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Scoping study on procurement in desert Australia

Guy Callender
Philip Marsh
Renae Fernandez



Curtin University

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Contributing author information

Guy Callender is Foundation Professor and Chair of Strategic Procurement at Curtin Business School, Perth, Australia. With extensive experience in the finance, business and education sectors, his academic special interests are strategic procurement and its development, supply market intelligence, due diligence and management efficiency.

Philip Marsh holds a Master of Education from Central Queensland University and has researched diverse aspects of education, including truancy and absenteeism and the use of learning management systems in online teaching and learning. He is currently involved in the national Teaching Teachers for the Future project, which aims to embed technology into university teacher education programs.

Renae Fernandez holds a double degree in Health Science and Commerce, and a Master of Public Health from the University of Western Australia. A dedicated researcher, her interests lie in epidemiological research and socioeconomic determinants of health and disease.

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For additional information please contact

Ninti One Limited

Publications Officer

PO Box 3971

Alice Springs NT 0871

Australia

Telephone +61 8 8959 6000

Fax +61 8 8959 6048

www.nintione.com.au

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Abbreviation list

ANZGPA	Australian and New Zealand Government Procurement Agreement
APCC	Australian Procurement and Construction Council
APP	Affirmative Procurement Policy
BBBEE	Broad Based Black Economic Empowerment Act
Century	Century Zinc Mine
CEO	Chief Executive Officer
EMBs	Ethnic Minority Businesses
EU	European Union
GDP	gross domestic product
GFC	global financial crisis
GPA	Agreement on Government Procurement
HUB	Historically Underutilized Businesses
MARA	Majlis Amanah Rakyat
MLA	Member of the Legislative Assembly (of Australia)
NABC	Native American Business Centre
NAFTA	North American Free Trade Agreement
NT	Northern Territory
NZ	New Zealand
PSAB	Procurement Strategy for Aboriginal Business
SBA	Small Business Administration
SMEs	Small and medium enterprises
UK	United Kingdom
USA	United States of America
VAT	Value Added Tax
VfM	Value for money
WA	Western Australia
Woodside	Woodside Petroleum Ltd
WTO	World Trade Organization

1: Overview of public procurement opportunities for desert Australia

1.1 Summary of the research

This research paper gives an overview of the discipline and practice of public procurement. It outlines government procurement policies and practices in Australia, including the development of opportunities for desert businesses to bid for contracts offered by the public and private sectors in Australia. It uncovers formal and informal policies, such as 'buy local', which may help desert businesses bid for government contracts and identifies the implications of state borders and their subsequent impact on procurement contracts for desert businesses. It discusses international initiatives and experiences of improving public procurement opportunities that aim to alleviate the subordinate position of Aboriginal and minority communities in a number of countries. It also gives an overview of some private sector initiatives offered by a number of businesses in Australia, particularly in the mining industry.

The overarching conclusion is that, for desert businesses to win more contracts from government and other businesses, there needs to be more diversity in the range of initiatives to help. Traditional solutions were simplistic and city-centric. Typically, they failed to take account of the unique challenges of desert community business ventures.

A number of overseas experiences demonstrate collaboration within diversity, which is lacking in Australia. However, many of the international experiences were also limited in scope. Where researchers expected to find a richness of policy and practice, there tended to be limited activity. For example, the perception of Canada, New Zealand and the United Kingdom as examples of countries with strong equality in their business opportunities was only partly supported by the evidence.

However, countries such as South Africa and the United States of America have a range of policy and legislation that suggest some new, collective ways to move towards greater equity of opportunity for desert businesses. In this regard, some of the United States of America initiatives involve actions at all levels of government and business. The example of Historically Underutilized Businesses, while not a perfect model, tackles the issues of undervalued communities by giving a number of suggestions to increase business opportunities. The model does not address the needs of just one community group, but engages many groups in the community. In addition, the initiatives are supported by legislative requirements that mandate:

- new opportunities, where possible
- funding to launch new ventures
- regulatory control to minimise abuse of the funding
- government help to create business opportunities.

In addition, there are separate initiatives to bring small businesses in contact with larger businesses.

