa.gov.au/news-and-media/new-milestone-indigenous-businesses> [accessed 9 December 2024].

64 The *Procurement Bulletin* is a bimonthly publication for Australian Government procurement officials that provides notices from entities and information on coordinated arrangements and upcoming events.

65 In June 2021, the NIAA added functionality to the IPPRS to send automatic emails to contractors for new MMR contracts. The emails included references to the guides.

2.12 As at March 2025, the NIAA had not updated its published guidance for procuring officials, contract managers and contractors since July 2020. The guidance did not reflect changes made to the process for managing MMR reporting in the IPPRS since July 2020 (see paragraph 2.26). The NIAA had not published tailored guidance for Indigenous business in line with its response to the recommendation in February 2020 (see Box 1) and advice to the minister in June 2020 (see paragraph 2.9). In May 2024, the NIAA advised the ANAO that the guide was deprioritised due to resourcing constraints and other resources available to Indigenous businesses. As at March 2025, the NIAA's website stated that the Indigenous business guide was 'currently under development'.⁶⁶

Adequacy of revised guidance

2.13 The ANAO assessed whether the guidance published by the NIAA in July 2020 addressed the 14 topics identified in Auditor-General Report No. 25 2019–20 as requiring additional guidance (see Table 2.2). The guidance addressed 13 of the 14 topics. Five addressed topics had incomplete information. Guidance directed at contract managers was incomplete.

2.14 Incomplete guidance related to three themes:

- exemptions from the MMRs (applying exemption categories for the MMRs);
- managing performance reporting (managing MMR performance reporting through the IPPRS); and
- assurance over MMR performance reporting (building checks into existing contract management processes to gain assurance of MMR performance reporting; undertaking risk-based compliance and enforcement activities; requesting evidence of identification from staff and suppliers in a culturally appropriate manner; and documentation that should be retained as evidence of reported MMR performance).

66 National Indigenous Australians Agency, 'Indigenous Procurement Policy (IPP)', available from <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-ipp> [accessed 6 December 2024].

Table 2.2: Assessment of completeness of mandatory minimum requirements guidance^a, as at December 2024

Entity procuring officials		Entity contract managers		Contractors	
Topic	Assessment	Topic	Assessment	Topic	Assessment
Determining if procurements are covered by the MMRs	◆	Managing MMR performance reporting through the IPPRS	▲	Setting targets appropriate for the location and nature of the services being delivered	◆
Assessing Indigenous Participation Plans and past performance to determine whether contractors have developed credible plans to achieve targets	◆	Building checks into existing contract management processes to gain assurance of MMR performance reporting	▲	Identifying Aboriginal and Torres Strait Islander suppliers and labour hire organisations	◆
Considering Indigenous Participation Plans as a component of the tender evaluation	◆	Undertaking risk-based compliance and enforcement activities (such as site visits or desktop audits)	▲	Varying MMR targets during the contract period	◆
Negotiating remote area targets with contractors	◆	Requesting evidence of identification from staff and suppliers in a culturally appropriate manner (Paragraph 4.42)	■	Submitting quarterly performance reports through the IPPRS	◆
Applying exemption categories for the MMRs (Paragraph 3.6)	▲			Documentation that should be retained as evidence of reported MMR performance	▲

Key: ■ Topic not addressed in guidance ▲ Topic partly addressed in guidance ◆ Topic fully addressed in guidance.

Note a: Unless otherwise indicated, topics requiring additional guidance were identified in Table 3.1 in Auditor-General Report No. 25 2019–20. Two additional topics were identified in two other paragraphs in the same report, as indicated in brackets in the table.

Source: ANAO analysis of the NIAA's MMR guidance material. (NIAA, *Indigenous Procurement Policy (IPP)* [Internet], available from <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-ipp> [accessed 6 December 2024].)

Guidance on exemptions from the mandatory minimum requirements

2.15 Guidance for procuring officials outlines circumstances in which procurements are exempt from the MMRs and states that certain exempt contracts will need to be ‘filtered out’ of the IPPRS. Separate IPPRS online help provides instructions for exempting contracts in the IPPRS. There is no guidance on the use of the available exemption categories or documentation that should be retained to support exemptions.

Guidance for managing performance reporting

2.16 Guidance for contract managers provides an overview of MMR reporting requirements, including a link to IPPRS online help. Online help provides detailed instructions on using the IPPRS to manage contractors’ MMR performance reporting. The guidance and online help do not:

- explain how contract managers should acknowledge their review of quarterly performance reports for contracts with organisation-based MMR targets (see paragraph 1.4 and Box 3);
- establish timeframes for entities to set up contracts for reporting in the IPPRS⁶⁷; or
- establish timeframes for finalising reporting for contracts that have ended.

2.17 Guidance for contractors states that contractors should maintain records to support claims relating to Indigenous employment, Indigenous supply use and the Indigeneity of businesses that are not registered with the Office of the Registrar of Indigenous Corporations⁶⁸ or Supply Nation. It does not provide specific examples of suitable evidence or guidance on how long records should be retained.

Guidance for obtaining assurance over performance reporting

2.18 Auditor-General Report No. 25 2019–20 identified that a key topic requiring additional guidance related to assurance over reported MMR performance. The report stated:

NIAA needs to provide additional guidance to entities on building checks into existing contract management processes to gain assurance of MMR performance reporting and undertaking risk-based assurance activities. This guidance should include advice to entities and contractors about how to request evidence of identification from staff and suppliers in a culturally appropriate manner.⁶⁹

67 The guidance states that it is important for entities to ‘move quickly’ to set up contracts for reporting.

68 The Registrar of Aboriginal and Torres Strait Islander Corporations is an independent statutory office holder appointed by the Minister for Indigenous Australians to regulate business incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*. They are supported by the Office of the Registrar of Indigenous Corporations, which maintains the Register of Aboriginal and Torres Strait Islander Corporations that identifies every corporation registered under the Act.

69 Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, para. 4.47.

2.19 The NIAA's guidance published in July 2020 included limited information to assist contract managers to gain assurance over contractors' reported MMR performance⁷⁰, undertake risk-based compliance and enforcement activities⁷¹, and request evidence from contractors in a culturally appropriate manner.

2.20 In July 2023, the NIAA advised the Chief Operating Officers (COO) Committee⁷² that it was not clear whether entities were verifying contractors' information on Indigenous employment and supply use and noted that some agencies had foreshadowed their intention to strengthen their MMR assurance processes. In June 2024, the NIAA again advised the COO Committee that it was still not clear whether entities were verifying reported performance information. The NIAA advised the committee that consultations on IPP reforms (see paragraph 2.41) had 'indicated an appetite for more robust assurance activities in relation to the IPP, including verification of MMR reported outcomes'. The NIAA advised the committee about eight 'compliance risks' and mitigations; suitable evidence; and factors that could increase the risk of contractor non-compliance.

Recommendation no. 1

2.21 To support Australian Government entities and contractors to comply with the mandatory minimum requirements (MMRs), in consultation with entities and contractors, the National Indigenous Australians Agency review and update MMR guidance material to ensure that it:

- (a) accurately reflects the current process for managing MMR reporting in the Indigenous Procurement Policy Reporting Solution and provides guidance on appropriate reporting timeframes;
- (b) provides sufficient information to support entities to implement risk-based assurance activities for MMR contracts; and
- (c) provides sufficient information for entities and contractors on suitable evidence to support performance reporting.

70 Contract manager guidance states that it 'would be beneficial' for entities to integrate reviews of MMR documentation in contract management control frameworks and that contract managers should specify the documentation that contractors must maintain as suitable evidence of reported MMR performance. It provides two examples of suitable evidence for MMR targets related to Indigenous employment (payroll information and evidence from human resources processes). There are no examples for MMR targets related to contractor use.

71 Contract manager guidance provides information on how to support contractors to meet MMR targets and complete the final MMR compliance assessment as required under the IPP. It does not provide information on potential enforcement activities. The guidance suggests assurance activities could include spot reviews or site visits but does not explain when these activities may be appropriate or provide information on compliance risks to assist entities to establish a risk-based approach to managing MMR performance.

72 The COO Committee is a sub-committee of the Secretaries Board, which is chaired by the Secretary of the Department of the Prime Minister and Cabinet and comprises the secretaries of all Australian Government departments, the Secretary for Public Sector Reform and the Australian Public Service Commissioner. The CEO of the NIAA is co-opted to Secretaries Board meetings to report on First Nations reforms. February 2023 terms of reference describe the COO Committee's roles as managing whole-of-government operational and implementation matters; and driving delivery of agreed public sector reform initiatives in line with the direction set by the Secretaries Board. The COO Committee's membership comprises Deputy Secretaries or COOs from all Australian Government departments, the Australian Public Service Commission, Services Australia, the Australian Taxation Office, the Australian Bureau of Statistics, the Digital Transformation Agency and the Office of National Intelligence.

National Indigenous Australians Agency response: Agreed.

2.22 *The National Indigenous Australians Agency will review and update its MMR guidance material.*

Was a reporting strategy implemented?

Contractors must report on, and Australian Government entities must assess, performance in meeting agreed MMR targets. Auditor-General Report No. 25 2019–20 recommended that the NIAA implement a strategy to increase entity and contractor compliance with MMR reporting requirements to ensure information in the Indigenous Procurement Policy Reporting Solution (IPPRS) is complete. The NIAA planned and undertook activities aimed at increasing contractors' compliance with MMR reporting requirements and entities' management of reporting non-compliance. These included improvements to the IPPRS and monitoring reporting compliance in Australian Government portfolios. The NIAA closed the ANAO recommendation before planned changes to the IPPRS were implemented. As at February 2025, the IPPRS did not fully support contract managers to meet reporting requirements for all types of MMR contracts. User feedback indicated ongoing access and support issues. While reporting compliance increased between 2022 and 2024, as at June 2024, entities and contractors were not fully compliant with MMR reporting requirements and information in the IPPRS was incomplete. Reforms to the IPP announced by government in February 2025 included potentially increasing transparency of suppliers' performance against MMR targets.

Box 2: Findings from Auditor-General Report No. 25 2019–20 — Recommendation 2

Auditor-General Report No. 25 2019–20 found that the MMRs had not been implemented and monitored effectively due to inadequate implementation planning and delays in establishing a centralised monitoring system, and that information in the IPPRS for MMR contracts was incomplete and could not be used to assess contractors' previous MMR performance during tender evaluation, or to report on entities' implementation of the MMRs.^a Of 156 active MMR contracts at 30 July 2019, 87 contracts (57 per cent) had not been set up to enable reporting. Of the 69 contracts that had been set up, 48 contracts (70 per cent) did not have at least one quarterly performance report recorded in the IPPRS.^b Incomplete performance information prevented a 2019 evaluation of the IPP from measuring the impact of the MMRs.^c

The NIAA agreed to the recommendation to implement a strategy to increase entity and contractor compliance with MMR reporting and made the following response:

In the first half of 2020 the NIAA will review the [IPPRS] workflow and work with Commonwealth entities and contractors to identify strategies to improve data entry processes, while minimising compliance costs for entities and businesses. The NIAA will continue to offer training and information resources to Commonwealth buyers and major contractors to support users to upload reporting data to the IPPRS. In the first half of 2020 the NIAA will introduce a systematic approach to monitoring of Commonwealth entities and major contractors reporting of MMR requirements and usage of the IPPRS. The Cross Agency Working Group will routinely receive updates on the reporting performance of mandated portfolio agencies. The NIAA will aim to drive improvements in MMR reporting compliance to a level that is consistent with broader

Commonwealth procurement reporting compliance rates (e.g. compliance with AusTender reporting requirements).^d

Note a: Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, February 2020, paras. 3.28–3.34.

Note b: *ibid.*, paras. 3.28, 3.30.

Note c: Department of the Prime Minister and Cabinet, *Third Year Evaluation of the Indigenous Procurement Policy*, August 2019, p. 51.

Note d: Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, February 2020, paras. 3.35–3.39.

Development of a strategy to increase compliance with reporting requirements

2.23 Between December 2019 and May 2020, the NIAA developed an implementation plan (see paragraphs 2.5 to 2.6) that included activities related to improving MMR reporting compliance. The plan included a risk assessment, with three of eight risks directly related to the IPPRS.⁷³ Planned activities included system upgrades to the IPPRS, automated compliance emails in the IPPRS, quarterly reporting of reporting compliance to the IPP Cross Agency Working Group, and training and information resources to support users to upload reporting data to the IPPRS. All except training (which was described as ongoing) was to be completed by 30 September 2020. The implementation plan did not include specific performance measures in relation to MMR reporting compliance. It included a deliverable ‘Proactive compliance regime leading to improved MMR compliance rate on the IPPRS’.

2.24 Between December 2019 and August 2020, the NIAA sought quarterly updates from entities on their MMR reporting compliance through the IPP Cross Agency Working Group. In May 2020, the NIAA Chief Executive Officer (CEO) wrote to departmental secretaries about requirements under the IPP, stating that compliance with reporting requirements was ‘underwhelming’. The CEO requested that entities implement ‘enhanced mechanisms’ to ensure compliance with the IPP. In June 2020, the NIAA presented to an Indigenous affairs inter-departmental committee and the COO Committee (see paragraph 2.20) on the matter.⁷⁴

2.25 In July 2020, the NIAA closed the ANAO recommendation. The closure report stated that the actions taken by the NIAA had addressed the risk identified by the ANAO that the ‘regime in place for enforcing compliance with MMR reporting requirements was not operating effectively’. The closure report stated that ‘active reporting rates in the IPPRS’ were 49 per cent at 27 July 2020 and that upgrades to the IPPRS would be implemented in 2020–21. The closure of the recommendation was approved by the NIAA Audit and Risk Committee in September 2020.

2.26 Upgrades to the IPPRS aimed at increasing compliance with MMR reporting requirements occurred from June 2020.⁷⁵

73 These risks were: ‘Major contractors and Commonwealth officials do not have access to the IPPRS or have adequate [*sic*] knowledge in the use of the system’ (moderate); ‘Major contractors and Commonwealth officials fail to ensure reporting on MMR contracts is up to date in the IPPRS’ (moderate); and ‘The IPPRS ceases to be a fit for purpose IPP reporting tool’ (high).

74 The NIAA advised the COO Committee that ‘significant under use’ of the IPPRS was a key issue.

75 Other updates between 2020 and 2024 included additional reporting functionality, user-interface changes and bug fixes.

- In June 2020, functionality was added to send automatic emails to entity contract managers and portfolio IPP managers⁷⁶ when more than two quarterly performance reports submitted by the contractor were not acknowledged by the entity, and when a contract was ready for final assessment but there were outstanding quarterly performance reports.
- In July 2020, the NIAA Resources Committee⁷⁷ approved funding of \$650,000 in capital expenditure and \$563,000 in operating expenditure in 2020–21 for upgrades to the IPPRS.
- In December 2020, changes were made to allow entity contract managers to receive, acknowledge and finalise contractors' quarterly performance reports and make the final assessment of contractors' performance via email, removing the need for contract managers to access the IPPRS for these reporting requirements. Functionality was added to automatically email quarterly performance reports to contract managers.
- In March 2021, progress indicators for workforce and supply-chain performance were added for contract- and organisation-based MMR targets. The progress indicators were included in automatic emails sent to contract managers with contractors' quarterly performance reports.⁷⁸
- In June 2021, functionality was added to send automatic emails to entity contract managers and contractors where a contract was identified as being at risk of not meeting the agreed MMR targets.
- In December 2023, changes were made to simplify the process for contractors to enter workforce data in the IPPRS, and an overall progress indicator was added, which combined progress indicators for workforce and supply-chain performance.

Box 3: Indigenous Procurement Policy Reporting Solution usability

The NIAA received feedback on the IPPRS through the COO Committee reporting process^a and a 'customer satisfaction survey' circulated to procurement staff in 17 Australian Government entities in November 2023.^b The ANAO sought feedback on the IPPRS from the five other audited entities and three other Australian Government entities, which were selected based on the value of active MMR contracts in their portfolios in the IPPRS as at October 2024.^c

Stakeholder feedback indicated that entity staff were generally satisfied that the IPPRS supports compliance with MMR reporting requirements. Feedback indicated issues related to users being unable to access the system or experiencing delays in gaining access^d; the need for

-
- 76 Portfolio IPP manager is a role in the IPPRS assigned to one person in each Australian Government portfolio. The portfolio IPP manager has oversight of reporting for all MMR contracts in the portfolio and can complete reporting actions on behalf of contract managers.
- 77 The Resources Committee is a sub-committee of the NIAA Executive Board chaired by the CEO, the aim of which is to ensure the effective and appropriate allocation of the NIAA's departmental financial resources and capital investment.
- 78 The IPPRS applies a risk level to MMR contracts based on a comparison of performance reported by the contractor against the agreed MMR targets: meeting or exceeding the agreed targets is 'on track'; between 75 per cent and 100 per cent of the agreed targets is 'moderate risk'; and below 75 per cent of the agreed targets is 'high risk'. Progress indicators are not applied if the time since the contract start date is less than 20 per cent of the total contract length and if a quarterly performance report has not been submitted. Risk levels do not account for timeliness of quarterly performance reports.

additional or updated training, guidance and resources; and the NIAA not responding to support requests in a timely manner. Suggestions for enhancements to the IPPRS to support increased MMR reporting compliance included a progress indicator for quarterly performance reports (which would indicate the due date for reports and/or days overdue); capturing additional contract information from AusTender to assist entities to identify missing or duplicated contracts in the IPPRS; and streamlining the process to export data from the IPPRS.

The ANAO identified other issues related to the usability of the IPPRS during the audit.

- The IPP and the NIAA's guidance for procuring officials and contract managers (see paragraph 2.10) state that contract managers' MMR reporting obligations include acknowledging in the IPPRS that they have reviewed contractors' quarterly performance reports. As at March 2025, the IPPRS allows contract managers to acknowledge review of reports for contracts with contract-based MMR targets, but not for the 49 per cent of contracts (see paragraph 1.13) with organisation-based MMR targets.^e Contract managers are unable to use the IPPRS to comply with this element of the reporting requirements for these contracts.^f
- The IPPRS allows users to change the type of MMR target during the life of a contract — for example, from a contract-based target to an organisation-based target. If the target type is changed, performance progress indicators do not consider the contractor's performance prior to the change, which is inconsistent with the NIAA guidance that target performance should take into account performance over the life of the contract.
- The IPPRS allows users to update whether a contractor is an Indigenous business (the 'Indigenous business indicator') for multiple MMR contracts at once. A June 2024 funding proposal for further IPPRS system improvements described this as a 'vulnerability' and stated that it had 'resulted in around \$500 million in contracts being misidentified as being with Indigenous businesses'.^g As at March 2025, the NIAA had not updated the instructions on the IPPRS online help website to provide additional guidance to users on the use of this functionality.
- As at March 2025, the IPPRS online help website does not reflect changes to the IPPRS. For example, the website does not refer to progress indicators and email notifications introduced in March 2021 and June 2021 respectively. Ninety-five per cent of hyperlinks on the website were inactive.^h

Note a: The template for portfolio agencies to report on reporting compliance for MMR contracts (see paragraph 2.28) includes a field for agencies to identify any improvements they would like to see in the IPPRS to facilitate compliance.

Note b: The November 2023 survey included questions about satisfaction with support from the NIAA (respondents were asked to indicate their satisfaction with IPPRS training, IPPRS online help, the IPPRS mailbox and IPPRS telephone help) and a free-text feedback question regarding the NIAA's IPP support. The NIAA received 17 responses.

Note c: The entities were the Department of Health, Disability and Ageing, the Department of Social Services and the Department of the Treasury.

Note d: The Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts advised the ANAO in November 2024 that procurement officials in the department had not been able to access the IPPRS since the first half of 2024. The department advised the ANAO that it had not been able to resolve the issue and was required to provide its MMR reporting data to the NIAA via email to be uploaded to the IPPRS.

- Note e: The NIAA advised the ANAO in October 2024 that functionality for reviewing quarterly performance reports for contracts with organisation-based MMR targets was complicated by the fact that contractors can submit reports against multiple contracts with different contract managers, and that the NIAA determined it would be impractical to implement this functionality.
- Note f: The NIAA advised the ANAO in October 2024 that contract managers' acknowledgement that they have reviewed quarterly performance reports could be documented by entities outside of the IPPRS.
- Note g: In February 2024, the NIAA updated data on Australian Government procurement outcomes on the IPP website, stating that the data was revised 'due to a small number of misidentified contracts being previously included in calculations'. (NIAA, *Indigenous Procurement Policy (IPP)* [Internet], available from <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-ipp> [accessed 6 December 2024].)
- Note h: The 'Contract-Based Assessment' section of the IPPRS online help website comprises 14 main pages. As at December 2024, 53 of the 56 hyperlinks (95 per cent) in the body of the pages were inactive (that is, they resulted in an error that stated 'the requested page could not be found').

Mandatory minimum requirements reporting completeness

2.27 In February 2021, the NIAA CEO received an internal briefing on the activities undertaken and planned to improve compliance with MMR reporting requirements. The update stated that more than 80 per cent of contract managers that used the IPPRS had received training on system upgrades and that 'compliance rates for MMR reporting' were 60 per cent.⁷⁹ In September 2021, the NIAA CEO was advised that MMR reporting compliance had 'stalled' and that the NIAA did not know whether agencies were verifying the accuracy of performance reports in the IPPRS. The advice recommended and the CEO agreed that the NIAA approach the COO Committee to establish a process for reporting on portfolio MMR reporting compliance to 'create a degree of "peer pressure" at a senior level' and stated that the NIAA would establish a process to give a 'non-compliant' rating to contracts that had ended without completed reporting. The non-compliant rating functionality was added to the IPPRS in October 2023.

2.28 In February 2022, the NIAA advised the COO Committee that, while compliance had increased following Auditor-General Report No. 25 2019–20, it had since plateaued. The NIAA proposed that portfolios provide six-monthly compliance reports to the committee to increase visibility of MMR outcomes and areas of non-compliance warranting further attention, using a reporting template. Based on the data reported in the template, the NIAA provided compliance reports to the COO Committee annually from 2022 to 2024 (see Table 2.3 and Appendix 6). The calculation did not take into account contracts that were not set up to enable reporting, and therefore over-stated reporting compliance rates. On each occasion it received the compliance reports, the COO Committee agreed to continue to focus on improving MMR reporting compliance. The committee did not agree to any specific actions.

Table 2.3: Mandatory minimum requirements reporting compliance as reported to Chief Operating Officers Committee, 2022 to 2024

Date of report	Contracts without MMR clauses	Contracts not set up to enable reporting ^a	Contracts in reporting phase ^b	Contracts in reporting phase compliant with reporting requirements ^c
February 2022	–	56 (22%)	200	117 (59%)
June 2022	11	64 (12%)	251	166 (66%)

⁷⁹ The NIAA CEO commented on this advice: 'We need to keep the pressure on here'.

Date of report	Contracts without MMR clauses	Contracts not set up to enable reporting ^a	Contracts in reporting phase ^b	Contracts in reporting phase compliant with reporting requirements ^c
July 2023	6	89 (15%)	409	295 (72%)
June 2024	13	68 (10%)	482	398 (83%)

Note a: Entities are required to set up contracts in the IPPRS to enable contractors to commence submitting quarterly performance reports against agreed MMR targets. This includes entering contact details for the contractor and specifying the Indigenous employment and contractor-use components of the MMR target.

Note b: Excludes contracts not set up to enable reporting.

Note c: In requesting compliance reports from entities, the NIAA defined compliance with reporting requirements as 'reporting up to date'.

Source: NIAA documentation.

2.29 In June 2024, the NIAA advised the COO Committee that the requirement for entities to consider past performance when evaluating tenders is the primary mechanism to drive contractors to comply with the MMRs and work was still required to improve MMR reporting compliance, particularly in relation to finalising reporting for contracts that had ended. The NIAA reported to the COO Committee that, as at June 2024, of the 203 MMR contracts that had ended, 70 contracts (34 per cent) had not had their reporting finalised. Of these, 68 contracts ended in previous financial years.

2.30 The NIAA stated in its response to the ANAO recommendation that it would aim to improve MMR reporting compliance to a level consistent with reporting compliance for Australian Government procurement more generally. Auditor-General Report No. 11 2022–23 *Australian Government Procurement Contract Reporting — 2022 Update* found that in 2021–22, 90 per cent of all Australian Government contracts were reported on AusTender within the required timeframe.⁸⁰ As at June 2024, based on NIAA reporting to the COO Committee, the ANAO calculated that 72 per cent of MMR contracts in the reporting phase were compliant with MMR reporting requirements.⁸¹

2.31 In June 2024, the NIAA advised the COO Committee that, of the 133 MMR contracts that had received a final compliance assessment as at June 2024, 101 contracts (76 per cent) were successful in achieving the MMR target. The NIAA does not publish information on the achievement of MMR targets. In February 2025, the NIAA advised the ANAO that publishing target data may require changes to entities' contracts to ensure consent has been obtained from contractors to publish the information. The NIAA's model clauses guidance has a proposed contract clause that notes 'the Contractor acknowledges and agrees that the reports it submits ... will be recorded in the

80 Reporting on AusTender is mandated in the Commonwealth Procurement Rules (CPRs) for all non-corporate Commonwealth entities and a select number of prescribed corporate Commonwealth entities. Paragraph 7.18 of the CPRs states that relevant entities must report contracts on AusTender within 42 days of entering into a contract when it is valued at or above the reporting threshold.

Auditor-General Report No. 11 2022–23, *Australian Government Procurement Contract Reporting — 2022 Update*, ANAO, February 2023, para. 3.25, available from <https://www.anao.gov.au/work/information/australian-government-procurement-contract-reporting-2022-update> [accessed 10 December 2024].

81 This was calculated by the ANAO as contracts in reporting phase compliant with reporting requirements (as reported by the NIAA to COO Committee in June 2024, N=398) divided by number of contracts not set up to report (N=68) plus number of contracts in reporting phase (N=482).

IPPRS ... and may be made publicly available'.⁸² In February 2025, the Australian Government announced that the NIAA would explore the feasibility of increasing transparency of suppliers' performance against MMR targets (see paragraph 1.18).⁸³

Opportunity for improvement

2.32 Public transparency of suppliers' performance against MMR targets will encourage suppliers to meet their contractual commitment to meet their minimum Indigenous supply use and employment target and better enable Australian Government entities to take prior performance into account when undertaking new procurements. The NIAA could work with entities and contractors to ensure that contracts include the model clause that allows for public reporting at the individual supplier level. It could also consider publishing aggregated performance data.

Was an evaluation strategy implemented?

Auditor-General Report No. 25 2019–20 recommended that the NIAA implement an evaluation strategy for the MMRs that outlines an approach to measuring the impact of the policy on Aboriginal and Torres Strait Islander employment and business outcomes. Although an evaluation strategy for the MMRs was finalised, it was not implemented. The NIAA has not met requirements to review the effectiveness of a procurement-connected policy every five years. There is no performance monitoring and limited public reporting about the MMRs.

Box 4: Findings from Auditor-General Report No. 25 2019–20 — Recommendation 3

Auditor-General Report No. 25 2019–20 found that the most recent evaluation of the IPP was completed in 2019 and that this did not evaluate the MMRs or assess their contribution to closing the gap in Aboriginal and Torres Strait Islander and non-Indigenous economic outcomes, due to the lack of monitoring data on MMR contracts (see Box 2).^a The audit found that the regime for enforcing compliance with MMR reporting requirements was not operating effectively and, as a result, the policy outcomes had not been evaluated.

The NIAA agreed to the recommendation that the NIAA implement an evaluation strategy that considered impact on employment and business outcomes and made the following response:

By the end of 2020 the NIAA will develop an evaluation strategy for the MMR. The strategy will feed into a review of IPP implementation that will occur in 2021, and a full evaluation of the IPP in 2022–23.^b

Note a: Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, ANAO, February 2020, paras. 3.40–3.44.

Note b: *ibid.*, paras. 3.46–3.47.

82 NIAA, *Indigenous Procurement Policy: Model Clauses – Guide 5*, NIAA, July 2020, p. 17, available from <https://www.niaa.gov.au/resource-centre/indigenous-procurement-policy-ipp-guide-5-model-clauses> [accessed 11 March 2025].

83 NIAA, *The Indigenous Procurement Policy is changing* [Internet], available from <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-changing> [accessed 14 February 2025].

Development of an evaluation strategy for the mandatory minimum requirements

2.33 In September 2020, the Business and Economic Policy Branch sought endorsement from the Program Performance Committee⁸⁴ to develop an 'IPP-MMR evaluation strategy', advising that the policy's underlying logic that increased opportunities to Indigenous business would have positive economic and social impacts had had limited verification. The Program Performance Committee requested that the proposal be aligned with an NIAA-wide performance monitoring and evaluation framework under development. In September 2020, the Policy and Delivery Committee⁸⁵ agreed to a proposal from the Business and Economic Policy Branch to develop a monitoring and evaluation framework for the IPP, including the MMRs, leading to a 'full evaluation' of the IPP in 2022–23.

2.34 The MMR evaluation strategy was approved by the CEO in December 2020. The strategy included indicative dates for the development of the separate IPP monitoring and evaluation framework and evaluation of the IPP, but not for the evaluation of the MMRs.

2.35 In January 2021, the NIAA closed the ANAO recommendation. The closure report stated that with the approval of the MMR evaluation strategy by the CEO, 'NIAA has completed implementation of the agreed response actions under this recommendation'.⁸⁶ The closure of the recommendation was approved by the NIAA Audit and Risk Committee in March 2021.

2.36 In March 2021, the NIAA contracted Inside Policy to develop and test the broader IPP monitoring and evaluation framework by 1 July 2021, at a total contract value of \$149,995 (GST inclusive).⁸⁷ In March 2022, Inside Policy provided the NIAA with a draft framework. The NIAA advised the ANAO in July 2024 that, although it continued to be marked as draft, the framework was approved in April 2022. The NIAA advised the ANAO in January 2025 that it could not locate any documents related to testing the monitoring and evaluation framework, which was a deliverable under the contract.

2.37 In March 2022, the Australian Government made a commitment to evaluate the IPP in 2022–23 in its response to the House of Representatives Standing Committee on Indigenous Affairs'

84 The Program Performance Committee was a sub-committee of the Policy and Delivery Committee (an advisory committee to the NIAA Executive Board). The committee comprised Senior Executive Service Band-2 and Band-1 officials.

85 The Policy and Delivery Committee was an advisory body to the NIAA Executive Board whose aim was to help drive and operationalise the strategic agenda of the NIAA. The committee comprised Senior Executive Service Band-3 and Band-2 officials. The committee was superseded in March 2023 by the Senior Leadership Committee.

86 The MMR evaluation strategy attached to the closure report as supporting evidence was marked 'DRAFT' and contained highlights indicating spelling and typographical errors.

87 AusTender, CN3759288.

Report on Indigenous Participation in Employment and Business, which was tabled in the Parliament in August 2021.⁸⁸

Implementation of evaluation of the mandatory minimum requirements

2.38 The IPP was reviewed in November 2017 ('year one' review) and December 2019 ('year three' evaluation) by the Department of Prime Minister and Cabinet.⁸⁹ The MMRs were out of scope for the 'year one' review and the 'year three' evaluation did not measure the impact of the MMRs due to incomplete reporting data.

2.39 In December 2020, the NIAA committed \$300,000 and an estimated \$375,000 of in-kind support over three years for a University of Melbourne project to evaluate the economic impact and benefits to the Indigenous community of Indigenous preferential procurement programs.⁹⁰ Internal NIAA advice stated that the project would align with and complement the IPP monitoring and evaluation framework. The University of Melbourne published three 'snapshot studies' of the Indigenous business sector between 2021 and 2024.⁹¹

2.40 The NIAA did not implement the MMR evaluation strategy finalised in December 2020 or the draft IPP monitoring and evaluation framework developed in March 2022. The NIAA advised the ANAO in May 2024 that the evaluation of the IPP in 2022–23 was 'set aside' due to work on reforms to the IPP.⁹²

2.41 In December 2023, the NIAA released a discussion paper on IPP reform for public consultation, which closed in March 2024. The discussion paper stated the MMRs 'have done well

88 The commitment was made in response to recommendation 1 which was: 'The committee recommends that the [NIAA], in consultation with other agencies, considers developing a richer measurement of performance and outcomes for the [IPP] than just contract numbers and value. Consideration by the NIAA should include how IPP contracts can help maximise Aboriginal and Torres Strait Islander employment and skills transfer.' (House of Representatives Standing Committee on Indigenous Affairs, *Report on Indigenous Participation in Employment and Business*, August 2021; Australian Government, *Australian Government Australian Government response to the House of Representatives Standing Committee on Indigenous Affairs report: Indigenous Participation in Employment and Business*, March 2022.)

The NIAA's implementation of this recommendation was examined in Auditor-General Report No. 14 2024–25 *Implementation of Parliamentary Committee and Auditor-General Recommendations — Indigenous Affairs Portfolio*.

89 Department of the Prime Minister and Cabinet, *Year one review of the Indigenous Procurement Policy*, September 2017, available from <https://www.niaa.gov.au/resource-centre/year-one-review-indigenous-procurement-policy> [accessed 13 December 2024]. Department of the Prime Minister and Cabinet, *Third Year Evaluation of the Indigenous Procurement Policy*, August 2019, available from <https://www.niaa.gov.au/resource-centre/third-year-evaluation-indigenous-procurement-policy> [accessed 13 December 2024].

90 Funding from the NIAA was conditional on the project also receiving funding from the Australian Research Council, which was announced in July 2021. (Australian Research Council, 'Grant LP200300898 – The University of Melbourne', available from <https://dataportal.arc.gov.au/NCGP/Web/Grant/Grant/LP200300898> [accessed 5 December 2024]).

91 The third snapshot study was published in April 2024. The study stated that future research would integrate AusTender, IPPRS and GrantConnect data to 'enable analysis of the outcomes and impacts from government procurement and grant programs'. (Evans, M. et al., *Indigenous Business and Corporation Snapshot Study 3.0*, The University of Melbourne, April 2024, available from <https://dilinduwa.com.au/snapshot-3> [accessed 5 December 2024]).

92 NIAA advised the ANAO in February 2025 that it could not locate evidence of a decision not to proceed with the evaluation of the IPP.

to get employment outcomes’ and that the average Indigenous employment rate for MMR contracts was 4.5 per cent.⁹³ The discussion paper stated that the purposes of IPP reforms were:

to create more opportunities for First Nations businesses through Commonwealth procurement processes [and] to contribute more meaningfully to the outcomes set out in: the National Agreement on Closing the Gap [and] the Government’s recently announced Buy Australian Plan.⁹⁴

2.42 In February 2025, the Minister for Indigenous Australians announced changes to the IPP to commence from July 2025 (see paragraph 1.18).

2.43 Advice to the government in December 2022 stated that a formal evaluation of the IPP would occur three years after any changes to the policy were implemented.⁹⁵ Advice to the government in February 2025 proposed that the IPP monitoring and evaluation framework would be refreshed to reflect changes to the policy, and that an evaluation of the IPP would commence in 2028–29.

2.44 The Department of Finance’s guidance on procurement-connected policies states that the responsible entity must actively manage the policy, conduct annual reviews of the policy’s effectiveness in achieving its stated purpose and outcomes and notify the Minister for Finance of the outcome.⁹⁶ The guidance also states that a policy’s status as a procurement-connected policy lapses after five years and that, prior to this, the responsible entity should review the reasons for the policy’s status and reapply to the Australian Government through the Minister for Finance for the status, if appropriate.⁹⁷ The NIAA should have reapplied by June 2024. As at December 2024, the NIAA had not reviewed the reasons for the IPP’s status as a procurement-connected policy or reapplied for this status. In January 2025, the NIAA advised government on extending the IPP as a procurement-connected policy.

93 National Indigenous Australians Agency, *Indigenous Procurement Policy (IPP) Reform Discussion Paper*, December 2023, available from <https://www.niaa.gov.au/resource-centre/indigenous-procurement-policy-ipp-reform-discussion-paper> [accessed 6 December 2024].

94 *ibid.*, p. 4.

95 This timeframe was reiterated in advice from the NIAA to the ANAO in April 2024.

96 Department of Finance, *Commonwealth Grants and Procurement Connected Policies (RMG 415)*, November 2024, paras. 8–10, 14, available from <https://www.finance.gov.au/government/procurement/buying-australian-government/procurement-connected-policies> [accessed 12 December 2024].

97 Following the Minister for Finance’s approval to support the application, a decision of government is required to recognise a whole-of-government policy as a procurement-connected policy. (Department of Finance, *Commonwealth Grants and Procurement Connected Policies (RMG 415)*, November 2024, paras. 9–10, 14, 17–18.)

Recommendation no. 2

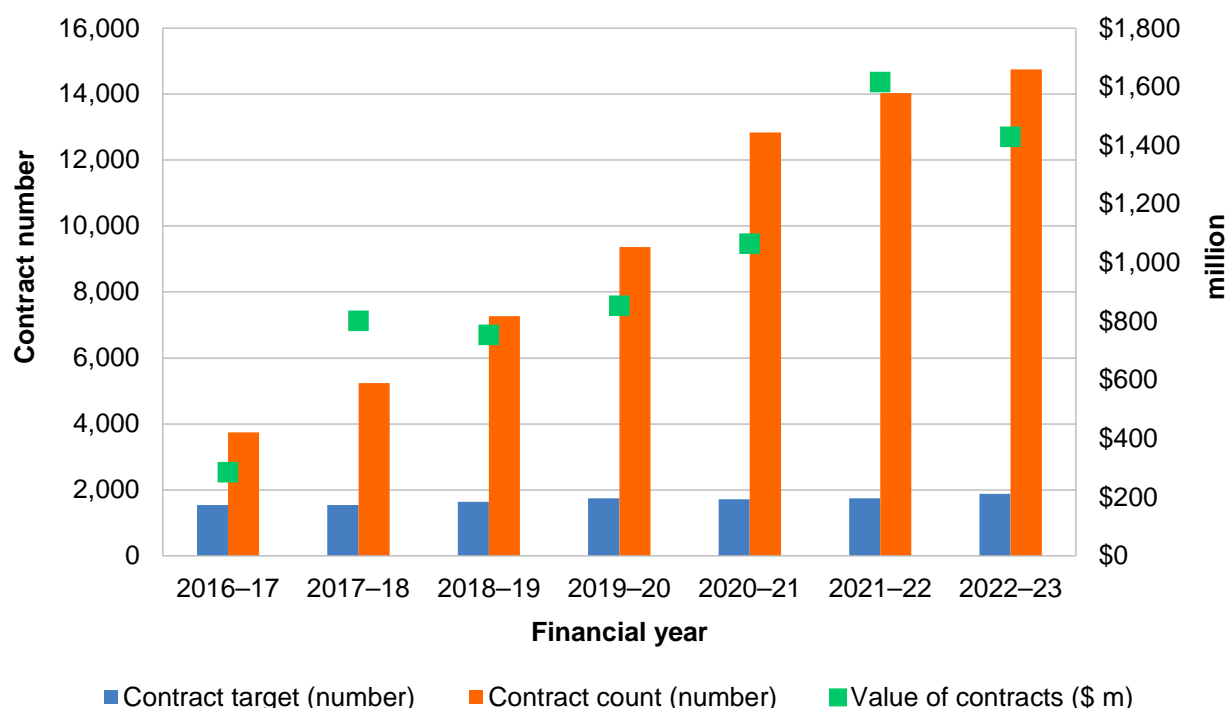
2.45 The National Indigenous Australians Agency establish a process to ensure it meets Australian Government requirements placed on policy owners of procurement-connected policies, including reapplication for recognition as a procurement-connected policy.