The research demonstrates that there are no simple prescriptions. In procurement, policies and practices have some continuing themes but are constantly evolving. The authors of the research feel that there is potential for more procurement opportunities, but only at the price of conforming to standard contracting conditions.

A difficulty in preparing this scoping study is that the Australian federal system has always permitted diversity of action at the state level. Changing models of federalism in Australia influence the contemporary relationship between state and federal governments, and create different levels of opportunity for large and smaller businesses. Although the Australian Constitution and the various state constitutions are designed to regulate relations between the states and the Commonwealth and within the states, the divergent policies of governments at each level create quite different ways of doing business.

The states and the Commonwealth have agreed, uniform company legislation and have settled into an uneasy relationship over income tax and goods and services taxes. However, they are only now beginning to move toward some agreement about procurement values; agreed practices are likely to be many years away.

Part of the difficulty is ideological. For some years the Commonwealth has had decentralised procurement processes. While there are some well-developed Commonwealth procurement guidelines, they do not provide mandatory procedures (except at the highest level). A lot is left to the procurement agency's discretion. In addition, agencies are not allowed to discriminate against small and medium enterprises, but there are no special requirements to positively discriminate in favour of small and medium enterprises. For example, United States of America procurement uses more active administration of 'buy local' policies or creates offsets for specific groups of businesses (complex though this might be).

In Australia, state government procurement policy and practice is more diverse. Some states prefer more centralised procurement policies, while others use the delegated style of the Commonwealth. The result is a profusion of policies that offer no clear path for desert businesses or, indeed, for most potential suppliers to government. Addressing this issue by directly approaching governments seems unlikely to produce a useful outcome. However, an informal approach through an institution such as the Australian Procurement and Construction Council may lead to some positive outcomes.

It is not possible to make a simple summary guide to doing business with Commonwealth, state or local government in Australia, although there are some key recurring themes.

The first theme is the issue of value for money – the desired outcome of any 'buying' decision. All government procurement policies aim for a 'value for money' outcome for government, even if the notion of value for money remains contestable.

Second, governments aim to be transparent in their procurement process and accountable to taxpayers for all decisions. This principle helps to reduce corruption and favouritism. However, in the absence of positive discrimination, small and medium enterprises must compete with all other competitors in a marketplace.

Third, governments (and most businesses) want to buy from competitive markets. There has been a trend towards favouring single suppliers, which gives benefits such as easy billing, understanding the buyer's needs, ensuring quality and understanding timing. However, there are risks in such a policy. Single suppliers may come to monopolise a market, to the disadvantage of buyers. Governments aim to facilitate competitive markets in Australia.

Fourth, risk minimisation is a feature of procurement policy and practices. This feature is possibly more pronounced in the public sector, but risk is inherent in every business transaction. Supply risk is an obvious feature of the procurement process: every contract carries the risk that the supplier will not deliver. It is a common topic of discussion among supply practitioners, regardless of the current state of the economy. There is anecdotal evidence that risk minimisation is a major barrier to accepting a new supplier in a competitive bidding situation. To break into an established contracting market, a new supplier has to offer substantial advantages over existing suppliers for a buyer to accept the risk and cost of shifting to a new supplier.

For desert businesses, this fourth principle seems to offer the greatest challenge. How does a desert community overcome the question of risk to supply? It is a core question that needs to be resolved, unpalatable as it is to write. This form of prejudice has been addressed in the United States of America with a broad, almost confusing, range of policy approaches. These policies could be adopted, in part, in Australia by simply adapting one of the key recent developments in procurement: the shift from arm's-length procurement to relationship management. A relationship management approach to procurement involves:

- working with suppliers to develop competitive markets
- managing existing contracts to make sure supplier performance meets the buyer's continuing requirements
- making a greater effort to understand the needs of both buyer and supplier.