National Indigenous Australians Agency response: *Agreed.*

Mandatory minimum requirements performance monitoring and reporting

2.46 In relation to the first component of the IPP (procurement targets), the NIAA publishes information annually on its website on the volume and value of Australian Government contracts awarded to Indigenous businesses (Figure 2.1).⁹⁸ As at April 2025, the latest available data was for 2022–23. For 2022–23, the NIAA reported that the Australian Government and all portfolios exceeded their 2022–23 targets in terms of both volume and value.

Figure 2.1: Number and value of Australian Government contracts with Indigenous businesses, 2016–17 to 2022–23, as at 27 February 2024^a



Note: The contract target is three per cent of the number and 1.75 per cent of the value of ‘accessible’ contracts.

Note a: As at 17 March 2025, number and value of Australian Government contracts with Indigenous businesses for 2023–24 had not been published on the NIAA’s website.

Source: Department of the Prime Minister and Cabinet and National Indigenous Australians Agency, *Indigenous procurement policy*, for 2022–23 available from <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-ipp> [accessed 6 December 2024].

98 National Indigenous Australians Agency, ‘Indigenous Procurement Policy (IPP)’, available from <https://www.niaa.gov.au/our-work/employment-and-economic-development/indigenous-procurement-policy-ipp> [accessed 6 December 2024].

[development/indigenous-procurement-policy-ipp](#) [accessed 13 March 2025] and for prior years retrieved from Trove.

2.47 The information does not go to the effectiveness of the IPP in achieving its stated objective (which is to ‘stimulate Indigenous entrepreneurship, business and economic development, providing Indigenous Australians with more opportunities to participate in the economy’). An August 2021 report from the House of Representatives Standing Committee on Indigenous Affairs’ inquiry into Indigenous participation in employment and business notes that:

while there was considerable anecdotal evidence provided to the inquiry to suggest that growth in Aboriginal and Torres Strait Islander enterprises was accompanied by growth in Aboriginal and Torres Strait Islander employment outcomes, various stakeholders noted that this was difficult to substantiate without empirical data.⁹⁹

2.48 In March 2022, the Australian Government agreed to a parliamentary committee recommendation to consider developing a richer measurement of performance and outcomes for the IPP than contract numbers and value. In November 2024, the NIAA advised the Audit and Risk Committee that implementation of this recommendation was ongoing ‘noting that work is continuing for the [IPP] reform process’.

2.49 In relation to the third component of the IPP (the MMRs), the NIAA publishes annually on its website a list of companies with active MMR contracts.¹⁰⁰ Unlike for the procurement targets, the NIAA’s public reporting on the MMRs does not provide further information on performance against targets. There is also no information about the MMRs’ effectiveness.

2.50 The NIAA’s *Corporate Plan 2024–25* includes a performance measure with two targets relating to the NIAA’s contribution to the effective implementation of the IPP across the Australian Public Service.

- The first target refers to the NIAA’s ‘stewardship, advice, engagement and guidance’ on the IPP. The 2023–24 annual report reported that this performance measure was ‘substantially achieved’. Evidence to support the result was based on a ‘customer satisfaction survey’ circulated to procurement staff in 17 Australian Government entities (see Box 3).
- The second target relates to procurement targets (the first component of the IPP) and is ‘Portfolios achieve their annual targets, as set out in the IPP’. In 2023–24, the second target was reported as being ‘substantially achieved’ on the basis that 16 of 17 Australian Government portfolios met their annual procurement target.¹⁰¹

99 House of Representatives Standing Committee on Indigenous Affairs, Australian Parliament, *Report on Indigenous Participation in Employment and Business* (2021), paragraph 2.94.

100 National Indigenous Australians Agency, *IPP - Companies with active MMR contracts*, NIAA, 2023, available from <https://www.niaa.gov.au/resource-centre/ipp-companies-active-mmr-contracts> [accessed 13 March 2025].

101 NIAA, *Corporate Plan 2024–25*, NIAA Canberra, 2024, p. 41, available from <https://www.niaa.gov.au/niaa-corporate-plan-2024-25> [accessed 12 December 2024]. NIAA, *Annual Report 2023–24*, NIAA, Canberra, 2024, pp. 91–94, available from <https://www.niaa.gov.au/resource-centre/2023-24-national-indigenous-australians-agency-annual-report> [accessed 12 December 2024]. In 2023–24, the Veteran’s Affairs portfolio met its target for the number of contracts awarded to Indigenous businesses but not its target for the value of contracts.

2.51 Neither target specifically addresses the two components of the IPP that relate to mandatory set aside or MMRs (see paragraph 1.2).

Recommendation no. 3

2.52 The National Indigenous Australians Agency:

- (a) complete and publish an evaluation of the effectiveness of the mandatory minimum requirements in contributing to meeting the objectives of the Indigenous Procurement Policy; and
- (b) develop mandatory minimum requirements performance measures to enable ongoing monitoring.

National Indigenous Australians Agency response: *Agreed.*

2.53 *The IPP reforms recently announced by Government includes funding to undertake an evaluation to measure the impact of the policy and the changes. The National Indigenous Australians Agency will ensure the evaluation includes measuring the effectiveness of MMRs in contributing to meeting the objectives of the IPP.*

2.54 *The National Indigenous Australians Agency will develop internal MMR performance measures to enable ongoing monitoring.*

3. Exemptions from the mandatory minimum requirements

Areas examined

This chapter examines the National Indigenous Australians Agency's (NIAA's) management of contract exemptions from the mandatory minimum requirements (MMRs).

Conclusion

Contracts subject to the MMRs may be exempted by entities for valid reasons established in the Indigenous Procurement Policy. The inappropriate use of exemptions impedes achievement of the Indigenous Procurement Policy's objectives. The NIAA's management of exemptions has been partly effective. Systems have been set up to allow potentially invalid exemptions. There is a lack of guidance and assurance over the appropriate use of exemptions.

Area for improvement

The ANAO made one recommendation for the NIAA to improve protocols for, guidance on and assurance over the use of MMR exemptions.

3.1 Policy exemptions need to be appropriately designed, applied and reported.

- Design — The design of policy settings such as coverage and exemption criteria is important because inappropriate settings can lead to inconsistent application of the policy requirements, unintended consequences and failure to achieve desired policy outcomes.
- Application — Even if appropriately designed, inappropriate application of exemption criteria may allow circumvention of a policy, impeding the achievement of desired policy outcomes.
- Reporting — Where exemption criteria are used, inaccurate reporting may obscure understanding of how a policy is being applied, and the degree of policy non-compliance.

Box 5: Findings from Auditor-General Report No. 25 2019–20

Auditor-General Report No. 25 2019–20 *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements* found that the Indigenous Procurement Policy (IPP) outlined one explicit exemption, and four additional categories of contracts that were not covered by the MMRs (which it described as exclusions).

The audit stated that the use of exemptions must be recorded by entities in the online monitoring system for the IPP launched in 2018, the IPP Reporting Solution (IPPRS). Of the 265 MMR contracts recorded in the IPPRS as commencing between July 2016 and June 2019, the audit found that 109 (41 per cent) had been exempted from the MMRs by the relevant entity.

Five categories for exempting or excluding contracts from the MMRs were built into the IPPRS. The audit found that the categories in the IPPRS for exempting or excluding contracts from the MMRs were reasonable and supported by the policy. Of the 265 MMR contracts recorded in the IPPRS as commencing between July 2016 and June 2019, the justification by the entity for

exempting the contract was classified under an exemption category called 'other' for 76 per cent of the 109 exempted contracts.^a

The audit examined in greater detail a sample of 139 active contracts and found:

- 51 contracts (37 per cent) had been excluded in the IPPRS by entities;
- 24 contracts (17 per cent) were excluded by entities for a valid reason;
- 19 contracts (14 per cent) were excluded by the entity for an invalid reason but an alternate reason could have been legitimately used;
- eight contracts (six per cent) were excluded by the entity for an invalid reason and there was no legitimate reason for the exclusion; and
- 19 contracts (14 per cent) that had a valid reason for exclusion had not been set up in the IPPRS and therefore no exemption, exclusion or reason was recorded.^b

Auditor-General Report No. 25 2019–20 found that clearer guidance was needed from the policy owner on how to apply exclusion categories for the MMRs to help entities avoid excluding contracts for invalid reasons.^c

Note a: Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, ANAO, February 2020, paras. 2.24, 3.28 and Figure 2.1. Auditor-General Report No. 25 of 2019–20 noted at paragraph 2.24 that the 'other' category was used in part to exclude procurements that pre-dated the requirement. In June 2020, after the audit was completed, a separate category to account for this type of exemption was created.

Note b: *ibid.*, para. 4.19 and Table 4.2.

Note c: *ibid.*, para. 4.11.

Have exemptions been appropriately managed?

Between July 2016 and September 2024, 63 per cent (valued at \$69.3 billion) of all contracts recorded in the Indigenous Procurement Policy Reporting Solution (IPPRS) were exempted from the MMRs by relevant entities. The proportion of contracts exempted by entities from the MMRs has increased over time. The IPPRS has been set up by the NIAA to allow entities to record reasons for exemptions. The reason categories in the IPPRS mainly align with the Indigenous Procurement Policy, however include a category called 'other' that does not align. Of exempted contracts, 34 per cent (valued at \$30.2 billion) used the exemption category 'other'. The NIAA advised the ANAO that some contracts exempted for 'other' reasons were exempted because they are in practice non-compliant with the Indigenous Procurement Policy. Entities' use of the 'other' exemption category for non-compliant contracts obscures the degree of non-compliance with the MMRs and is not appropriate. The NIAA does not provide complete guidance on the use of exemptions, or assurance over the legitimacy of exemptions. The NIAA has not considered the strategic implications of exemption usage for the achievement of policy objectives.

3.2 Contracts published on AusTender are imported to the IPPRS and the IPPRS automatically assesses whether the MMRs apply to the contract based on: industry category; contract start date; contract value; and whether the procurement was subject to paragraph 2.6 of the Commonwealth Procurement Rules (see paragraph 1.3). The NIAA's guidance for Australian Government entities states that contracts delivered overseas or where less than half the value of the contract is in the

19 specified industry categories will need to be exempted by the relevant entity.¹⁰² The IPPRS online help website states that ‘When exempting or removing an exemption from a contract, a justification for the exemption must be provided. In some cases, an additional text reason is also required’.¹⁰³

3.3 For contracts meeting MMR criteria and automatically imported to the IPPRS, within the IPPRS entities can exempt contracts from the MMRs. As at September 2024, of the 2,345 contracts in the IPPRS from July 2016 to September 2024, 1,475 contracts (63 per cent) valued at \$69.3 billion were made exempt by the relevant entity. This is higher than the exemption/exclusion rate of 41 per cent previously found in Auditor-General Report No. 25 2019–20 (see Box 5). Thirty-eight contracts (three per cent of the 1,475 exempted contracts) were exempted when the contract was in the reporting phase. Of the 91 contracts selected by the ANAO to examine in this audit (see Appendix 5), six contracts were exempted from the MMRs by the relevant entities during the course of the audit.¹⁰⁴

3.4 Table 3.1 lists the number and value of exempt contracts between July 2016 and September 2024 for each Australian Government portfolio, as well as the percentage of total contracts in the IPPRS that were exempted. As a percentage of total contracts, the portfolios with the highest exemption rates were Foreign Affairs and Trade (90 per cent); Agriculture, Fisheries and Forestry (86 per cent); Education (82 per cent); and Industry, Science and Resources (82 per cent).

Table 3.1: Mandatory minimum requirements exempted contracts by portfolio, July 2016 to September 2024, as at September 2024

Australian Government portfolio ^a	Number of exempted contracts	Percentage of total contracts that were exempted (%)	Total value of exempted contracts (\$ m)
Agriculture, Fisheries and Forestry	54	86	772.0
Attorney-General's	26	70	517.2
Climate Change, Energy, the Environment and Water	34	54	646.4
Defence	470	60	35,859.1
Education	69	82	1,293.2
Employment and Workplace Relations	39	16	670.9
Finance	72	77	2,491.9
Foreign Affairs and Trade	178	90	9,441.8
Health and Aged Care	130	64	5,178.3

102 NIAA, *Indigenous procurement policy – Guide 1: Procuring officials and contract managers*, NIAA, Canberra, 2020, p. 24, available from <https://www.niaa.gov.au/resource-centre/indigenous-procurement-policy>.

103 NIAA, ‘Contract actions’ [Internet], available from <https://www.niaa.gov.au/online-help-ipprs/contract-based-assessment/contract-actions> [accessed 19 May 2025].

104 Exemption categories for the six contracts were: ATM prior to 1 July 2020 (one contract); CPRs set aside under paragraph 2.6 (one contract); original value below MMR threshold (one contract); and other (three contracts).

Australian Government portfolio ^a	Number of exempted contracts	Percentage of total contracts that were exempted (%)	Total value of exempted contracts (\$ m)
Home Affairs	91	66	3,455.6
Industry, Science and Resources	47	82	1,163.2
Infrastructure, Transport, Regional Development, Communications and the Arts	39	68	1,695.7
Parliamentary Departments	8	73	210.2
Prime Minister and Cabinet	17	68	424.2
Social Services	103	79	2,167.8
Treasury	83	67	2,811.4
Veterans' Affairs	15	42	497.4
Total	1,475	63	69,296.3

Note a: Based on portfolios to which contracts are assigned in the IPPRS as at September 2024.

Source: ANAO analysis of IPPRS data. The ANAO has not assured IPPRS data.

3.5 The NIAA advised the ANAO in October 2024 that it provides advice to entities on the use of exemptions on request, but does not have a process for validating exemptions, and that it does not undertake checks to provide assurance that exemptions are appropriate. The NIAA advised the ANAO in January 2025 that the 'NIAA has resourced the IPP as a devolved policy in line with decisions of government and is not currently resourced to operate an audit function to investigate non-compliance'. The NIAA advised the ANAO in January 2025 that it was 'aware of the prevalence of MMR contract exemption'. The NIAA has not analysed or reported on the use of exemptions by entities, or considered the implications of inappropriate usage.

3.6 Entities can exempt possible MMR contracts based on six exemption categories as at March 2024. The first five of the six categories accord with sections 4.2–4.3 of the IPP.

1. Non-mandated agency — The contracting entity is not a non-corporate Commonwealth entity and is therefore not required to comply with the IPP.
2. Approach to market prior to 1 July 2020 — The contract is in one of the 11 additional industry categories covered by the MMRs from 1 July 2020, but the approach to market pre-dated the policy change.¹⁰⁵
3. Commonwealth Procurement Rules set aside under paragraph 2.6 — The entity's accountable authority set aside the CPRs under paragraph 2.6 for the procurement and therefore the MMRs do not apply.
4. International delivery — The contracted good or service is not wholly delivered in Australia and therefore the MMRs do not apply.

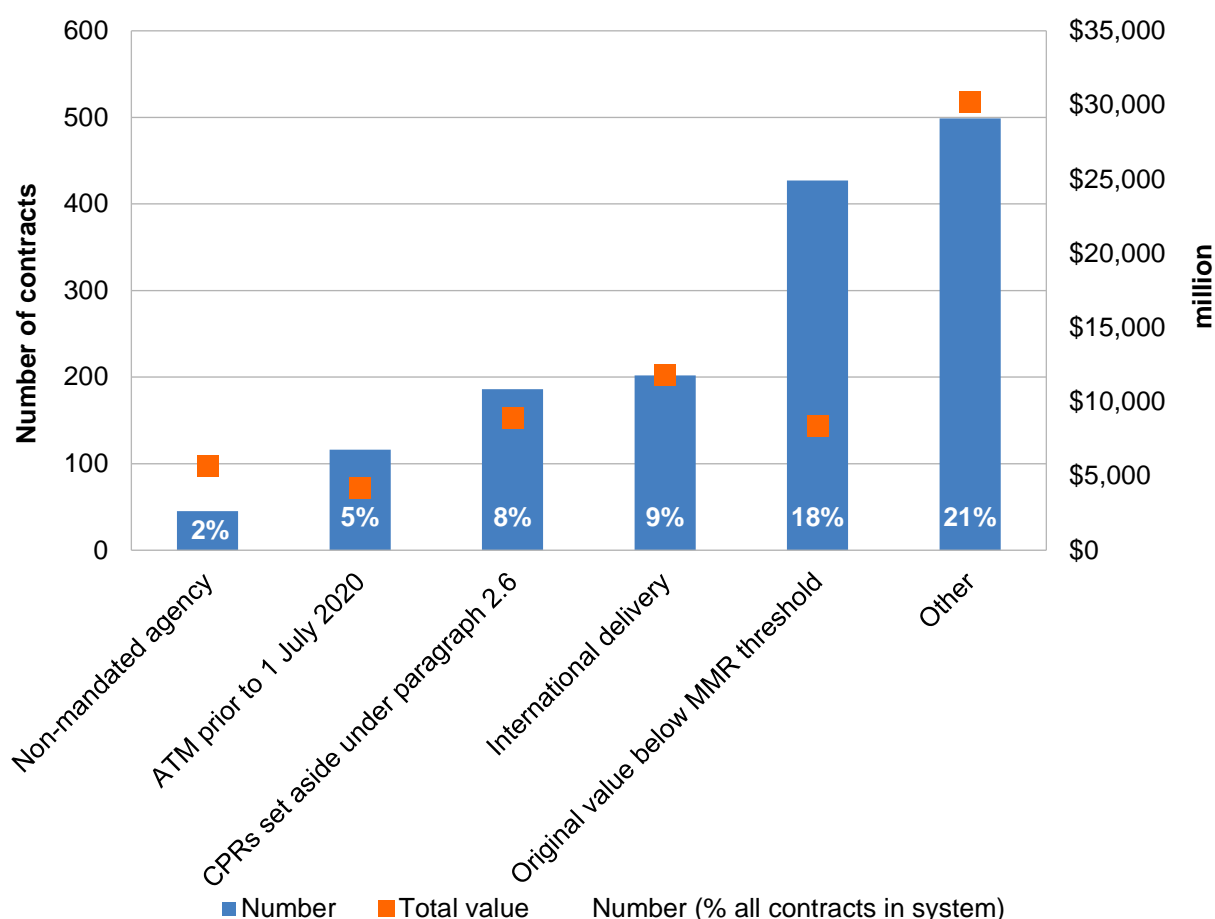
¹⁰⁵ The category 'Approach to market prior to 1 July 2020' was added in June 2020 to enable entities to exempt procurements that pre-dated the expansion of the MMRs to additional industry categories, which took effect from 1 July 2020.

5. Original value below MMR threshold — A contract variation brought the total value of the contract to \$7.5 million or more (GST inclusive), but the contracting entity and contractor did not agree to introduce MMR targets.

3.7 The sixth category — ‘other’ — does not align with a specific exemption under the IPP and is not defined. As discussed in paragraph 2.15, there is no published guidance on what ‘other’ may include.

3.8 Of the 1,475 exempted contracts, 499 contracts (34 per cent, or 21 per cent of all contracts in the IPPRS) used the justification ‘other’ for the exemption. This is lower than in 2019–20 when the comparable rate was 76 per cent (see Box 5). Reasons for the lower usage rate of the ‘other’ category over time may be the addition in June 2020 of the separate category ‘Approach to market prior to 1 July 2020’ (which provided, for the first time, an option for contracts that pre-dated the IPP requirement). Contracts exempted for ‘other’ reasons were valued at \$30.2 billion.

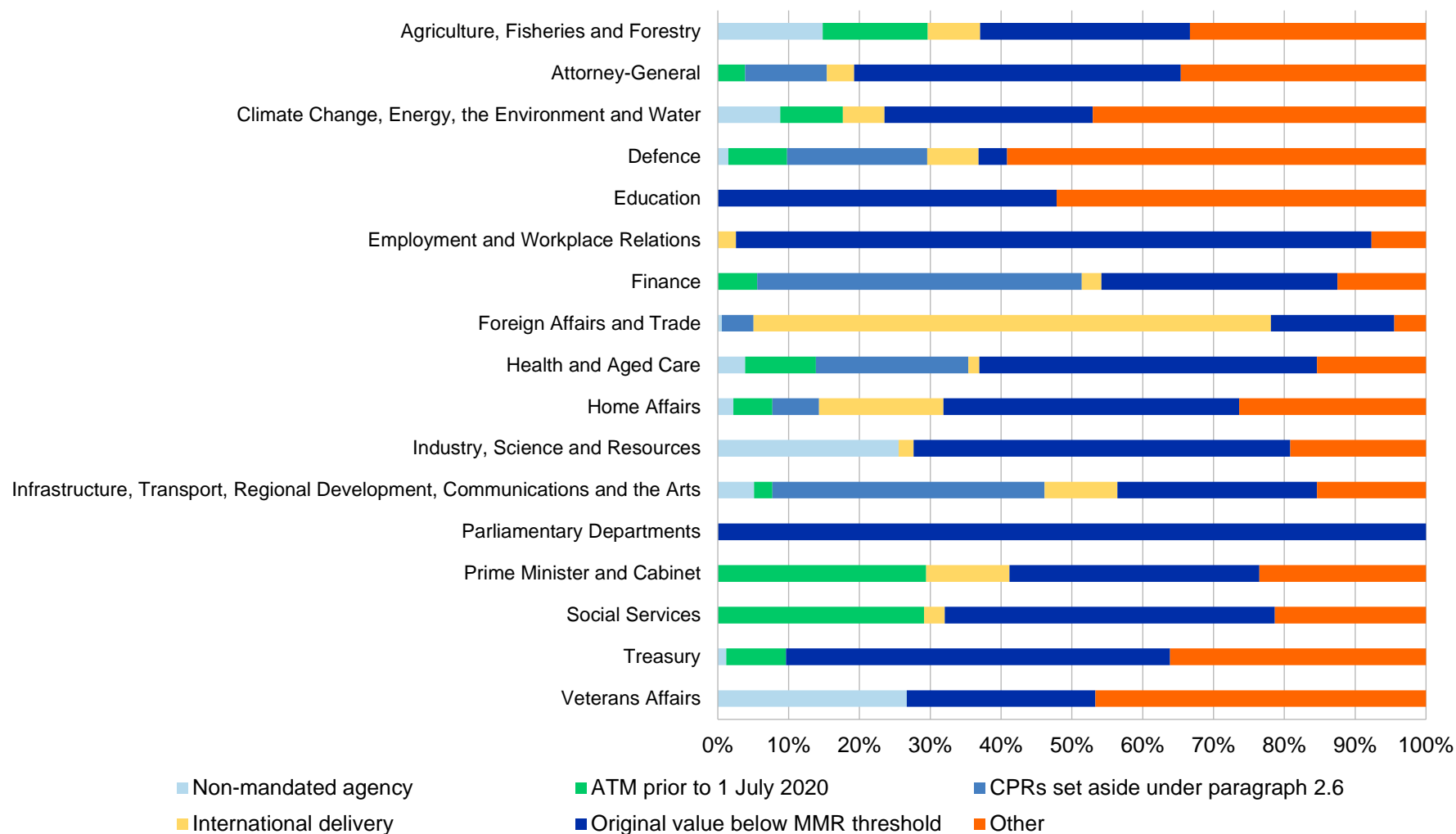
Figure 3.1: Reasons for mandatory minimum requirements exemptions, July 2016 to September 2024, as at September 2024



Source: ANAO analysis of IPPRS data.

3.9 Figure 3.2 shows the six exemption justification categories by portfolio. The highest use of the ‘other’ exemption for exempted contracts was in the portfolios of Defence (59 per cent); Education (52 per cent); Climate Change, Energy, the Environment and Water (47 per cent) and Veterans’ Affairs (47 per cent).

Figure 3.2: Use of mandatory minimum requirements exemption justification categories by portfolio, July 2016 to September 2024^a, as at September 2024



Note a: Based on the number of contracts in each of the exemption justification categories as a proportion of the total number of exempt contracts.

Source: ANAO analysis of IPPRS data. The ANAO has not assured IPPRS data.

3.10 The NIAA advised the ANAO in October 2024 that the ‘other’ category includes contracts for which there is no valid exemption under the IPP, but which do not include MMR targets as these were not established by entities in the procurement process. Contracts that are subject to the MMRs, do not meet any IPP exemption criteria and do not include MMR targets as these were not established by entities in the procurement process are non-compliant with the IPP and should not be referred to or recorded as exemptions or exclusions.

Recommendation no. 4

3.11 To ensure exemptions are accurately recorded in the Indigenous Procurement Policy Reporting Solution, non-compliance with the Indigenous Procurement Policy can be appropriately identified, all applicable contracts are subject to the mandatory minimum requirements reporting and assessment process, and the Indigenous Procurement Policy is achieving its policy objectives, the National Indigenous Australians Agency:

- (a) amend its protocols to ensure that it is not treating non-compliance with mandatory minimum requirements as an exemption or exclusion;
- (b) consider what scenarios that are consistent with allowable exclusions and exceptions within the Indigenous Procurement Policy are not covered by existing categories in the Indigenous Procurement Policy Reporting Solution and therefore whether the ‘other’ category is still justified and required;
- (c) when implementing recommendation 1, provide additional guidance to Australian Government entities on the use of exemption categories, which includes information on when it is appropriate to classify a contract as an ‘exemption’, and when it is appropriate and inappropriate to use the exemption category of ‘other’; and
- (d) implement a risk-based assurance process to ensure that reported exemptions or exclusions are legitimate.

National Indigenous Australians Agency response: *Partially agreed.*

3.12 *Agreed to parts a–c – The National Indigenous Australians Agency will amend its protocols, review the use of the “other” exemption category, and include specific guidance on the use of MMR exemptions in its guidance updates developed for non-corporate Commonwealth entities.*

3.13 *Not Agreed to part d – The National Indigenous Australians Agency does not believe it is appropriate for it to be assuring the implementation of elements of the devolved Commonwealth procurement framework by Commonwealth entities. The National Indigenous Australians Agency maintains that it is the responsibility of each Commonwealth entity to ensure it meets its own obligations under Government legislation and guidance, including the Commonwealth procurement framework.*

4. Compliance with the mandatory minimum requirements

Areas examined

This chapter examines implementation of three agreed recommendations relating to compliance with the mandatory minimum requirements (MMRs), directed at the National Indigenous Australians Agency (NIAA); Department of Defence (Defence); Department of Education (Education); Department of Employment and Workplace Relations (DEWR); Department of Home Affairs (Home Affairs); and Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (Infrastructure).

Conclusion

Defence, Education and Home Affairs largely implemented the agreed recommendations relating to compliance with the MMRs. The NIAA, DEWR and Infrastructure partly implemented the agreed recommendations. The MMRs are relevant to the approach to market, tender evaluation, contract management, reporting and finalisation phases of a procurement. Compliance with the MMR requirements was higher in the approach to market, tender evaluation and contract management phases than in the reporting and finalisation phases. All entities could do more to ensure contractors' compliance with MMR targets and to gain assurance over reported MMR performance.

Areas for improvement

The ANAO made four recommendations for:

- the NIAA and DEWR to update guidance and Home Affairs to strengthen controls to ensure compliance with MMR requirements in the procurement process;
- the NIAA, DEWR and Infrastructure to establish, strengthen or update guidance to ensure compliance with MMR reporting requirements; and
- all audited entities to establish or strengthen processes to ensure contractors' compliance with MMR targets and verify reported MMR performance information.

The ANAO identified six opportunities for improvement, consisting of four opportunities for entities to improve MMR compliance, one opportunity for practice sharing amongst entities and one opportunity for the NIAA as the policy owner to ensure contract records reflect variations published on AusTender.

4.1 Auditor-General Report No. 25 2019–20 *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements* made three recommendations to all audited entities. All entities agreed to the recommendations. Entities closed recommendation 4 between May 2020 and December 2020; recommendation 5 between May 2020 and October 2020 (except for













Infrastructure which closed the recommendation in June 2021); and recommendation 6 between May 2020 and July 2021.¹⁰⁶

4.2 The ANAO assessed entities' implementation of each of the three recommendations based on a two-part assessment of:

- guidance — the entity had established or updated guidance (including policies, protocols and templates) or controls in line with agreed actions; and
- contract compliance — MMR contracts held by the entity were compliant with the MMRs in line with the intent of each recommendation.

An entity was assessed as having fully implemented a recommendation if guidance was fully established and MMR contracts were fully compliant. The ANAO assessment is summarised in Table 4.1 (recommendation 4), Table 4.2 (recommendation 5), and Table 4.3 (recommendation 6).¹⁰⁷

Table 4.1: Assessment of entities' implementation of recommendation 4 — *All audited entities review and update their procurement protocols to ensure procuring officers undertaking major procurements that trigger the MMRs comply with required steps in the procurement process*

Entity	ANAO assessment (see paragraphs 4.3 to 4.18)		
	Guidance	Contract compliance	Overall assessment of implementation
NIAA			Partly implemented
Defence			Largely implemented
Education			Largely implemented
DEWR			Partly implemented
Home Affairs			Largely implemented
Infrastructure			Largely implemented

Key: ● Fully established/compliant ● Largely established/compliant

106 During the 2019–20 audit, the Department of Education and the Department of Employment, Skills, Small and Family Business were separate entities. On 1 February 2020, prior to the tabling of the 2019–20 audit report, most functions dealt with by the two departments were consolidated within the Department of Education, Skills and Employment (DESE) through a machinery-of-government change. Recommendations in the audit report were directed at and closed by DESE. On 1 July 2022, through another machinery-of-government change, DESE became the Department of Education and some of its functions were transferred to the new Department of Employment and Workplace Relations.

107 Auditor-General Report No. 25 2021–22 *Implementation of Parliamentary Committee and Auditor-General Recommendations – Department of Home Affairs* previously examined Home Affairs' implementation of agreed recommendations from Auditor-General Report No. 25 2019–20. The 2021–22 audit concluded Home Affairs had largely implemented recommendations 4 and 5 and fully implemented recommendation 6. (Auditor-General Report No.25 2021–22, *Implementation of Parliamentary Committee and Auditor-General Recommendations – Department of Home Affairs*, ANAO, Canberra, 2022, Table 3.5, available from <https://www.anao.gov.au/work/performance-audit/implementation-parliamentary-committee-and-auditor-general-recommendations-department-home-affairs> [accessed 2 April 2024].)

● Partly established/compliant

◐ Largely not established/compliant

○ Not established/compliant.

Source: ANAO analysis of entity documentation.

Table 4.2: Assessment of entities' implementation of recommendation 5 — *All audited entities establish processes, or update existing processes, to ensure contract managers and contractors regularly use the Indigenous Procurement Policy Reporting Solution (IPPRS) for MMR reporting*

Entity	ANAO assessment (see paragraphs 4.19 to 4.37)		
	Guidance	Contract compliance	Overall assessment of implementation
NIAA	○	●	Partly implemented
Defence	●	◐	Largely implemented
Education	●	◐	Largely implemented
DEWR	◐	◐	Partly implemented
Home Affairs	●	◐	Largely implemented
Infrastructure	◐	◐	Partly implemented

Key: ● Fully established/compliant

◐ Largely established/compliant

◐ Partly established/compliant

◐ Largely not established/compliant

○ Not established/compliant.

Source: ANAO analysis of entity documentation.

Table 4.3: Assessment of entities' implementation of recommendation 6 — *After guidance has been provided by the policy owner, all audited entities establish appropriate controls and risk-based assurance activities for active MMR contracts*

Entity	ANAO assessment (see paragraphs 4.38 to 4.59)		
	Guidance	Contract compliance	Overall assessment of implementation
NIAA	◐	○	Partly implemented
Defence	◐	◐	Partly implemented
Education	●	◐	Partly implemented
DEWR	◐	◐	Partly implemented
Home Affairs	●	◐	Partly implemented
Infrastructure	◐	○	Partly implemented

Key: ● Fully established/compliant

◐ Largely established/compliant

◐ Partly established/compliant

◐ Largely not established/compliant

○ Not established/compliant.

Source: ANAO analysis of entity documentation.

Were procurement protocols updated to ensure compliance?

Auditor-General Report No. 25 2019–20 recommended that all audited entities review and update their procurement protocols to ensure procuring officers undertaking major procurements that trigger the MMRs comply with required steps in the procurement process.

- As at December 2024, all entities updated their procurement protocols for MMR requirements. One component of this was the development of detailed internal guidance. As at December 2024, Defence, Education, Home Affairs and Infrastructure’s guidance identified key MMR requirements for the approach to market to contract management phases of the procurement lifecycle. DEWR’s guidance and the NIAA’s internal guidance did not identify all key MMR requirements.
- Aside from Home Affairs, all entities’ contracts were largely compliant with the MMRs at the approach to market, tender evaluation and contract management phases of the procurement lifecycle. Home Affairs’ contracts was partly compliant. Defence’s compliance was poorer for contracts resulting from panel procurements.
- All audited entities could improve tender evaluation processes by including an IPPRS search on tenderers’ past MMR compliance.
- In summary: Defence, Education, and Infrastructure largely implemented the 2019–20 recommendation, and the NIAA and DEWR partly implemented it. Home Affairs’ guidance was appropriately updated, however it has not consistently ensured that procuring officers undertaking major procurements that trigger the MMRs comply in practice with the required steps.

4.3 The Indigenous Procurement Policy (IPP) establishes requirements for procurements that meet the MMR criteria (see Figure 1.1). Entities should have appropriate guidance to embed compliance with MMR requirements within procurement practices. For entities that undertake major procurements infrequently, guidance is important to address the risks associated with undertaking an unfamiliar compliance process.¹⁰⁸

Box 6: Findings from Auditor-General Report No. 25 2019–20 — Recommendation 4

Auditor-General Report No. 25 2019–20 found selected entities’ compliance with the MMRs fell short of the standard required for managing high value procurements. In the approach to market, tender evaluation and contract management phases, while selected entities mostly recognised when the MMRs applied, they failed to comply with all required steps.

The audit examined three elements of entities’ internal guidance: did guidance refer to the MMRs; were IPP ‘model clauses’^a incorporated into relevant templates; and was the IPP internally promoted. The audit found that while entities had mostly provided appropriate internal guidance, there was scope for central procurement areas within entities to provide

¹⁰⁸ Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, para. 4.3.

greater support to officers managing MMR procurements to ensure compliance.^b The audit examined a representative sample of 139 major procurement contracts. For the contracts subject to the MMRs, the audit found entities generally recognised the need to apply the MMRs to major procurements but did not comply with all required steps. Key compliance issues identified were: excluding contracts from the MMRs for invalid reasons; and not creating a contractual requirement to meet MMR targets.^c

The recommendation that entities update their procurement protocols to ensure procurements that trigger the MMRs comply with all required steps was agreed to by all entities.^d

Note a: The IPP has specific obligations for all contracts subject to the MMRs. To give effect to these obligations, the NIAA publishes 'model clauses' for inclusion in approaches to market and contracts, which entities may use (see paragraph 2.10).

Note b: Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, paras. 4.4–4.7.

Note c: *ibid.*, paras. 4.9–4.15.

Note d: *ibid.*, para. 4.19–4.22.

Procurement protocols and guidance on mandatory minimum requirements

4.4 All entities undertook activities to improve officials' understanding of MMR requirements, including the following.

- Development of procurement training — In August 2015 and January 2025 respectively, Defence and Infrastructure developed specific IPP / MMR training that is available to staff on request. The four other entities included a brief overview of the IPP and MMR in general procurement training. In March 2022, Education also released 'Supporting Indigenous Businesses' training that staff were required to complete in the 12 months prior to submitting a procurement plan.
- Update of procurement systems — All entities included mandatory prompts in procurement systems to identify whether the MMRs apply to the proposed procurement.
- Inclusion of model clauses in templates — All entities except the NIAA included NIAA's model contract clauses in tender and contract templates by default (that is, which need to be excluded if they are not required). The NIAA's templates default to exclude the MMR model clauses. NIAA procurement officials and contract managers need to access a copy of the model clauses and insert them into the approach to market documentation or contract if required.
- Development of detailed guidance — All entities had some internal guidance that addresses the MMRs. Examples of detailed guidance for procurement and contract management staff included: a Defence checklist for evaluating a tenderer's Indigenous Participation Plan; and an Infrastructure procurement guide that covers the applicability of the MMRs for procurements involving a standing offer or panel arrangement. Home Affairs' *Contract Management Manual* outlines roles and responsibilities for each stage of the procurement process, including identifying who is responsible for determining if the MMRs apply to the procurement.

4.5 The ANAO examined entities' internal guidance to determine if it identified MMR requirements throughout the procurement lifecycle, up to and including the contract management phase (see Table 4.4). The final two phases, reporting and finalisation, are discussed from paragraph 4.22.

Table 4.4: Assessment of entity internal guidance on mandatory minimum requirements (approach to market to contract management phases), as at December 2024

Requirements	NIAA	Defence	Education	DEWR	Home Affairs	Infrastructure
General ^a	▲	◆	◆ ^b	▲	◆	◆
MMR phases						
Approach to market ^c	■	◆	◆	◆	◆	◆
Tender evaluation ^d	■	◆	◆	◆	◆	◆
Contract management ^e	■	◆	◆	▲	◆	◆

Key: ◆ Requirements identified ▲ Requirements partly identified ■ Requirements not identified.

Note a: Has the guidance been updated since the 2019–20 audit? Does the guidance clearly identify when procurement triggers the MMR requirement? Does it clearly identify who is responsible for determining if a procurement activity triggers the MMR requirement? Does it refer to the model contract clauses? Does it include information on voluntary MMR targets for varied contracts?

Note b: Education updated out-of-date guidance that listed eight MMR applicable industry categories instead of 19 categories in January 2025.