In summary, there may be new pathways to more effectively link desert businesses to procurement opportunities from business and government:

1. Developing procurement standards of practice that are better understood by desert businesses.

This would include relevant training for desert businesses in how to access government and private sector contracting opportunities. These opportunities are predominantly publicised through electronic media at local, state and federal levels, and demonstrate the standard of documentation required to lodge a potentially successful bid. This is a 'must achieve' for all small and medium enterprises regardless of the location of the bidder. All bids must conform to the buyer's requirements and it is almost impossible for government to make exceptions to this rule. There is no doubt that community members have the capability to meet this requirement.

2. The Commonwealth Government has a Minister for Small Business for the first time: Dr Craig Emerson (2007–2010); Nick Sherry (2010–). Emerson's principal portfolio was Minister for Competition Policy and Consumer Affairs; Minister for Small Business, Independent Contractors and the Service Economy. Such a portfolio suggested a new opportunity and a valuable place to start working on a procurement project that aimed to bring benefit to desert and rural businesses in the widest sense. The United States of America small-business model might be a good start to such a policy-led approach, especially for guaranteeing loans to desert community small and medium enterprises. Such a policy, though only briefly outlined here, has the potential to reduce the risk of supplier failure – one of the main challenges for any new supplier entering a procurement market. Furthermore, if desert communities can be linked with other so-called minority groups, the chance of a new direction for procurement may well be increased.

3. A less well-known organisation is the Australia Procurement and Construction Council, which is a ministerial advisory council that coordinates procurement policy and practice across the Australia public sector. In recent years, it has worked tirelessly to build the professionalism of procurement practice, to bring forward better procurement practices and to provide leadership in the procurement discipline. It is also a valuable network that may well help desert businesses meet the challenges of cross-border procurement opportunities and increase the skills of procurement practitioners in both desert businesses and in government. As an informal network, it is capable of generating changes in practice and belief much faster than the formal process of government (even though it is required to meet all the regulatory requirements of government).

We recommend that the approaches outlined in this paper be evolved into practical opportunities for desert businesses. The details of how this happens can only be developed by consulting the desert communities. During this research, much has changed in government procurement across Australia and internationally. This research represents a new series of opportunities to address a traditional problem in a new way, a process that could be facilitated by the new policymakers and professionals developing the discipline.

2: Review of government procurement policies in Australia: improving public procurement opportunities for desert Australia

2.1 Introduction

Procurement has a history that extends several thousand years into the past. The ancient Sumerian, Chinese and Greek societies developed elements of trade that were also linked to the development of public goods. The development of procurement policies and practices can be found in Roman law, in some outcomes of the Norman conquest of Britain and, of course, in modern contract law (Chartered Institute of Purchasing and Supply Australia 2007).

Most large bureaucratic organisations, including governments, have developed complex rules to govern tendering and contracting processes. These rules make sure spending an organisation's funds is well controlled, and the possibility of collusion between buyer and supplier or between groups of suppliers is minimised. Contemporary rules in large organisations also make sure that procurement policies and systems are reasonably transparent and accountable – though there are lapses.

Public procurement is defined as 'the acquisition and utilization of goods and services required by government institutions from conceptualization of the need for the product to its utilization and ultimate disposal' (Callender & Matthews 2000, p. 274). Government procurement revolves around translating public revenue into goods and services consumed by federal, state and local governments and institutions. It is accompanied by procedures designed to assure the public of government's transparency and accountability for spending public money.

These rules are often seen as an impediment to doing business with government, especially for small and medium enterprises (SMEs). These SMEs may lack the required resources and experience to complete the paperwork required for government contracts.

Over the past 20 years, procurement has gradually shifted from a back-office role to a strategic-management role. This has not occurred in every organisation, but the trend is continuing quickly because of factors such as:

- the development of a range of new procurement strategies
- the professionalisation of procurement practitioners
- the rapid introduction of electronic procurement marketplaces and electronic contracting and tendering schemes
- a range of support systems to help suppliers use these systems.

2.1.1 The financial impact of public procurement

Public procurement has a significant impact on the Australian economy. Federal, state and local governments engage contractors for goods and services across a wide range of activities. Tether (1977) described public procurement as an instrument of government policy, a description which is widely exhibited by the recent and widespread use of government funds to stimulate some areas of the economy. Many of these contracts are very large in both scope and value.