Note c: Does the guidance specify that any invitation to potential suppliers must specify if a component will need to be delivered in remote areas? Does it specify that the tenderer needs to declare their level of compliance with any past contracts that included MMRs? Does it specify that the tenderer will need to develop an Indigenous Participation Plan?

Note d: Does the guidance specify checking past compliance with MMR requirements? Does it specify ensuring that the Indigenous Participation Plan includes plans to increase Indigenous participation? Does it specify that where required the tenderer's application should outline the capability to achieve significant Indigenous participation in remote areas?

Note e: Does the guidance clearly identify that the contract manager is responsible for ensuring compliance with the MMR targets and Indigenous Participation Plan? Does it clearly specify that the contract manager will need to establish, monitor and assess progress reports? Does it specify that reporting needs to be done through the IPP reporting system? Does it specify that the contract manager needs to undertake assurance activities to ensure accurate information is being reported? Does it outline that variations of MMR targets during the contract term may require a revised Indigenous Participation Plan?

Source: ANAO analysis of entity documentation.

4.6 Defence, Education, Home Affairs and Infrastructure's guidance identified all key MMR requirements across the lifecycle to the contract management phase. DEWR's guidance identified some requirements and the NIAA's internal guidance was incomplete.

- NIAA — The NIAA had two methods to identify procurements that could trigger the MMRs: a request for tender template states that for high value procurements, the IPP 'imposes specific obligations ... [and staff] must contact the Procurement and Contracting Section ... for specific clauses that will need to be inserted into [the] request for tender'; and a prompt in its procurement system to identify procurements greater than \$7.5 million. Except for the above, the NIAA provided no operational guidance for procurement officers

and contract managers on the requirements of the MMRs throughout the procurement lifecycle.¹⁰⁹

- DEWR — DEWR's intranet provided out of date information on the MMRs, including incorrectly stating there are eight applicable industry categories instead of 19. DEWR's contract management guidance did not identify the specific responsibilities of the contract manager to undertake assurance activities or outline arrangements for contract variations.

Recommendation no. 5

4.7 The National Indigenous Australians Agency and Department of Employment and Workplace Relations update internal procurement guidance to better support procuring officers undertaking major procurements that trigger the mandatory minimum requirements to comply with required steps in the procurement process.

National Indigenous Australians Agency response: *Agreed.*

4.8 *The National Indigenous Australians Agency will work with stakeholders to update and improve guidance of the Indigenous Procurement Policy.*

Department of Employment and Workplace Relations response: *Agreed.*

4.9 *DEWR agrees to action this recommendation in full.*

4.10 Under the IPP, entities are required to apply the MMRs when establishing and procuring from a panel arrangement when the MMR criteria are met (see Figure 1.1). In July 2023, the NIAA reported to the Chief Operating Officers (COO) Committee (see paragraph 2.20) that six contracts had been identified that did not have MMR clauses, including some contracts from panel arrangements. The committee agreed to the NIAA's request for portfolio agencies to review their panel arrangements to ensure the clauses are included. Except for the NIAA and DEWR, entities have guidance identifying that the MMRs may apply when procuring from a panel. Of the other four entities, Education and Home Affairs have further guidance identifying that MMR clauses need to be included at the approach to market and in the subsequent deed of standing offer when establishing a panel.¹¹⁰

109 The NIAA closed the recommendation to review and update its procurement protocols in August 2020. The closure report stated that the NIAA would update its intranet content relating to the IPP and MMR to include guidance on compliance and contract managers' responsibilities. As at December 2024, this information had not been placed on the NIAA intranet. As discussed in chapter 2, the NIAA published guidance for entities on managing the MMRs in July 2020. In August 2024, the NIAA's Indigenous procurement intranet page was updated to include two references to its public guidance: a reference to the guide with MMR clauses for insertion into the contract template; and a link to an MMR factsheet.

110 In January 2025, Education updated its guidance to identify that Procurement Connected Policies, including the MMRs, need to be included at the approach to market and subsequent deed of standing offer when establishing new panels.

Opportunity for improvement

4.11 The NIAA, Defence, DEWR and Infrastructure could establish or improve internal guidance to support procuring officials apply the MMRs when establishing panel arrangements.

4.12 As outlined in paragraph 4.21, contract managers are required to complete in the IPPRS an overall compliance assessment for a contractor at the end of the contract. At the tender evaluation stage for a new contract, all entities except the NIAA required tenderers to provide information on past compliance with the MMRs.¹¹¹ While not a requirement under the IPP, the NIAA's external guidance for procuring officials states that entities should search the IPPRS for tenderer's past performance information. As this is not a specified requirement under the IPP, this was not tested in the internal guidance assessment. However, it was observed that, aside from Education's, which was updated in January 2025¹¹², none of the entities' internal guidance advised procurement staff to request a search of the IPPRS to inform tender evaluations.¹¹³ Of the 43 contracts examined by the ANAO for which the assessment of the Indigenous Participation Plan was documented (see Table 4.5), none of the assessments included searching the IPPRS for contractors' previous MMR compliance.

Opportunity for improvement

4.13 The NIAA, Defence, DEWR, Home Affairs and Infrastructure could incorporate into their MMR tender evaluation processes a search of the IPPRS for tenderers' past MMR compliance.

Implementation of mandatory minimum requirements

4.14 The ANAO examined 84 contracts subject to the MMRs (see paragraph 1.27 and Appendix 5) to determine whether entities had complied with the required steps in the approach to market to contract management phases of the procurement lifecycle (see Table 4.5). Of the 12 Home Affairs' contracts examined, one contract met all relevant requirements. For eight contracts, Home Affairs did not identify that the MMRs applied until after the contract was executed and subsequently negotiated with the contractors to establish MMR targets. Each entity could improve its compliance with MMR requirements at the tender evaluation phase.

111 To meet this requirement, entities generally require a tenderer to submit a declaration with their Indigenous Participation Plan that states the number of previous MMR contracts they have had and whether they met the MMR targets.

112 In January 2025, Education updated its guidance to state that staff must consider a tenderer's compliance with previous MMR contracts through a search of the IPPRS.

113 Auditor-General Report No. 25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements* observed that one of the IPPRS's primary functions was to provide a database of contractor performance against the MMRs that could be used to inform the tender evaluation for future MMR procurements (paragraph 3.32).

Opportunity for improvement

4.15 All entities could strengthen procurement processes to ensure tenderers' Indigenous Participation Plans are assessed and that assessments are appropriately documented.

Table 4.5: Contract compliance with mandatory minimum requirements (approach to market to contract management phases)

Requirement	NIAA	Defence	Education	DEWR	Home Affairs	Infrastructure	Total
Total number of contracts assessed	2	33	6	26^a	12	5	84
Approach to market phase							
<i>Number that involved an approach to market</i>	2	32 ^b	4	26	9	5	78
Contracts for which the approach to market identified that the procurement is subject to the MMRs	2	25	4	23	4	5	63
Contracts for which the approach to market required the tenderer to submit an Indigenous Participation Plan	2	24	4	20	3	5	58
Contracts for which the approach to market required the tenderer to declare past performance against MMR targets	2	24	4	20	2	4	56
Tender evaluation phase							
<i>Number that involved a tender evaluation</i>	2	32	4	26	9	5	78
Contracts for which the tender evaluator documented assessment of the Indigenous Participation Plan	0	20	1	17	3	3	44
Contract management phase ^c							
<i>Number of contracts managed</i>	2	33	6	26	12	5	84
Contracts that specified the MMR target	2	29	5	25	5	4	70

Requirement	NIAA	Defence	Education	DEWR	Home Affairs	Infrastructure	Total
Contracts for which the MMR target complied with the IPP ^d	2	28	4	24	4	4	66
Contracts that had an Indigenous Participation Plan	2	28	5	25	5	3	68
Contracts that required the contractor to report against the MMR target each quarter	2	33	5	26	9	4	79

Key: ■ 100 per cent compliant ■ 80 to 99 per cent compliant ■ 60 to 79 per cent compliant ■ 40 to 59 per cent compliant ■ Zero to 39 per cent compliant.

Note a: Of the 26 contracts examined, five commenced before DEWR was established on 1 July 2022, 20 commenced on 1 July 2022, and one commenced after 1 July 2022 (see Table A.5).

Note b: Of the 33 contracts assessed, one contract awarded through a panel procurement undertook an approach to market in 2019 and was not subject to the MMRs at the time and was therefore excluded from the approach to market analysis.

Note c: For 15 contracts, the MMR targets and Indigenous Participation Plan were established after the contract was executed. For the contract management assessment, if the target and plan were established more than three months after the contract commenced, then the ANAO has assessed that these contracts did not have a target or a plan. Of the 15 contracts, this was the case for six contracts (two for Defence, one for Education, one for DEWR and two for Home Affairs).

Note d: The IPP sets minimum values for contract-based MMR targets (four per cent, or greater than four per cent for contracts with a component to be delivered in remote area/s) and organisation-based MMR targets (three per cent) (see paragraphs 1.4 to 1.5). The ANAO assessed whether the contracted target met the minimum values.

Source: ANAO analysis of entity documentation.

Recommendation no. 6

4.16 Department of Home Affairs strengthen controls to ensure compliance with the mandatory minimum requirements at the approach to market, tender evaluation and contract management phases of major procurements.

Department of Home Affairs response: *Agreed.*

4.17 Ten of the 33 Defence contracts examined, ten of the 26 DEWR contracts examined, and six of the 12 Home Affairs contracts examined were awarded from panel arrangements. While Defence's non-panel procurements mostly complied with the MMR requirements at the approach to market, tender evaluation and contract management phases, its panel procurements were partly compliant, especially in the approach to market and tender evaluation phases (see Table 4.6). For DEWR and Home Affairs, there was no difference between panel and non-panel procurements.

Table 4.6: Defence contract compliance with mandatory minimum requirements (approach to market to contract management phases) — panel and non-panel procurements

Requirement	Non-panel procurement	Panel procurement
Total number of contracts assessed	23	10
Approach to market		
<i>Number that involved an approach to market</i>	23	9 ^a
Contracts for which the approach to market identified that the procurement is subject to the MMR	21	4
Contracts for which the approach to market required the tenderer to submit an Indigenous Participation Plan	21	3
Contracts for which the approach to market required the tenderer to declare past performance against MMR targets	21	3
Tender evaluation		
<i>Number that involved a tender evaluation</i>	23	9
Contracts for which the evaluator documented assessment of the Indigenous Participation Plan	19	1
Issued contract		
<i>Number of contracts managed</i>	23	10
Contracts that specified the MMR target	23	6
Contracts for which the MMR target complied with the IPP	22	6
Contracts that had an Indigenous Participation Plan	22	6
Contracts that required the contractor to report against the MMR target each quarter	23	10

Key: ■ 100 per cent compliant ■ 80 to 99 per cent compliant ■ 60 to 79 per cent compliant
■ 40 to 59 per cent compliant ■ Zero to 39 per cent compliant

Note a: Of the 33 contracts assessed, one contract awarded through a panel procurement undertook an approach to market in 2019 and was not subject to the MMRs at the time and was therefore excluded from the approach to market analysis.

Source: ANAO analysis of Defence documentation.

Opportunity for improvement

4.18 Defence could undertake additional activities to promote awareness of, and compliance with, the mandatory minimum requirements when undertaking major procurements through panel arrangements.

Did entities establish reporting processes to ensure regular reporting?

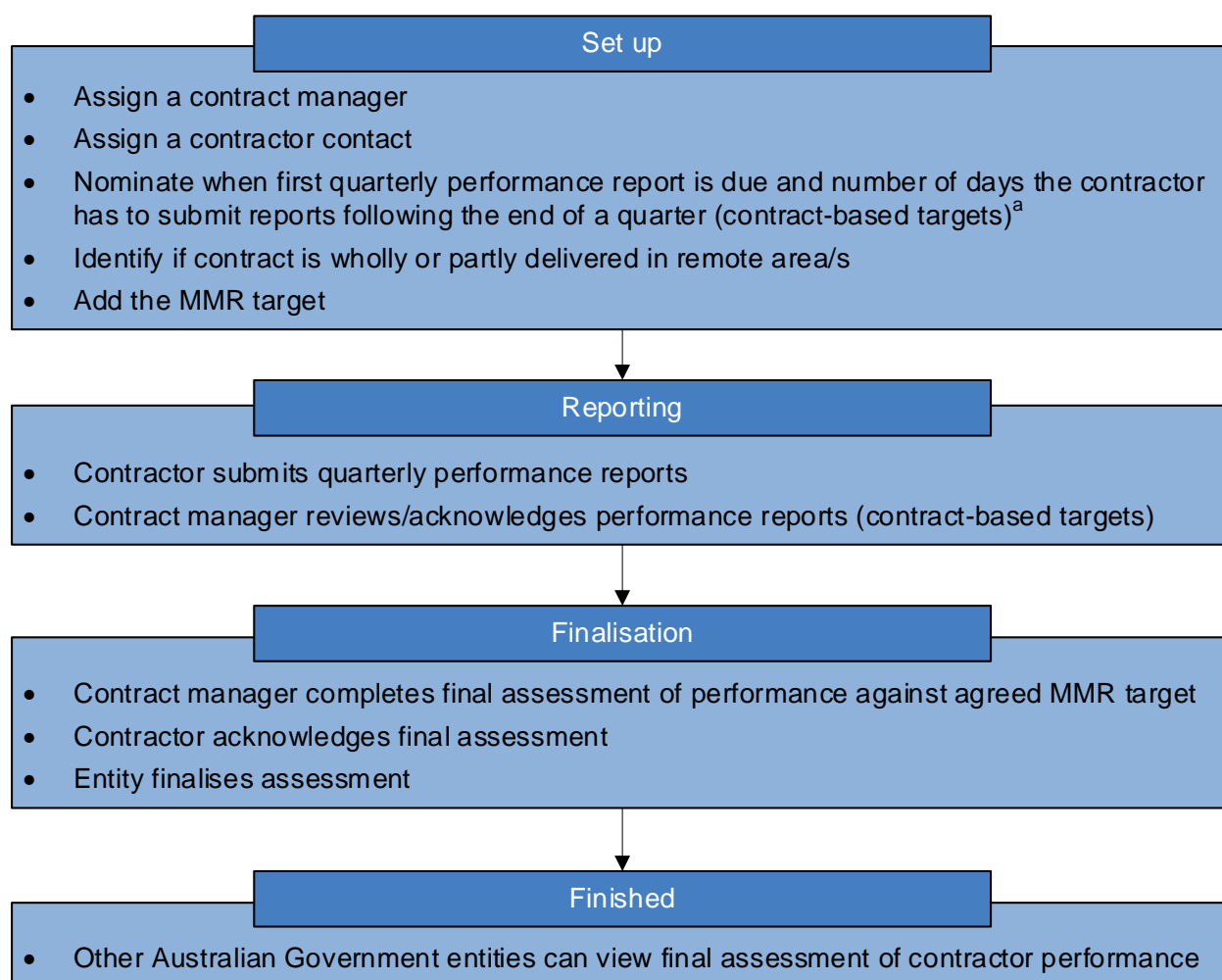
Auditor-General Report No.25 2019–20 recommended that all audited entities establish processes, or update existing processes, to ensure contract managers and contractors regularly use the IPP Reporting Solution (IPPRS) for MMR reporting.

- Defence, Education and Home Affairs’ internal guidance identified key IPPRS reporting requirements, while the NIAA, DEWR and Infrastructure’s internal guidance did not identify all key requirements.
- For a sample of contracts, the NIAA’s MMR reporting was timely and based on accurate IPPRS data. For the other five entities, there were issues with both timeliness and accuracy. None of the five entities consistently followed up on late contractor reporting.
- When a contract variation is published on AusTender, IPPRS data is not consistently updated. This means a contract may be identified as on track to meet the MMR target based on incorrect values or a contract may move to the finalisation step prematurely as the end date is inaccurate.
- In summary: Defence, Education and Home Affairs largely implemented the 2019–20 recommendation, and the NIAA, DEWR and Infrastructure partly implemented it.

4.19 Under the IPP, contractors are required to report on their progress against agreed MMR targets on a quarterly basis in the IPPRS.¹¹⁴ There are four steps of the reporting and finalisation phases requiring entering or viewing data in the IPPRS: set up, reporting, finalisation and finished (see Figure 4.1).

114 NIAA, *Indigenous Procurement Policy*, p. 24.

Figure 4.1: Reporting steps in the Indigenous Procurement Policy Reporting Solution



Note a: The due date for the first quarterly performance report defaults to three months after the contract start date. The NIAA's guidance states that entities can adjust this date to align with other business reporting periods, such as a standard financial quarter. The maximum number of days to submit reports is 60.

Source: ANAO representation of NIAA, *MMR contract management process flow*, n.d., available from <https://www.niaa.gov.au/online-help-ipprs/contract-based-assessment/mmr-contract-management-process-flow>.

4.20 Entities must complete the set-up step to enable contractors to submit quarterly reports.¹¹⁵ Entities are required to manually enter MMR targets, the due date for the first quarterly performance report, and whether the contract is a remote-area contract in the IPPRS. Other details including contract end dates and contract values are to be automatically updated in the IPPRS based on information published on AusTender. The IPPRS automatically calculates due dates for subsequent quarterly reports until the contract end date. For contracts with contract-based MMR targets, the IPPRS automatically calculates the monetary value of the Indigenous contractor-use target based on the MMR target and the contract value.

¹¹⁵ Entities are required to report against their Indigenous procurement volume and value target through the IPPRS. For contracts valued at \$10,000 or higher, the data is extracted from AusTender and uploaded into the IPPRS. Once a contract has been added to the IPPRS, the entity will assign a contract manager in the reporting system who (depending on entity arrangements) is responsible for entering contractor contacts and the MMR target details. Following this set up phase, contractors are able to enter their quarterly performance reports.

4.21 During the reporting phase, entity contract managers are responsible for monitoring the contractors' progress and ensuring compliance with the Indigenous Participation Plan and MMR targets. The contract manager is also responsible for verifying that information reported by the contractor is accurate.¹¹⁶ At the end of the contract term, entities must complete a final assessment of contractors' performance against MMR targets. This allows other entities to view the assessment to inform a future tender evaluation process (see paragraph 4.12).¹¹⁷ The IPPRS sends automatic emails to entities and contractors when reporting steps are required or overdue (see paragraph 2.26).

Box 7: Findings from Auditor-General Report No. 25 2019–20 — Recommendation 5

Auditor-General Report No. 25 2019–20 found that in the contract management phase, entities did not establish appropriate contractor performance reporting arrangements. Entities and contractors were largely not complying with MMR reporting requirements. Of the 69 MMR contracts examined: 36 (52 per cent) had included a requirement to report at least quarterly against MMR targets; 18 (26 per cent) involved the contractor complying with reporting requirements; and three (four per cent) involved the contractor or entity using the IPPRS to report.^a

All entities agreed to the recommendation that it establish or update processes to ensure regular use of the IPPRS for MMR reporting.^b

Note a: Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, paras. 4.32–4.33.

Note b: *ibid.*, paras. 4.36–4.40.

Guidance on reporting

4.22 The ANAO examined the entities' internal guidance to determine if it supported reporting in the IPPRS at the reporting and finalisation stages of the procurement lifecycle (see Table 4.7).

Table 4.7: Assessment of entity internal guidance on mandatory minimum requirements (reporting and finalisation phases), as at December 2024

MMR phase	Entity					
	NIAA	Defence	Education	DEWR	Home Affairs	Infrastructure
Reporting ^a	■	◆	◆	■	◆	▲
Finalisation ^b	■	◆	◆	■	◆	◆

Key: ◆ Requirements identified ▲ Requirements partly identified ■ Requirements not identified.

Note a: Does the guidance specify that suppliers need to report on Indigenous Participation Plan progress each quarter? Does it specify that supplier reporting will need to include relevant employment targets and/or supply chain targets? Does it outline the assurance activities that the contract manager needs to undertake? Does it outline timeframes for reporting?

116 NIAA, *Indigenous procurement policy – Guide 1: Procuring officials and contract managers*, NIAA, Canberra, 2020, pp. 24–25, available from <https://www.niaa.gov.au/resource-centre/indigenous-procurement-policy>.

117 *ibid.*, p. 26.

Note b: Does the guidance specify that the entity contract manager needs to provide an assessment of the contractor's performance in IPPRS?

Source: ANAO analysis of entity documentation.

4.23 As at December 2024, Defence, Education and Home Affairs' guidance identified MMR reporting requirements during the reporting and finalisation phases. Infrastructure's guidance was incomplete. The NIAA and DEWR had limited guidance on MMR reporting and finalisation requirements.

- NIAA — The NIAA had no operational guidance for contract managers to ensure compliance with MMR reporting requirements. The Department of the Prime Minister and Cabinet's Contract Management Guide was available on the NIAA intranet. The guide suggested developing an MMR plan to identify how MMR targets would be monitored and mentioned MMR performance reporting and final assessment. It did not describe the responsibilities of the contract manager.
- DEWR — DEWR's intranet had information and limited guidance on the contract manager's role in relation to reporting, assurance activities and the final assessment, some of which was out of date. DEWR's Indigenous Procurement Strategy required contract managers to contact the central procurement area for advice on MMR reporting requirements.
- Infrastructure — Infrastructure's guidance did not identify assurance activities or detail the information contractors are required to report (for example, the total full time equivalent workforce and Indigenous workforce working on the contract).¹¹⁸ Infrastructure released optional IPP training in January 2025 (see paragraph 4.4) which provides information on assurance activities and details on reporting requirements.

Recommendation no. 7

4.24 The National Indigenous Australians Agency; Department of Employment and Workplace Relations; and Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts establish, strengthen or update guidance to ensure contract managers and contractors appropriately use the Indigenous Procurement Policy Reporting Solution for mandatory minimum requirements reporting.

National Indigenous Australians Agency response: *Agreed.*

4.25 *The National Indigenous Australians Agency will strengthen guidance to assist contract managers in meeting their obligations under the Indigenous Procurement Policy.*

Department of Employment and Workplace Relations response: *Agreed.*

4.26 *DEWR agrees to action this recommendation in full.*

Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts response: *Agreed.*

118 NIAA, *IPP*, p. 29.

4.27 *The department will review and update guidance for contract managers and contractors regarding the use of the Indigenous Procurement Policy Reporting Solution (IPPRS) to ensure that effective reporting and awareness of the Mandatory Minimum Requirements (MMR) is achieved.*

Reporting compliance

4.28 As at May 2024, 69 per cent of contracts administered by the six entities were at the reporting phase (Appendix 5).¹¹⁹ The ANAO examined 84 contracts subject to the MMRs (see paragraph 1.27) to determine whether entities had complied with the required steps in the reporting and finalisation phases of the procurement lifecycle in a timely and accurate manner.

Timeliness

4.29 The IPP does not establish timeframes for MMR reporting (see paragraph 2.21). In the absence of established timeframes, the ANAO examined 84 MMR contracts to determine whether entities:

- set up contracts within three months of the contract start date (to enable the contractor to submit the first quarterly report on time);
- followed up with contractors on performance reports not submitted within 60 days of the due date¹²⁰; and
- finalised the final performance assessment within 180 days of the contract end date.¹²¹

4.30 Of the 84 contracts examined:

- 40 contracts (48 per cent) were set up within three months of the contract start date;
- 38 contracts (45 per cent) were set up for reporting more than three months after the contract start date; and
- six (seven per cent) were not set up for reporting at all.

4.31 Of the 78 contracts set up for reporting:

- 50 (64 per cent) had a quarterly report submitted within 60 days of the due date for the most recent quarterly report;
- 27 (35 per cent) did not have the most recent quarterly report submitted within 60 days of the due date¹²²; and
- one was missing its reporting record in the IPPRS and was excluded from the analysis.

4.32 Of 15 finalised contracts:

119 Of the balance, seven per cent were in the set-up phase, four per cent were in the finalisation phase, and 20 per cent were finished.

120 In its reporting to the Chief Operating Officers (COO) Committee, the NIAA considers reporting completed within 60 days to be compliant. This definition was adopted for this audit.

121 The NIAA as the policy owner does not have a definition for timely contract finalisation in the IPPRS. For the purposes of this audit, the ANAO has nominated 180 days.

122 For the contracts set up for reporting, the ANAO assessed whether the contractor had submitted their most recent required report within 60 days. The ANAO did not consider the reporting timeliness of contractors' earlier reports.

- nine (60 per cent) had the final performance assessment finalised within 180 days of the contract end date; and
- six (40 per cent) did not have a final performance assessment completed within 180 days of the contract end date (see Table 4.8).

4.33 The NIAA set up contracts in a timely manner. As contractors provided their most recent quarterly report on time in the sample of contracts examined, there was no need for the NIAA to follow up on late reporting. There were no NIAA contracts in the sample that required finalisation in the IPPRS. All other entities were not timely in at least one of the set-up, reporting or finalisation steps and did not consistently follow up with contractors on late reporting.¹²³

123 DEWR advised the ANAO in February 2025 that ‘All of the contracts in the sample tested except for one, were migrated over as part of the [machinery-of-government change] on 1 July 2022. System (IPPRS) and resourcing issues contributed to the delay in the contracts being set up. As these are pre MOG procurements the findings are not true examples of how MMR contracts are set up in IPPRS now’.

Table 4.8: Timeliness of mandatory minimum requirements reporting, as at October 2024^a

	NIAA	Defence	Education	DEWR	Home Affairs	Infrastructure	Total
Total number of contracts assessed	2	33	6	26	12	5	84
Set up							
<i>Number of contracts that were ready to be set up for reporting the IPPRS</i>	2	33	6	26 ^b	12	5	84
Contracts set up within three months of the contract start date	2	26	2	4	3	3	40
Reporting							
<i>Number of contracts that were set up for reporting</i>	2	32 ^c	4	25	10	4	77
Contracts for which the contractor submitted their most recent report within 60 days of the due date	2	23	3	16	5	1	50
<i>Contracts for which the contractor submitted their most recent report after 60 days of the due date</i>	0	9	1	9	5	3	27
Contracts with late reports that were followed up	N/A	1	0	3	2	0	6
Finalisation							
<i>Number of contracts that had ended more than 180 days before (prior to testing date)</i>	0	10	1	4	0	0	15
Contracts for which the contract manager completed the final compliance assessment within 180 days of the contract end date	N/A	9	0	0	N/A	N/A	9

Key: ■ 100 per cent per cent within timeframe/followed up ■ 80 to 99 per cent within timeframe/followed up ■ 60 to 79 per cent within timeframe/followed up
■ 40 to 59 per cent within timeframe/followed up ■ Zero to 39 per cent within timeframe/followed up.

Note a: For DEWR, the ANAO completed the IPPRS contract analysis in November 2024.

Note b: Of the 26 contracts examined, five commenced before DEWR was established on 1 July 2022, 20 commenced on 1 July 2022, and one commenced after 1 July 2022 (see Table A.5).

Note c: An additional one contract was set up for reporting but was missing its IPPRS reporting record. This contract was excluded from the analysis.

Source: ANAO analysis of entity documentation and IPPRS records.

Accuracy

4.34 Details of MMR contracts should be accurately recorded in the IPPRS to ensure contractors are reporting and assessed against their contractual obligations. The ANAO examined IPPRS records for 84 MMR contracts to determine whether MMR targets as recorded in the IPPRS were consistent with the contracted target; and remote-area contracts were correctly identified (see Table 4.9).

Table 4.9: Mandatory minimum requirements target accuracy, as at October 2024^a

	NIAA	Defence	Education	DEWR	Home Affairs	Infrastructure	Total
Total number of contracts assessed	2	33	6	26	12	5	84
Contracts that had an MMR target recorded in the IPPRS	2	33	4	25	10	4	78
Contracts for which the MMR target in the IPPRS was consistent with the contract ^b	2	32	4	19	6	0	63
<i>Number of contracts with a remote area component</i>	2	6	1	9	5	2	25
Contracts for which the remote status was recorded in the IPPRS ^c	2	3	0	8	3	1	17

Key: ■ 100 per cent per cent accurate ■ 80 to 99 per cent accurate ■ 60 to 79 per cent accurate
 ■ 40 to 59 per cent accurate ■ Zero to 39 per cent accurate.

Note a: For DEWR, the ANAO completed the IPPRS contract analysis in November 2024.

Note b: For six contracts, the MMR target or Indigenous Participation Plan was established more than three months after the contract commenced (see Table 4.5). These contracts were included in the assessment of IPPRS accuracy, as were two additional contracts for which the MMR target was agreed in an email between the contract manager and the contractor.

Note c: MMR contracts delivered in a remote area have an additional requirement to deliver significant Indigenous outcomes in that area and may require higher MMR targets than non-remote contracts (see paragraph 1.5).

Source: ANAO analysis of entity documentation and IPPRS records.

4.35 MMR targets for contracts held by the NIAA, Defence and Education were accurately recorded in the IPPRS. MMR targets for six DEWR contracts, four Home Affairs contracts and four Infrastructure contracts did not match the contracted value.¹²⁴ Remote-area contracts held by all entities other than the NIAA were inconsistently identified.

4.36 Guidance for Australian Government contract managers published by the NIAA as the policy owner states that the IPPRS will update the Indigenous contractor-use component of the MMR target and reporting dates to reflect contract variations on the day after they are published on

¹²⁴ Infrastructure advised the ANAO in November 2024 that that the procurement officials in the department had not been able to access the IPPRS since the first half of 2024.

AusTender.¹²⁵ The ANAO identified eight of 84 contracts for which the contract end date and/or contract value in the IPPRS was inconsistent with AusTender (three had different end dates; five had different values).¹²⁶ Of the five contracts with inconsistent contract values, three contracts had contract-based MMR targets, which had not been updated to reflect the varied contract value (in all cases, higher). For one contract, updating the contract value in the IPPRS would result in the contract being assessed as at risk of not meeting the MMR target instead of being on track.

Opportunity for improvement

4.37 The NIAA could review the IPPRS arrangements for identifying and updating contracts following AusTender publication of a variation, to ensure contract records are accurate.

Were controls and risk-based assurance activities established?

Auditor-General Report No. 25 2019–20 recommended that after guidance has been provided by the policy owner, all audited entities establish appropriate controls and risk-based assurance activities for active MMR contracts.

- As the policy owner, the NIAA published guidance in July 2020 that has a short overview on how MMR performance information could be verified.
- All six entities established at least some controls and arrangements to gain assurance over contractors' MMR performance reporting. Controls and arrangements were more developed in Education and Home Affairs.
- For a sample of contracts examined, none of the entities consistently undertook assurance activities to verify contractor performance reporting. Defence undertook the most assurance activity.
- In summary: all entities partly implemented the 2019–20 recommendation.

4.38 The IPP states that the entity contract manager is responsible for ensuring compliance with contractors' Indigenous Participation Plans and MMR targets. The entity contract manager is responsible for undertaking appropriate assurance activities to ensure reported information is accurate.¹²⁷

Box 8: Findings from Auditor-General Report No. 25 2019–20 — Recommendation 6

Auditor-General Report No. 25 2019–20 found where reporting was occurring, entities did not gain appropriate assurance over contractors' reported performance against MMR targets. The audit found that 65 of the 69 examined contracts (94 per cent) included assurance levers (for example, documentation review and audits). No contract specified what documentation contractors should retain as evidence of their reported performance against MMR targets. None of the entities provided evidence that they had enforced MMR reporting compliance or,

125 NIAA, *Indigenous Procurement Policy Guide 1: Procuring officials and contract managers*, NIAA, Canberra, 2020, p. 27, available from <https://www.niaa.gov.au/resource-centre/indigenous-procurement-policy-ipp-guide-1-procuring-officials-and-contract-managers>.

126 For seven of the eight contracts, a contract variation was published on AusTender.

127 NIAA, *IPP*, p. 24.

where reporting was occurring, had verified contractors' reported performance against MMR targets.^a

The audit stated that, at a minimum, entities should integrate occasional reviews of MMR documentation into their contract management control frameworks (for example, invoices, timesheets, payslips, and evidence of staff, suppliers and subcontractors' Aboriginal and/or Torres Strait Islander heritage).^b The recommendation that appropriate controls and risk-based assurance activities be established after guidance was provided by the policy owner was agreed to by all entities, with three entities referring to policy owner guidance in their response to the recommendation.^c

Note a: Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*, paras. 4.43–4.44.

Note b: *ibid.*, para. 4.45.

Note c: *ibid.*, paras. 4.48–4.51.

Guidance provided by the policy owner

4.39 In July 2020, the NIAA published MMR guidance for contract managers that included sections on monitoring contractors' progress against MMR targets and verifying reported MMR performance information (see paragraph 2.10).¹²⁸ The guidance states that contract managers should review all reported MMR performance information and follow up with contractors if MMR targets are not being met.¹²⁹ The guidance has a short outline on how MMR performance information can be verified by contractors and contract managers:

The contract manager should specify the documentation the supplier must maintain as evidence of MMR performance, taking into consideration associated risks. From time to time the contract manager should take steps to assure themselves that information being reported by suppliers is accurate. This could, for example, include spot reviews of evidence to support the reported information, or site visits as appropriate. Subject to privacy requirements, the documents associated with the MMR workforce target could include: payroll information that demonstrate hours worked by staff on the project; [and] evidence that staff have identified as Aboriginal and/or Torres Strait Islander as part of a human resource processes where providing false information could risk their employment.¹³⁰

4.40 In June 2024, the NIAA circulated additional guidance to the COO Committee on verifying reported performance information (see paragraph 2.20).

4.41 The IPPRS has functions to support the identification of compliance risks, including:

128 The Department of Infrastructure, Transport, Regional Development and Communications provided feedback to the NIAA on a draft guide in June 2020, which stated that the draft 'in some cases provide[s] very little information on how Indigenous participation can be verified or assessed'.

129 Model clauses published by the NIAA include a clause that enables the contracting entity to require the contractor to provide additional information in circumstances where the entity believes the contractor may be unable to comply with the Indigenous Participation Plan or is unlikely to meet the MMR targets.

130 NIAA, *Indigenous Procurement Policy Guide 1*, pp. 25–26. The guidance states it can be challenging for contractors to accurately report on Indigenous employment and supply-use outcomes as this may rely on sensitive information about a person's heritage. The guidance notes that privacy requirements will need to be considered when providing evidence of reported targets.

- notifying entities when a possible MMR contract is required to be set up to enable performance reporting;
- notifying contract managers when a contractor's quarterly performance report indicates achievement of the MMR target is at risk; and
- checking whether suppliers included in a contractor's supply-use target reporting are listed with Supply Nation and the Office of Registrar of Indigenous Corporations.

4.42 In January and February 2025, Defence, Education and Infrastructure advised the ANAO that they would welcome further guidance from the NIAA on assurance activities for MMR performance reporting. Education noted it would especially like guidance from the NIAA on obtaining evidence on confirming Indigenous heritage in a sensitive manner. Defence advised the ANAO:

NIAA should be responsible for establishing validation and verification processes in their guidance for procuring officials and contract managers and enabling the recording of verification/validation in the IPP Reporting Solution to enable consistent application across the Commonwealth.

4.43 In April 2025, NIAA advised the ANAO that:

The NIAA is happy to provide guidance to non-corporate Commonwealth entities on the implementation of MMRs, and to consider potential enhancements to IPPRS as described, within available resources.

4.44 While the policy owner has an important role to play in promoting compliance with a procurement-connected policy, implementing entities are accountable for their own compliance and can also play an active role. Under the Australian Public Service (APS) value of stewardship, all APS employees are stewards. In its guidance on stewardship the Australian Public Service Commission states:

we show this when we strive to do a good job, find ways to do things better, and work together to deliver the best outcomes we can. We are custodians of public service craft, knowledge, and practice—and we show this when we learn from the experience of those who have come before us, and make our own contributions to public service know-how for the future. The inclusion of Stewardship as an APS Value reflects behaviours and practices that we see across the APS every day—from agencies working together to respond to crises or emerging policy issues, to teams providing future-focused and considered advice to government, to individuals maintaining accurate records and representing their agency and the APS with integrity. Enshrining Stewardship as a Value requires us to be deliberate, active, and reflective in considering the context and purpose of our work, so that each of us can contribute to the continuous improvement of the APS as a professional and trusted public service.¹³¹

4.45 Practice-sharing across entities can support Australian Government entities to meet requirements and improve practice. Entities that undertake procurement less frequently may be able to learn from those that undertake procurement more frequently. Communities of practice, such as the Commonwealth Procurement and Contract Management Community of Practice, have

131 Australian Public Service Commission, *Stewardship guidance*, APSC, 2024, available from <https://www.apsc.gov.au/working-aps/information-aps-employment/aps-values/stewardship-guidance> [accessed 15 March 2025].

been set up to share best practice, raise related issues, seek guidance and hear from experts.¹³² In March 2019, the Department of Finance established the Centre of Procurement Excellence, which aims in part to build public sector capability in procurement and encourage innovation in procurement.¹³³

Opportunity for improvement

4.46 In seeking ways to improve practice under the Indigenous Procurement Policy, audited entities could consider building on existing networks or establishing other information sharing arrangements for procurement officials and contract managers across the Australian Public Service.

Entities' assurance controls and arrangements

4.47 The ANAO examined whether entities had developed controls and arrangements to support gaining assurance over contractor MMR performance reporting (Table 4.10).

Table 4.10: Entities' mandatory minimum requirements assurance controls and arrangements

Entity	MMR assurance controls and arrangements
NIAA	<ul style="list-style-type: none"> • Templates that require procurement officials and contract managers to access a copy of the MMR clauses and insert them into the approach to market documentation or contract.
Defence	<ul style="list-style-type: none"> • MMR clauses in approach to market and contract templates. • Contract template clauses that require the contractor to comply with their Indigenous Participation Plan, submit quarterly performance reports and respond to information requests. • Guidance stating that contract managers are responsible for monitoring contractors' MMR reporting to ensure compliance with the MMRs. • Optional training that summarises expectations of contract managers to verify the accuracy of contractors' MMR reports and what could be requested from contractors as evidence.
Education	<ul style="list-style-type: none"> • MMR clauses in approach to market and contract templates. • Contract template clauses that require the contractor to comply with their Indigenous Participation Plan, submit quarterly performance reports and respond to information requests. • Guidance stating that contract managers are responsible for monitoring contractors' MMR reporting to ensure compliance with the MMRs.

132 Australian Public Service Academy, *Commonwealth Procurement and Contract Management Community of Practice*, APS Academy, available from <https://www.apsacademy.gov.au/resources/commonwealth-procurement-and-contract-management-community-practice#:~:text=The%20Commonwealth%20Procurement%20and%20Contract,experts%2C%20and%20receive%20policy%20updates>. [accessed 15 March 2025].