Despite this importance, it is very difficult to establish an exact value of government procurement spending in many jurisdictions. At the turn of the 21st century, government spending in the United States of America (USA) totalled around USD1670 billion (Thai & Grimm 2000). In Australia, procurement expenditure totalled around USD114 billion (Commonwealth of Australia 1994).

There is limited data about federal government procurement spend.¹ Procurement spend is not usually shown as an itemised amount in federal government agencies' annual reports. In addition, large amounts of federal funds are transferred to the states – health and education are significant examples. Federal funds are also spent with other public and private institutions and are used in a variety of ways that are not easily tracked. However, spend contributes more than a quarter of local annual gross domestic product (GDP) in Australia.

State governments have a wide range of reporting arrangements, depending on their structure. In every jurisdiction there are a large number of buyers, in a variety of agencies, whose procurement transactions may be difficult to track unless reporting is mandatory and comprehensive. Some states, such as Western Australia (WA), publish an annual statement that identifies the major areas of expenditure (Government of Western Australia 2008a).

While the financial reports might meet audit requirements and accounting conventions, they make it difficult to establish the exact impact of procurement spend on goods and services in many jurisdictions. Research is beginning to clearly show the problems of establishing accurate data about procurement.

The nature of historical cost accounting systems and unreliability of data entry make it harder to estimate procurement in many organisations. Accounting systems tend to combine overall spend according to a line item or cost centre. In addition, some expenditure is treated as capital (long-term) rather than recurrent expenditure. These accounting policy variations and reporting arrangements make it difficult to identify exactly where public money is spent. Despite internationally recognised coding methodologies to categorise procurement spend, there is no uniform use of these coding systems.

There have been two major inquiries into federal government procurement in Australia in the past 30 years. They clearly illustrate the changing focus of public procurement. In 1974, a review headed by Walter Scott examined national government procurement policies, administrative arrangements and how to increase industry knowledge about the government's procurement plans. The committee's major recommendation was (Commonwealth of Australia 1974, p. xii):

... that the Australian Government take an early opportunity to announce its intention to upgrade its procurement operations to a degree commensurate with the importance of such operations, the total amount of money involved therein and the widespread sections of the community thereby affected.

The committee established that procurement by governments in Australia accounted for 22.9% of GDP, 'plus the contribution made by governmental purchasing to Australian industrial operations and ... employment' (Commonwealth of Australia 1974, p. 70).

In 1994, there was a further review of Commonwealth Government procurement by a committee headed by The Hon. Arch Bevis, MLA (HORSCIST 1994). The review concluded that total government spend (federal, state and local) on procurement was around 30% of Australia's GDP.

Contract information is provided by agencies under the *Financial Management and Accountability Act 1997*. The Department of Finance and Deregulation uses this data to publish reports on Commonwealth purchasing contracts, applying mostly to contracts over AUD10 000. The most interesting feature of this data is that it shows a decline in the number of individual contracts, and an increase in the importance of services. In the five years between 2002–03 and 2006–07, the number of contracts decreased by 56%, and the proportion of service contracts rose from 72% to 82% (Commonwealth of Australia 2006).

Over recent years, considerable effort has been made in Australia to professionalise procurement through the launch of the Chartered Institute of Purchasing and Supply Australia and, in government, the efforts of the Australian Procurement and Construction Council (APCC). The APCC is looking closely at the diversity of practice in federal, state and local governments and is moving to collaborate

¹ Procurement expenditure is typically called procurement spend and describes the total amount of funds allocated to the procurement of goods and services (assuming this figure can be identified in the financial records of the organisation).

with them more effectively in both policy and practice. Neither of these events has directly affected desert Australia, but new opportunities may arise from increasing awareness of the scope and complexity of this discipline area, and some adjustment of government policy.

Now that e-procurement systems such as AusTender, NT Tender and WA Tender have been launched, it is easier for businesses who want to supply goods or services to government to find out what contracting opportunities exist. However, to effectively use these systems, businesses need technology and the knowledge to access and act on the tendering opportunities that are available.

These two themes encompass some aspects of procurement that may be critical to the success of how desert communities can participate in government procurement. We will revisit them later in the paper.