133 Department of Finance, *Centre of Procurement Excellence*, Finance, updated February 2025, available from <https://www.finance.gov.au/government/procurement/centre-procurement-excellence#:~:text=The%20CoP%20brings%20together%20officials,and%20associated%20systems%20and%20tools>. [accessed 15 March 2025].

Entity	MMR assurance controls and arrangements
	<ul style="list-style-type: none"> • A contract management framework identifying that contract managers are responsible for ensuring reported information is accurate released in September 2024. • From 2024–25, a requirement for contractors to complete an annual compliance statement attesting they have met their contractual obligations.
DEWR	<ul style="list-style-type: none"> • MMR clauses in approach to market and contract templates. • Contract template clauses that require the contractor to comply with their Indigenous Participation Plan, submit quarterly performance reports and respond to information requests.
Home Affairs	<ul style="list-style-type: none"> • MMR clauses in approach to market and contract templates. • Contract template clauses that require the contractor to comply with their Indigenous Participation Plan, submit quarterly performance reports and respond to information requests. • Guidance stating that contract managers are responsible for monitoring contractors' MMR reporting to ensure compliance with the MMRs. • Internal MMR assurance reviews that resulted in updates to guidance.^a
Infrastructure	<ul style="list-style-type: none"> • MMR clauses in approach to market and contract templates. • Contract template clauses that require the contractor to comply with their Indigenous Participation Plan, submit quarterly performance reports and respond to information requests. • Guidance stating that contract managers are responsible for monitoring contractors' MMR reporting to ensure compliance with the MMRs. • Optional training released in January 2025 that summarises expectations of contract managers to verify the accuracy of contractors' MMR reports and what could be requested from contractors as evidence.

Note a: Home Affairs has undertaken four internal assurance reviews of MMR contracts, which were completed in April 2021, September 2022, October 2023 and September 2024 (see paragraph 4.51).

Source: ANAO analysis of entity documentation.

Entities' assurance activities

4.48 Of the 84 contracts examined by the ANAO, the IPPRS assigned a status¹³⁴ as follows:

- 35 (42 per cent) were on track to meet their MMR targets;
- 28 (33 per cent) were not on track to meet their MMR targets;
- 15 (18 per cent) had an 'unable to determine' status¹³⁵; and
- six (seven per cent) had no status as the contracts had not been set up for reporting in the IPPRS.

134 IPPRS records for the contracts were reviewed between October and December 2024.

135 Defence: five, DEWR: five, Home Affairs: three, and Infrastructure: two. Reasons why the IPPRS is unable to determine the status of a contract include that the contract is in the first 20 per cent of the contract period or that no reports have been submitted.

4.49 The ANAO examined:

- the 28 contracts that had a 'not on track' IPPRS status to determine whether entities followed up with contractors; and
- a subset of 21 of the 84 contracts (sampled randomly and independent of the IPPRS status)¹³⁶ to determine whether entities had undertaken activities to verify the accuracy of the contractor's reported MMR performance information (see Table 4.11).

136 Contracts were sampled independent of the IPPRS status as the requirement under the IPP for entities to ensure reported MMR performance information is accurate applies to all MMR contracts.

Table 4.11: Entity assurance of mandatory minimum requirements performance reporting

	NIAA	Defence	Education	DEWR	Home Affairs	Infrastructure	Total
Ensuring compliance with MMR targets							
Total number of contracts assessed	2	33	6	26	12	5	84
<i>Number of contracts with a reporting status in the IPPRS</i>	<i>2</i>	<i>28</i>	<i>4</i>	<i>20</i>	<i>7</i>	<i>2</i>	63
<i>Contracts identified in the IPPRS as not on track to meet MMR targets</i>	<i>0</i>	<i>15</i>	<i>2</i>	<i>5</i>	<i>4</i>	<i>2</i>	28
Contracts for which the contract manager followed up with the contractor	N/A	6	1	2	1	0	10
Verifying reported performance information							
Total number of contracts assessed	1	9	2	6	2	1	21
Contracts for which MMR reporting was verified ^a	0 ^a	7	0	1	1	0	9

Key: ■ 100 per cent per cent compliant ■ 80 to 99 per cent ■ 60 to 79 per cent ■ 40 to 59 per cent ■ Zero to 39 per cent.

Note a: For the one contract examined, the NIAA required the contractor to verify when a supplier identifies as Indigenous but did not request evidence to confirm whether this was done or request other information to verify the accuracy of the contractor's MMR reporting.

Source: ANAO analysis of entity documentation and IPPRS records.

4.50 None of the relevant entities followed up on all MMR contracts identified as at risk of not meeting MMR targets. Other than Defence, entities did not verify reported MMR performance information for most or all contracts.

4.51 Home Affairs has undertaken four annual internal assurance reviews since 2021, which have included surveying contract managers to identify activities they had undertaken to verify reported MMR performance information. A 2024 internal review found one of six contract managers reported undertaking activities to verify reporting.

4.52 For the contracts examined by the ANAO, where activities were undertaken to verify reported MMR performance information, approaches included:

- requiring contractors to submit a formal statement (attestation) that the reported information was accurate;
- confirming contractor registration/certification with Supply Nation;
- confirming subcontractor registration with Supply Nation and evidence of payment to the subcontractor; and
- confirming the Aboriginal and/or Torres Strait Islander heritage of contractor key staff by citing a letter from an Aboriginal community and doing a spot-check against submitted timesheets.

Recommendation no. 8

4.53 All audited entities meet their responsibility under the Indigenous Procurement Policy to establish or strengthen processes to ensure contract managers undertake appropriate activities to ensure contractors' compliance with mandatory minimum requirements (MMR) targets and verify that reported MMR performance information is accurate.

National Indigenous Australians Agency response: *Agreed.*

4.54 *The National Indigenous Australians Agency will establish appropriate processes to ensure that activities are undertaken by contract managers to identity compliance and accuracy in reports submitted by contractors.*

Department of Defence response: *Agreed.*

4.55 *Following release of guidance from the National Indigenous Australians Agency regarding validation and verification processes, Defence will strengthen its processes to ensure Defence contract managers undertake appropriate assurance activities to verify the MMR performance information provided by contractors.*

Department of Education response: *Agreed.*

4.56 *Education engages with departmental MMR contract managers regularly to ensure that contractors' reports are reviewed, verified and accepted in the Indigenous Procurement Policy Reporting Solution (IPPRS) in a timely way. Education is also working with contract managers to ensure that assurance activities are performed more consistently. The department now has a standardised approach for seeking assurance in relation to contract obligations. Suppliers must complete the Annual Commonwealth Contract Compliance Statement annually, or at the end of the contract (for contracts less than 12 months in duration). Additionally the department has*

updated its intranet guidance to detail the contract management responsibilities for MMR contracts.

4.57 Education will continue to engage with departmental MMR contract managers to ensure that MMR contracts are set up in the IPPRS within the required timeframe, and that reporting and finalisation of the contract is completed within the audit's recommended timeframes.

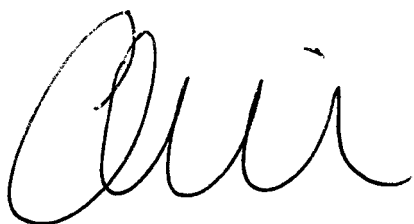
Department of Employment and Workplace Relations response: Agreed.

4.58 DEWR agrees to action this recommendation in full.

Department of Home Affairs response: Agreed.

Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts response: Agreed.

4.59 The department will review current processes for contract managers to ensure appropriate activities are undertaken to ensure contractors' compliance with MMR targets, including a review of the accuracy of the information reported.



Dr Caralee McLiesh PSM
Auditor-General

Canberra ACT
15 May 2025

Appendices

Appendix 1 Entity responses

National Indigenous Australians Agency



Australian Government
National Indigenous Australians Agency

EC25-000367

CHIEF EXECUTIVE OFFICER
JODY BROUN

Dr Caralee McLiesh PSM
Auditor-General for Australia
Australian National Audit Office
officeoftheauditorgeneralperformanceaudit@anao.gov.au

Dear Dr McLiesh

The National Indigenous Australians Agency (NIAA) welcomes the findings of the audit on *Targets for minimum Indigenous employment or supply use in major Australian Government procurements – Follow-up*.

The primary purpose of the Indigenous Procurement Policy (IPP) is to stimulate Indigenous entrepreneurship, business and economic development, providing Indigenous Australians with more opportunities to participate in the economy. The Mandatory Minimum Requirements (MMR) are a key component of the policy.

Prior to the implementation of the policy in 2015, Indigenous businesses secured limited business from Commonwealth procurement. The policy has significantly increased the rate of purchasing from Indigenous businesses.

The NIAA is proud to take the lead on behalf of the Commonwealth in providing advice on how to best meet the requirements of the IPP. The NIAA provides advice to Commonwealth entities through its many publications and its dedicated IPP team. Within the resources available, the NIAA has also invested in providing ICT tools and support to assist Commonwealth entities with their responsibility to ensure accurate reporting on targets and MMRs.

As with all other elements of the Commonwealth Procurement Rules, it is the responsibility of each Commonwealth entity to meet their obligations under the IPP. The NIAA welcomes the ANAO's recommendations on how it can improve the advice it provides to entities to meet their obligations.

Yours sincerely



JODY BROUN

Chief Executive Officer

29 April 2025

Postal Address | PO Box 2191 CANBERRA ACT 2600

Telephone | +61 2 6271 5111 Fax | +61 2 6271 5414 Website| www.niaa.gov.au ABN| 30 429 895 164

Department of Defence



Australian Government

Defence

PO Box 7900 CANBERRA BC ACT 2610

EC25-002202

Dr Caralee McLiesh, PSM
Auditor-General
ANAO
PO BOX 707
CANBERRA ACT 2601

Dear Dr McLiesh,

Auditor-General performance audit – Targets for minimum Indigenous employment or supply use in major Australian Government procurements – Follow-up

Thank you for the opportunity to comment on the Proposed Report for the Auditor-General performance audit – *Targets for minimum Indigenous employment or supply use in major Australian Government procurements – Follow-up*.

Defence remains committed to supporting Indigenous businesses and promoting Indigenous employment outcomes, and works closely with the National Indigenous Australians Agency (NIAA) to improve the implementation of the Indigenous Procurement Policy.

As the Commonwealth's largest procurer, Defence is proud of its significant commitment towards supporting the long-term growth and sustainability of the Indigenous business sector, and will continue working with the NIAA to improve the monitoring and reporting of the mandatory minimum requirement targets.

Attached to this letter are Defence's proposed amendments, editorials and comments (**Annex A**), response to the proposed recommendation (**Annex B**) and Defence's summary response (**Annex C**). These constitute Defence's formal response to the Auditor-General Proposed Report.

Our point of contact is the ANAO Liaison Officer who can be contacted via email at: anao.lo@defence.gov.au.

Yours sincerely

Greg Moriarty, AO
Secretary

April 2025

David Johnston, AC
Admiral RAN
Chief of the Defence Force

April 2025

Department of Education



Australian Government
Department of Education

Our Ref: EC25-001146

Secretary
Tony Cook PSM

Dr Caralee McLiesh PSM
Auditor-General
Australian National Audit Office
OfficeoftheAuditorGeneralPerformanceAudit@anao.gov.au

Dear Dr McLiesh

**Targets for minimum Indigenous employment or supply use in major
Australian Government procurements - Follow-up**

Thank you for your correspondence on 27 March 2025, containing the proposed report for the Australian National Audit Office (ANAO) audit, *Targets for minimum Indigenous employment or supply use in major Australian Government procurements – Follow-up*. I appreciate the opportunity to respond and thank you, and your staff, for the collaborative way in which this audit was conducted.

I am pleased to see the report recognises the significant efforts the department has made to implement changes recommended by the ANAO's performance audit of February 2020. I acknowledge the audit has identified that the department needs to continue our efforts to strengthen our processes to ensure contract managers undertake appropriate activities to ensure contractors' compliance with mandatory minimum requirements (MMR) targets and verify that reported MMR performance information is accurate. The department is already making progress towards meeting the report's recommendation and opportunities for improvement.

I enclose my department's response to the recommendations and summary for inclusion in the report. Should you require further information on the response please do not hesitate to contact Ms Ebony Turner, A/g Chief Financial Officer on (02) 6240 5451 or at ebony.turner@education.gov.au.

Yours sincerely

Tony Cook

22 April 2025

50 Marcus Clarke Street, Canberra ACT 2601
GPO Box 9880, Canberra ACT 2601 | Phone 1300 566 046

Department of Employment and Workplace Relations



Australian Government
Department of Employment
and Workplace Relations

Our Ref: EC25-001068

Secretary
Natalie James

Dr. Caralee McLiesh PSM
Auditor-General for Australia
Australian National Audit Office
OfficeoftheAuditorGeneralPerformanceAudit@anao.gov.au

Dear Dr McLiesh,

Caralee

Re: Targets for minimum Indigenous employment or supply use in major Australian Government procurements — Follow-up

Thank you for the opportunity to respond to the Australian National Audit Office report on the *Targets for minimum Indigenous employment or supply use in major Australian Government procurements — Follow-up audit* (the audit).

As the report notes, both during and following the original audit, machinery of government changes have taken place impacting the operating context of the department. In recent years my department has been on a journey of continuous improvement to uplift its overall procurement and contract management capability. We have worked to ensure our people have access to up-to-date procurement guidance, training and templates and that our central procurement team is appropriately trained and resourced to deliver high quality support. This journey is well progressed however the department still has work to do.

The department is committed to delivering compliant procurements that deliver value for money outcomes. This includes our strong commitment to Closing the Gap through, among other initiatives, increasing Indigenous employment and/or supply use in the department's contracts.

In this context, the department accepts the audit's findings, opportunities for improvement and recommendations, which support the journey of continuous improvement the department is on.

Should you have any questions regarding the department's response, please contact Jennifer Hewitt, Chief Internal Auditor on 02 6240 0438 or Jennifer.Hewitt@dewr.gov.au.

Yours sincerely

Natalie James
28 April 2025

50 Marcus Clarke Street, Canberra ACT 2601
GPO Box 9880, Canberra ACT 2601 | Phone 1300 566 046

Department of Home Affairs



Australian Government
Department of Home Affairs

SECRETARY

EC25-001775

Dr Caralee McLiesh PSM
Auditor-General
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Dear Dr McLiesh

Thank you for the opportunity to provide feedback and comments on the Section 19 Report for the *Targets for minimum Indigenous employment or supply use in major Australian Government procurements – Follow-up* that was provided to the Department of Home Affairs on 28 March 2025.

I acknowledge the value of the Australian National Audit Office (ANAO) in providing independent analysis of, and insights into, areas of further improvement relating to mandatory minimum requirements (MMR) compliance and reporting. The ANAO audit team demonstrated a collaborative approach throughout the audit process, resulting in a positive audit experience for the Department.

The Department is committed to assisting in the implementation of the Australian Government's policy objective to drive growth in Aboriginal and Torres Strait Islander businesses and employment. I welcome the advice from the ANAO that the three recommendations related to MMR compliance have been largely implemented. As noted in the report, there is scope for the Department to strengthen controls at the approach to market, tender evaluation and contract management phases. This includes a focus on ensuring that individual contract managers are working with suppliers to achieve compliance with MMR targets and are verifying that supplier performance reports are accurate.

In line with the recommendations, and as part of our continuous improvement program, the Department will strengthen its processes, guidance, reporting and assurance activities to support compliance with the MMRs, in both the procurement and contract management phases. The Department has increased its awareness activities, so that contract managers understand their obligations in relation to MMR reporting. The Department is investigating how information on prior MMR procurements can be made accessible to evaluators as part of their due diligence process, with guidance to be updated accordingly. Procurement and contract management advisors will be focussing on MMR in their outreach discussions with business areas and the procurement assurance area has included an MMR assurance activity in its forward work plan.

Please find attached a summary response to the report for inclusion in the formal report (**Attachment A**), as well as a response to the recommendations (**Attachment B**).

Should your staff wish to discuss any aspects of the Department's response, they may contact Alison Sommerville, Assistant Secretary Audit and Assurance on 0478 401 706. Alternatively, you are of course welcome to contact me directly.

Yours sincerely

Stephanie Foster PSM

22 April 2025

6 Chan Street Belconnen ACT 2617
PO Box 25 Belconnen ACT 2616 • Telephone: 02 6264 1111 • www.homeaffairs.gov.au

Department of Infrastructure, Transport, Regional Development, Communications,
Sport and the Arts



Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

Secretary
Jim Betts

Dr Caralee McLiesh PSM
Auditor-General
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Dr McLiesh

Auditor-General Proposed Audit Report on the *Targets for minimum Indigenous employment or supply use in major Australian Government procurements – Follow up*

Thank you for providing the Department of Infrastructure, Transport, Regional Development, Communication and the Arts (the department) with the opportunity to comment on an extract of your proposed audit report on *Targets for minimum Indigenous employment or supply use in major Australian Government procurements – Follow up*.

The department supports the policy objectives of the Indigenous Procurement Policy (IPP) and the achievement of the Mandatory Minimum Requirements (MMR) as a key element of the IPP.

This follow up audit, which examined all five of the department's procurements that triggered the MMR, has highlighted the need for some further improvement in aspects of the department's arrangements for meeting the MMR. This includes the need for additional assurance activities to support and document the achievement of the MMR.

The department is committed to making the necessary improvements to its processes.

Our summary response to the audit and our response to the two recommendations directed at the department is attached.

Please contact Ms Maree Bridger, Deputy Secretary, Corporate Group, at maree.bridger@infrastructure.gov.au if you would like to discuss this response.

I would like to thank the ANAO for the professional manner in which the audit was conducted.

Yours sincerely

Jim Betts
Secretary

28 April 2025

Appendix 2 Improvements observed by the ANAO

1. The existence of independent external audit, and the accompanying potential for scrutiny improves performance. Improvements in administrative and management practices usually occur: in anticipation of ANAO audit activity; during an audit engagement; as interim findings are made; and/or after the audit has been completed and formal findings are communicated.
2. The Joint Committee of Public Accounts and Audit (JCPAA) has encouraged the ANAO to consider ways in which the ANAO could capture and describe some of these impacts. The ANAO's corporate plan states that the ANAO's annual performance statements will provide a narrative that will consider, amongst other matters, analysis of key improvements made by entities during a performance audit process based on information included in tabled performance audit reports.
3. Performance audits involve close engagement between the ANAO and the audited entity as well as other stakeholders involved in the program or activity being audited. Throughout the audit engagement, the ANAO outlines to the entity the preliminary audit findings, conclusions and potential audit recommendations. This ensures that final recommendations are appropriately targeted and encourages entities to take early remedial action on any identified matters during the course of an audit. Remedial actions entities may take during the audit include:
 - strengthening governance arrangements;
 - introducing or revising policies, strategies, guidelines or administrative processes; and
 - initiating reviews or investigations.
4. In this context, the below actions were observed by the ANAO during the course of the audit. It is not clear whether these actions and/or the timing of these actions were planned in response to proposed or actual audit activity. The ANAO has not sought to obtain assurance over the source of these actions or whether they have been appropriately implemented.
 - In November 2023, the National Indigenous Australians Agency (NIAA) surveyed Australian Government entities on their satisfaction with the NIAA's support for the Indigenous Procurement Policy (IPP) (see Box 3).
 - In July 2024, the NIAA provided advice to Australian Government entities to assist them with improving their processes to verify reported mandatory minimum requirements (MMRs) performance information (see paragraph 2.20).
 - In August 2024, the NIAA updated its Indigenous procurement intranet page to provide an overview of the MMRs and provide a hyperlink to the MMR factsheet available on the NIAA website (see paragraph 4.6).
 - In September 2024, the Department of Education released a new contract management suite and annual contractor compliance statement (see Table 4.10).
 - In January 2025, the Department of Education updated its service contract template and intranet page from the eight MMR applicable industry categories to the current 19 categories (see Table 4.4).
 - In January 2025, the Department of Education updated its guidance to identify that MMR clauses need to be included at the approach to market and in the subsequent deed of standing offer when establishing a panel (see paragraph 4.10).