2.1.2 What is procurement?

The definition of procurement has gone through considerable change over the past two decades, and is still a contested term. The typical definition of procurement 30 years ago, from the Scott Committee inquiry of 1974, is the ‘identification of a requirement, definition of the requirement, authorisation and funding, purchase of the goods, services or works, inspection and receipt, warehousing and issue for use’ (Commonwealth of Australia 1974, p. xiii).

Today, the definition is far more wide-ranging. One states that: ‘Procurement is the business management function that ensures identification, sourcing, access and management of the external resources that an organisation needs or may need to fulfil its strategic objectives’ (Chartered Institute of Purchasing and Supply 2005, p. 5). A concise definition is: procurement is ‘the art and science of buying and supply’ (Chartered Institute of Purchasing and Supply Australia 2007). This definition highlights two facets of procurement:

1. The science of decision-making, which is available but not often well used. This means many procurement decisions have been made on the basis of subjective, and not objective, judgement (*art* rather than *science*).
2. When an acquisition (or buying) decision is made, there is a concurrent requirement to make sure that the goods or services paid for will be delivered (a risk-averse strategy which favours existing suppliers).

The traditional model of procurement, still widely practised, breaks buying into the following clerical processes:

- specify the need for goods and/or services
- identify possible suppliers
- create a bid or tender process
- choose between suppliers
- establish a contract with the winning supplier.

A key element of this process is ordering and expediting delivery of the goods and/or services. Figure 1 illustrates this traditional view of procurement.

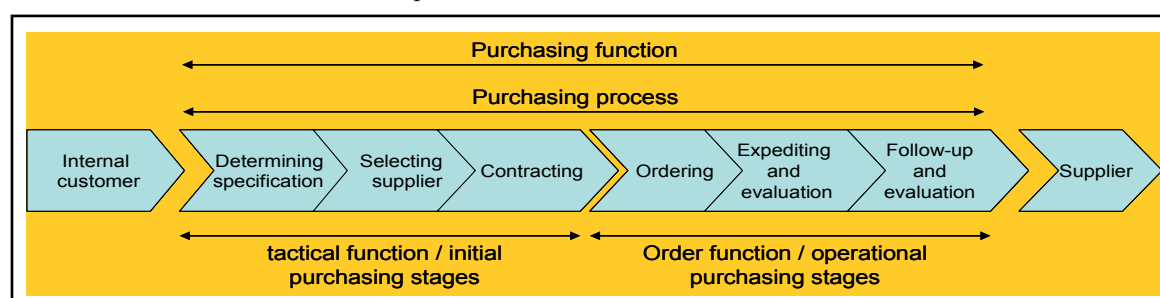


Figure 1: Traditional view of the purchasing process

Source: van Waele 2004

Figure 1 also illustrates the problems of terminology in the procurement discipline. ‘Purchasing’ is still widely used in Europe and the USA, but in Australia the term refers only to the clerical processes and activities inherent in the act of buying.

In Australia, the term ‘procurement’ is increasingly applied to the entire range of tasks associated with buying and supply, including policy, management, and procedural and financial activities and decisions. Other terms in common usage include ‘acquisition’ and ‘buying’.

A more extensive definition of procurement is represented by the model in Figure 2 (State Supply Commission 2006a). This model includes all major aspects of the procurement process. Though well-established in WA, it is not used uniformly across Australia or on a global scale. However, it is gradually becoming more widely accepted. In the UK, for example, the contract management stages of procurement are only now being drawn into the procurement process (under the name ‘commissioning’).

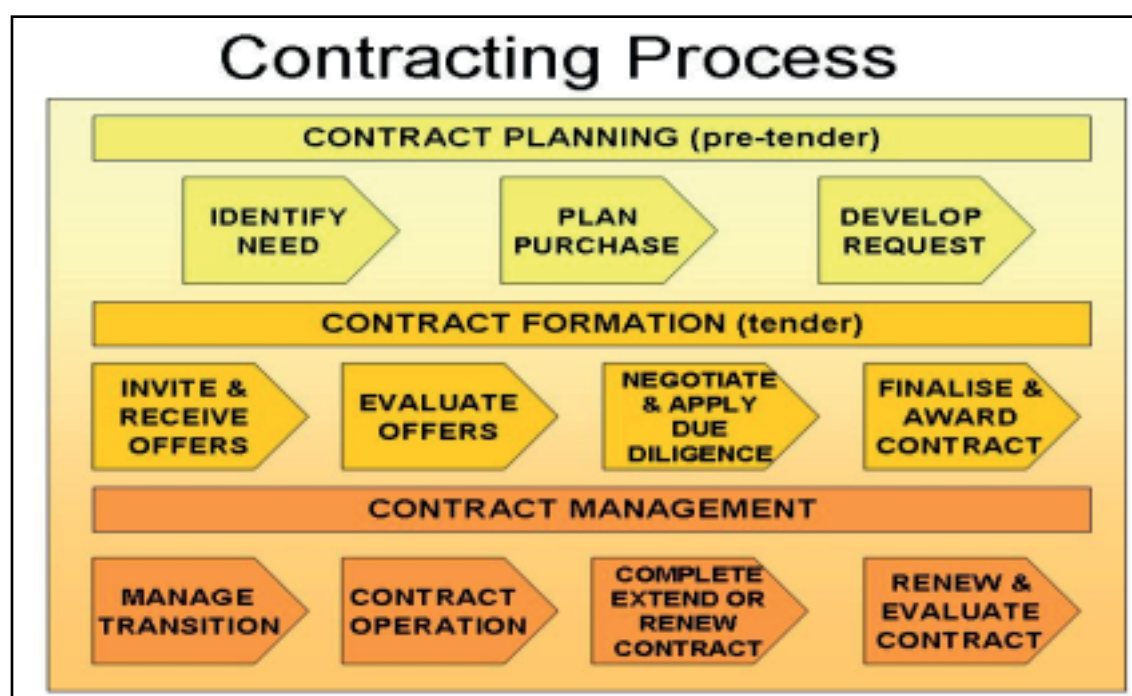


Figure 2: The contracting process – a comprehensive procurement model

Source: State Supply Commission 2006a

This contracting process model gives a sophisticated picture of procurement that shows the three main aspects:

- planning contracts
- forming contracts
- managing contracts.

It demonstrates the key stages of a contract’s development and shows where desert businesses face challenges.

The contract planning stage is the first time suppliers participate in procurement by demonstrating their availability and capability. Desert businesses need to remind buyers that they are a potential resource, and can provide, for example, Aboriginal labour at mine sites to replace fly-in/fly-out labour; or security, tradespeople and other skilled and semi-skilled employees. At this stage, buyers are surveying

potential suppliers to see whether they are capable of delivering the required goods or services. Buyers may have formed an opinion about which businesses are potential suppliers or may even have already asked potential suppliers to prequalify for consideration.

The bid will be advertised according to the policy requirements.² Bids are usually advertised on the Internet and may require an online response. It is essential to have the skills and technology to respond, and the response must be lodged according to the buyer's chosen format and timetable. Lodgement dates and times are totally inflexible, to minimise the risk of price collusion. This is not a bureaucratic rule to benefit the buyer – it gives the buyer a defensible, seen-to-be-fair system that allows the buyer access to all potential suppliers in a marketplace.

The contract formation stage is when the contract's scope, specifications and timetable have been established. At this stage, the buyer may negotiate the fine details of the contract with the potential supplier or suppliers in general. Some buyers allow a meeting with potential suppliers to make sure everyone understands the details of the bid. After these negotiations, the contract is usually awarded to the successful supplier(s) who shows precise understanding of the contract's terms, conditions, specifications and schedule (or timeframe).

A condition of being awarded a contract will be a *due diligence* evaluation of each potential supplier to ensure they can demonstrate:

- willingness and capacity to be reliable
- financial strength to deliver the contract throughout its life (there are a variety of ways to demonstrate financial stability, although anecdotal evidence suggests that using credit review agencies, such as Dun and Bradstreet, is typical)
- validity of ownership of the potential suppliers' business.