- In January 2025, the Department of Education updated its tender evaluation guidance to state that staff must consider a tenderer's compliance with previous MMR contracts by a search of the IPPRS (see paragraph 4.12).
- In January 2025, the NIAA provided advice to the government on extending the IPP as a procurement-connected policy (see paragraph 2.44).
- In January 2025, Infrastructure released voluntary IPP training (see paragraphs 4.4 and 4.23 and Table 4.10).
- In February 2025, the Australian Government announced that the NIAA would explore the feasibility of increasing transparency of suppliers' performance against MMR targets (see paragraph 1.18).

Appendix 3 Mandatory minimum requirements industry coverage

1. Between 1 July 2015 and 30 June 2020, under the Indigenous Procurement Policy, the mandatory minimum requirements (MMRs) applied to procurements in eight industry categories. From 1 July 2020, the MMRs applied to procurements in an additional 11 industry categories with some sub-category exemptions. Table A.1 lists the MMR industry categories and sub-category exemptions.

Table A.1: Mandatory minimum requirements industry coverage

UNSPSC code ^a	Description
MMR categories from 1 July 2015	
70000000	Farming and fishing and forestry and wildlife contracting services
72000000	Building and facility construction and maintenance services
76000000	Industrial cleaning services
78000000	Transportation, storage and mail services
82000000	Editorial and design and graphic and fine art services
86000000	Education and training services
90000000	Travel and food and lodging and entertainment services
93000000	Politics and civic affairs services
Additional MMR categories from 30 June 2020	
64000000	Financial instruments, products, contracts and agreements
71000000	Mining and oil and gas services
73000000	Industrial production and manufacturing services
77000000	Environmental services
80000000	Management and business professionals and administrative services ^b
81000000	Engineering and research and technology-based services
84000000	Financial and insurance services ^c
85000000	Healthcare services
91000000	Personal and domestic services
92000000	National defence and public order and security and safety services ^d
94000000	Organisations and clubs

Note a: The United Nations Standard Products and Services Code (UNSPSC) is a classification system used for reporting Australian Government procurement activity.

Note b: There are three sub-category exemptions: 80131500 – Lease and rental of property or building; 80131501 – Land lease; and 80131503 – Residential rental.

Note c: There are two sub-category exemptions: 84130000 – Insurance and retirement services; and 84131800 – Retirement funds.

Note d: There are two sub-category exemptions: 9211000 – Military services and national defence; and 92111700 – Military science and research.

Source: National Indigenous Australians Agency, *Indigenous Procurement Policy*, NIAA, Canberra, 2020.

Appendix 4 Aboriginal and Torres Strait Islander Participation Targets in Major Procurements audit recommendations

Recommendation number	Recommendation
Recommendations to the National Indigenous Australians Agency on the administration of the mandatory minimum requirements	
1	National Indigenous Australians Agency develops tailored guidance on managing the MMRs throughout the contract lifecycle in consultation with entities and contractors.
2	National Indigenous Australians Agency implements a strategy to increase entity and contractor compliance with MMR reporting requirements to ensure information in the IPP Reporting Solution is complete.
3	National Indigenous Australians Agency implements an evaluation strategy for the MMRs that outlines an approach to measuring the impact of the policy on Aboriginal and Torres Strait Islander employment and business outcomes.
Recommendations to audited entities on compliance with the mandatory minimum requirements	
4	All audited entities review and update their procurement protocols to ensure procuring officers undertaking major procurements that trigger the MMRs comply with required steps in the procurement process.
5	All audited entities establish processes, or update existing processes, to ensure contract managers and contractors regularly use the IPP Reporting Solution for MMR reporting.
6	After guidance has been provided by the policy owner, all audited entities establish appropriate controls and risk-based assurance activities for active MMR contracts.

Source: Auditor-General Report No.25 2019–20, *Aboriginal and Torres Strait Islander Participation Targets in Major Procurements*.

Appendix 5 Contract sampling for mandatory minimum requirements compliance testing

1. The audit undertook mandatory minimum requirements (MMR) compliance testing on a sample of contracts from the six audited entities — the National Indigenous Australians Agency (NIAA); Department of Defence (Defence); Department of Education (Education); Department of Employment and Workplace Relations (DEWR); Department of Home Affairs (Home Affairs); and Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts (Infrastructure).

Contract population

2. The universe of contracts was identified from a data extract from the Indigenous Procurement Policy Reporting Solution (IPPRS) drawn on 1 May 2024. The data extract included all reported contracts subject to the MMRs since the inception of the IPP, including finalised contracts.

3. The universe of each entities' MMR contracts was identified based on 'agency' field in the data extract.

4. For the six entities included in the audit, the universe of MMR contracts ranged from five for NIAA to 273 for Defence (Table A.2).

Table A.2: Status of entities' mandatory minimum requirements contracts (as at 1 May 2024)

Entity	Set up	Reporting	Finalisation	Finished	Total
NIAA	0	3	2	0	5
Defence	14	159	5	95	273
Education	4	12	0	0	16
DEWR	7	156	10	10	183
Home Affairs	9	30	2	1	42
Infrastructure	1	4	2	0	7
Total	35	364	21	106	526

Source: ANAO analysis of IPPRS data.

5. In a second step to identify the population of contracts relevant to the audit, filters were applied to the data extract. These comprised:

- contract did not have an MMR exemption;
- contract start date was between 1 July 2020 and 31 December 2023; and
- contract type was 'standard MMR'.¹³⁷

¹³⁷ Other contract types are 'non-standard MMR' (the contract does not meet the MMR criteria, however the contractor agreed in the contract to comply with and be assessed against an MMR target) and 'voluntary reporting' (the contract has no MMR target and will not be assessed, however the contractor agreed to report on supply chain and workforce performance).

The application of these filters resulted in a population of 346 contracts across the six audited entities (see Table A.3).

Table A.3: Status of mandatory minimum requirements contracts in population identified for sampling (as at 1 May 2024)

Entity	Set up	Reporting	Finalisation	Finished	Total
NIAA	0	2	0	0	2
Defence	8	133	4	36	181
Education	3	5	0	0	8
DEWR	5	120	6	4	135
Home Affairs	5	10	0	0	15
Infrastructure	1	4	0	0	5
Total	22	274	10	40	346

Source: ANAO analysis of IPPRS data.

Contract sampling

6. Two sampling approaches were used as follows.

- Census testing was undertaken for the NIAA, Education, Home Affairs, and Infrastructure, where the population contained 15 contracts or fewer for each entity.
- Randomised sampling was undertaken for Defence and DEWR, where the population contained 130 or more contracts for each entity. A random sample of 35 and 26 contracts was drawn for Defence and DEWR respectively.

7. This resulted in a total sample of 91 contracts (see Table A.4 and Table A.5). After the audit commenced, seven contracts were made exempt from the MMRs by the entity, or were reallocated to another entity. The seven exempted contracts were excluded from analysis.

Table A.4: Status of mandatory minimum requirements contracts in the ANAO's compliance testing sample (as at 1 May 2024)

Entity	Set up	Reporting	Finalisation	Finished	Total
NIAA	0	2	0	0	2
Defence	1	24	1	9	35
Education	3	5	0	0	8
DEWR	2	22	2	0	26
Home Affairs	5	10	0	0	15
Infrastructure	1	4	0	0	5
Total	12	67	3	9	91

Source: ANAO analysis of IPPRS data.

Table A.5: Mandatory minimum requirements contracts included in the ANAO's compliance testing sample

AusTender Reference	Description or procured goods or services	Start date	End date	Value (\$)
NIAA				
CN3868656	Training and development services	4/04/2022	30/06/2025	10,189,409
CN3869257	Business administration services	4/04/2022	30/06/2026	11,000,000
Defence				
CN4011749	Computer services	19/10/2023	18/10/2026	7,843,602
CN3749667	Information technology support services	1/02/2021	1/02/2024	9,001,782
CN3987730	Project management services	1/07/2023	30/06/2024	9,041,596
CN3916140	Building refurbishments	16/09/2022	15/06/2024	9,225,393
CN3981600	Support services	19/06/2023	30/06/2026	9,758,483
CN3891623	Road works	27/06/2022	15/06/2024	10,280,396
CN4022474	Construction works	7/11/2023	15/06/2025	11,284,482
CN3912690	Establishment of the defence logistic training centre	1/09/2022	22/01/2025	11,500,000
CN3809132	Commercial assurance services	16/08/2021	31/12/2024	11,692,560
CN3903582	Flight path noise monitoring systems	1/07/2022	30/09/2028	12,660,673
CN4026720	Construction services	6/12/2023	15/06/2026	12,676,766
CN4021456	Civil works	2/11/2023	15/06/2025	12,750,615
CN3776285	Civil works	21/05/2021	26/05/2023	13,342,616
CN3942283	Program management	11/01/2023	30/07/2026	13,791,659
CN4016103	ICT services	28/09/2023	30/06/2026	14,262,536
CN3886802	Construction services	8/06/2022	29/02/2024	17,204,100
CN3819762	Refurbishment works	12/10/2021	15/06/2023	17,884,166
CN3921076 ^a	Integrated work package support services	1/10/2022	30/06/2024	18,243,848
CN3914724	Electrical works	7/09/2022	15/06/2024	19,586,365
CN3773047	Building works	19/02/2021	28/02/2025	20,171,765
CN3907980	Building construction and support and maintenance and repair services	8/08/2020	8/08/2024	20,366,907
CN3803659	Mission system	2/08/2021	31/07/2023	21,308,319
CN3765777	Program management implementation team	9/03/2021	29/12/2023	23,641,472

AusTender Reference	Description or procured goods or services	Start date	End date	Value (\$)
CN3902568	Capability development support	22/07/2022	31/12/2024	23,659,983
CN3976019	Building works	11/05/2023	31/12/27	28,917,625
CN3940910	Redevelopment support	17/01/2023	31/12/2037	31,921,130
CN3746975	Building works	15/01/2021	31/12/2023	38,169,153
CN3708121 ^a	Contractor services	1/07/2020	3/07/2023	35,984,931
CN4012213	Technical service support	1/10/2023	31/10/2026	44,644,168
CN3809092	Design and construction services	16/08/2021	1/11/2024	58,917,333
CN3721728	Construction support services	1/10/2020	1/10/2024	66,445,883
CN3905648	Environmental offset management services	1/07/2022	21/08/2039	69,240,210
CN3832246	Building works	12/11/2021	1/12/2024	77,853,156
CN3754834	Building construction and support and maintenance and repair services	8/02/2021	30/10/2022	93,900,962
CN3810584	Construction and maintenance support services	18/08/2021	31/07/2023	118,602,399
Education				
CN3811472	Streamlining Education Council Early Childhood Approvals	3/09/2021	30/09/2023	7,974,000
CN3777064 ^a	Design and build product components and assist subsequent work activity	30/04/2021	17/08/2021	9,139,098
CN3864838	Early Years Education Program Replication Trial	31/03/2022	31/12/2026	10,400,500
CN3935411	Third Party Service Provider National Industry PhD Program	9/11/2022	30/06/2025	10,480,280
CN3975666	Provision of a Voluntary Mental Health Check Tool for Schools	8/06/2023	31/03/2025	11,549,545
CN3709109 ^a	Australia Early Development Census Data Collection and Management Services	3/08/2020	11/08/2023	18,678,722
CN3739866	Phase4 of the Positive Partnerships Program	21/12/2020	30/04/2025	23,265,000
CN3998245	Supplier for the Australian Early Development Census 2024 collection	9/08/2023	31/08/2026	24,248,350
DEWR				
CN3829152	ParentsNext service provider	4/08/2021	30/06/2024	8,194,837

AusTender Reference	Description or procured goods or services	Start date	End date	Value (\$)
CN3867597	Self-employment assistance deed 2022–27	1/07/2022	30/06/2027	8,377,015
CN3829191	ParentsNext service provider	4/08/2021	30/06/2024	9,558,545
CN3828950	ParentsNext service provider	4/08/2021	30/06/2024	10,175,360
CN3857144	Transition to work deed 2022–2027	1/07/2022	30/06/2027	11,029,029
CN3867862	Employability skills training deed 2022–2027	1/07/2022	30/06/2027	11,937,097
CN3894481	Workforce Australia licence(s) to deliver generalist services	1/07/2022	30/06/2025	13,755,740
CN3656570	Skills for education and employment contract 2020–22	1/07/2020	30/06/2022	14,514,078
CN3857183	Transition to work deed 2022–27	1/07/2022	30/06/2027	15,131,054
CN3677231	Harvest trail services 2020–2023	1/07/2020	30/06/2023	20,905,691
CN3867081	Employability skills training deed 2022–27	1/07/2022	30/06/2027	21,218,524
CN3867867	Employability skills training deed 2022–27	1/07/2022	15/05/2023	21,745,371
CN3894483	Workforce Australia licence(s) to deliver generalist services	1/07/2022	30/06/2025	24,068,845
CN3857222	Transition to work deed 2022–27	1/07/2022	30/06/2027	25,966,591
CN3844587	Skills for education and employment contract 2022–23	1/07/2022	30/06/2023	30,682,635
CN3894005	Workforce Australia licence(s) to deliver generalist services	1/07/2022	30/06/2025	35,563,329
CN3922874	Statistical and research services	4/10/2022	30/06/2025	38,090,640
CN3867390	Self-employment assistance deed 2022–27	1/07/2022	30/06/2027	44,481,458
CN3857155	Transition to work deed 2022–27	1/07/2022	30/06/2027	51,314,009
CN3894180	Workforce Australia licence(s) to deliver generalist services	1/07/2022	30/06/2025	53,549,479
CN3894116	Workforce Australia licence(s) to deliver generalist services	1/07/2022	30/06/2025	59,437,979
CN3894214	Workforce Australia licence(s) to deliver generalist, CALD and refugee services	1/07/2022	30/06/2025	69,479,564
CN3894202	Workforce Australia licence(s) to deliver ex-offender services	1/07/2022	30/06/2025	75,470,412
CN3857166	Transition to work deed 2022–27	1/07/2022	30/06/2027	100,770,496

AusTender Reference	Description or procured goods or services	Start date	End date	Value (\$)
CN3894034	Workforce Australia licence(s) to deliver generalist and Indigenous services	1/07/2022	30/06/2025	112,246,558
CN3857153	Transition to work deed 2022–27	1/07/2022	30/06/2027	116,636,819
Home Affairs				
CN3820281 ^a	Digital passenger declaration	6/09/2021	5/09/2024	7,548,600
CN3858685	Fleet maritime engineering services	1/07/2022	30/06/2024	13,023,663
CN3980113	Software support and maintenance	21/06/2023	19/06/2026	13,794,000
CN3741118	Passenger card processing and reporting services	24/12/2020	30/06/2025	14,001,968
CN3997622	Clinical advice and support services	1/10/2023	30/09/2026	15,000,000
CN3751292	IT services	1/02/2021	30/06/2024	16,212,911
CN3820313 ^a	Permissions capability third party component resale	6/09/2021	5/09/2024	18,235,011
CN3995877	Ocean shield in support services	6/08/2023	5/08/2024	22,248,151
CN3982691	Software support	22/06/2023	21/06/2025	26,247,274
CN3820280 ^a	Permissions capability base capability	6/09/2021	5/09/2024	32,795,989
CN3798549	IT professional services	1/07/2021	30/06/2024	43,000,000
CN3724005	Material packing and handling	17/08/2020	16/12/2025	49,964,007
CN3938097	Software support and maintenance	31/12/2022	31/12/2027	67,553,642
CN3939666	Status resolution support services	1/02/2023	31/01/2027	76,175,000
CN3939667	Status resolution support services	1/02/2023	31/01/2027	85,481,000
Infrastructure				
CN3907859	Remote air services subsidy — region 9	1/09/2022	31/08/2024	8,953,707
CN3986264	Environmental investigation	1/07/2023	30/06/2026	13,781,809
CN3860832	Environmental impact assessment	21/07/2022	31/12/2026	14,275,814
CN3957037	Airline services to Norfolk Island	20/03/2023	17/03/2030	16,935,494
CN4028864	Provision of IT managed services	15/12/2023	14/12/2026	23,730,000

Note a: Contracts made MMR exempt or reallocated to another entity after the audit commenced.

Source: IPPRS and AusTender.

Appendix 6 Portfolio mandatory minimum requirements reporting compliance

1. Table A.6 provides the mandatory minimum requirements (MMR) reporting compliance information reported by the National Indigenous Australians Agency (NIAA) to the Chief Operating Officers (COO) Committee in June 2024 (see paragraph 2.28).

2. Information reported by the NIAA was based on compliance reports provided by each Australian Government portfolio for the period July 2023 to May 2024. Portfolio departments were required to report the number of MMR contracts:

- not set up by the relevant entity to enable the contractor to submit quarterly performance reports against agreed MMR targets in the Indigenous Procurement Policy Reporting Solution (IPPRS);
- in the reporting phase; and
- in the reporting phase and compliant with reporting requirements.¹³⁸

Table A.6: Mandatory minimum requirements reporting compliance (July 2023 to May 2024), as reported to Chief Operating Officers Committee in June 2024

Australian Government portfolio	Contracts not set up to enable reporting ^a	Contracts in reporting phase	Contracts in reporting phase compliant with reporting requirements ^b
Agriculture, Fisheries and Forestry	0	5	3 (60%)
Attorney-General's	5	5	1 (20%)
Climate Change, Energy, the Environment and Water	3	8	8 (100%)
Defence	5	168	139 (83%)
Education	0	10	10 (100%)
Employment and Workplace Relations	9	157	144 (92%)
Finance	5	8	5 (63%)
Foreign Affairs and Trade	1	3	3 (100%)
Health and Aged Care	4	36	21 (58%)
Home Affairs	3	32	25 (78%)
Industry, Science and Resources	4	3	0 (0%)
Infrastructure, Transport, Regional Development, Communications and the Arts	7	7	2 (29%)
Parliamentary Departments	1	1	0 (0%)

¹³⁸ In requesting information from entities, NIAA defined compliance with reporting requirements as 'reporting up to date'.

Australian Government portfolio	Contracts not set up to enable reporting ^a	Contracts in reporting phase	Contracts in reporting phase compliant with reporting requirements ^b
Prime Minister and Cabinet	1 ^c	4	3 (75%)
Social Services	1	22	22 (100%)
Treasury	5	11	11 (100%)
Veterans' Affairs	14	2	1 (50%)
Total	68	482	398 (83%)

Note a: Entities are required to set up contracts in the IPPRS to enable contractors to commence submitting quarterly performance reports against agreed MMR targets. This includes entering contract details for the contractor and specifying the Indigenous employment and contractor-use components of the MMR target.

Note b: In requesting compliance reports from entities, the NIAA defined compliance with reporting requirements as 'reporting to date'.

Note c: An ANAO contract is non-compliant with the mandatory minimum requirements.

Source: NIAA documentation.