The contract formation stage results in the buyer offering and the supplier accepting a binding contract that defines all the rights and responsibilities of the parties (and has legally enforceable terms and conditions). Theoretically, the procurement team employed by both the buyer and supplier should have clarified all aspects of the contract at this stage so that the contract can commence.

Then the parties move to contract management stage – delivering the goods and services in return for payment. In reality, there is usually a period of settling in to the contract, shown in Figure 2 as the 'manage transition' step.

Increasingly, the process is done by procurement specialists who have acquired a range of professional skills in the procurement field. They are expected to use scientific – rather than instinctive – methodologies to choose between suppliers and award bids. Procurement professionals may work with potential suppliers to make sure the market contains a reliable group of suppliers.

In recent years, the APCC has coordinated its efforts to develop more sophisticated levels of procurement management and policy. As a result, state and Commonwealth governments are now collaborating to improve procurement practice and professionalism. The status of procurement professionalisation in each jurisdiction can be judged by their commitment to the models outlined in the 2008 APCC publication *Building Government Procurement Capabilities*.

2.1.3 Challenges in public procurement

In 2003, the first meeting of the International Research Study of Public Procurement was held in Hungary. The International Research Study of Public Procurement is a continuing study, but its early

² These requirements typically vary from state to state, between states and the Commonwealth Government, and between different private sector buyers. Some examples are given later in this paper. However, they should not be taken as fixed or permanent because of policy variations, regulatory changes and the shifting methods of procurement best practice. Readers are strongly advised to consult the latest procurement requirements for the bid's jurisdiction before submitting a bid.

findings are relevant to this paper. Over time, the most urgent areas for development identified by the study have expanded. The following items are relevant to participating in public procurement for desert businesses (International Research Study of Public Procurement 2003):

- understanding, managing and transferring risk (risk mitigation)
- learning lessons about e-procurement and e-literacy (enhancing suppliers' capabilities)
- understanding how buyers source products and/or services from supply markets through intelligence techniques (sourcing of products and services)
- understanding 'purchasing cards'³ and how to use them
- developing capacity and qualifications as a supplier, to supply a particular market
- using procurement as a lever for change and development
- managing contracts
- understanding total 'Cost of Ownership' models
- achieving sustainability, a successful 'triple bottom line' and meaningful outcomes.

Procurement practitioners and postgraduate students have reviewed this list regularly, but many challenges remain despite a significant amount of research and practical effort. According to the findings of this desktop study, the most significant issues are risk management, e-procurement and e-literacy, and supplier development; risk management probably heads the list. A fear of media criticism seems to rank highly as a motivator for risk-averse behaviour by public sector managers and their staff. Typical risk management approaches involve establishing the long-term stability of suppliers through due diligence, insurance or bank guarantees. Once a contract is in place, performance monitoring of the supplier is another way of managing risk. In the current economic climate, conducting a due diligence review has become more important.

2.1.4 Supplier evaluation

Evaluating potential suppliers is a critical area that affects the opportunities of desert businesses. At this stage, the buyer makes a value for money (VfM) decision by choosing between a number of suppliers. Because it is difficult to establish the capability of suppliers objectively, a government evaluation team (or individual buyer, in the case of low-value contracts, typically under AUD100 000) is expected to:

- be accountable and impartial
- confirm that each bid complies with the buyer's requirements
- balance price (and 'Total Cost of Ownership') against the ability of each supplier to meet specification requirements
- perform a preliminary due diligence process for potential suppliers
- determine if suppliers can meet their overall commitments (compared to their claims about their product or service).

At the supplier evaluation stage of the tender process, new suppliers are often seen to be disadvantaged when they are compared to known, well-established suppliers. In a sense, the balance of procurement as an 'art or science' leans towards the 'art'. In addition, public sector buyers are regarded as risk-averse because they are seen as custodians of taxpayer funds, their processes are expected to withstand public scrutiny and they need to avoid adverse publicity that might reflect on their political leaders. New suppliers need to be able to demonstrate their long-term capability to deliver the detail of the contract to minimise the risk to government. This is a challenge for every potential supplier. To break into the contracting cycle, new suppliers often need to meet every requirement of the contract and offer a very competitive price.

³ Purchasing cards are credit cards issued to nominated staff of an organisation to enable them to make small purchases under the terms of strict conditions and usually not exceeding AUD5000 per month.

For desert businesses this is a difficult but not insurmountable problem. If procurement decisions are wholly centralised within a capital city, local suppliers may find it difficult to compete against large, well-known suppliers. However, if procurement decisions are decentralised, there is a window of opportunity – especially for lower-value procurement. As Kasarda and Johnson (2007) note, Indigenous businesses in the USA can often offer lower cost structures through lower labour costs, local or regional availability, and local knowledge. This may be a significant advantage to a buyer, although transfer costs (the charges and delays associated with shifting from one supplier to another) may be an obstacle.

2.2 General observations about government procurement guidelines

Early in this study of procurement policies relating to remote desert businesses, it became apparent that procurement policies were vague, needed to be more specific or were currently under review. However, federal and state governments could use many strategies, incentives and action plans to help desert businesses if some of the key points of difference between the parties could be addressed.

Here we look at government procurement policies and practices and, in some cases, the need to adjust policy to suit the needs of desert businesses. By analysing Commonwealth Procurement Guidelines and the policies and strategies of WA, the Northern Territory (NT), South Australia and Queensland, our research gives:

- an overview of the general requirements for winning government contracts
- a list of formal and informal policies, such as ‘buy local’, which may positively influence desert businesses winning government contracts
- an evaluation of the implications of state borders for procurement contracts involving desert businesses.

Each state and territory has its own legislation, policies and procedures that are issued according to the ideology of the government at the time. Despite differences between the rules and regulations applying in each jurisdiction (federal, state and the territories), there are some common principles:

- requirements for the accountability and transparency of the process
- defined processes
- a VfM requirement
- a requirement to comply with policy rules
- risk minimisation
- maintaining competitive supply markets.

For example: under federal law, every agency or individual that makes a government purchasing decision on behalf of the Commonwealth must adhere to the Commonwealth Government Procurement Guidelines (Commonwealth of Australia 2008). These guidelines are issued by the Minister for Finance and Deregulation under the FMA Act. At present, considerable effort is being made to reach a certain level of uniformity of practice (APCC 2008) across all jurisdictions. However, some states and the Commonwealth have developed decentralised or devolved approaches to procurement, while other states have either centralised or created hybrid approaches to managing their procurement activities.

2.2.1 Value for money

VfM is a fundamental but highly contestable principle of government procurement. It is the generic term used to describe the overall outcome that governments expect for all procurement processes (Commonwealth of Australia 2008; Northern Territory Government 2006a; Victorian Government Purchasing Board 2009). In theory, to determine VfM, a range of factors need to be considered –

including a whole-of-life costing and comparative analysis of costs and benefits for each proposal throughout the entire procurement cycle. In practice, a typical VfM analysis demands an assessment of cost and non-cost factors. The cost factors are usually (State Supply Commission 2006b):

- acquisition – including freight, legal fees, storage and training
- operating – including fuel, occupational health and safety, monitoring and cleaning
- maintenance – including consumables, spare parts, repair and revenue during maintenance
- support – including rates and taxes, insurance and management
- transaction – including all costs internal to the public agency incurred from the procurement process.

While there has been a movement away from using price as the key determinant of supplier selection, it remains a potent force. A typical VfM assessment is estimated by a mix of cost and non-cost items. The non-cost factors usually used to evaluate competing bids are:

- compliance with bid requirements and specifications
- performance history of supplier
- perceived risk attached to each potential supply bid
- availability of maintenance and support
- any available advantage offered to SMEs.

To effectively evaluate (or justify) a VfM decision, the procurement process requires comprehensive documentation. The bid or tender documents set out the exact requirements. The first step in any bid evaluation will be how a potential supplier's documents conform, which allows the buyer to identify, assess and compare the costs and benefits of all the submissions and, where appropriate, estimate a whole-of-life costing for each submission.

2.2.2 Encourage competition without discrimination

Effective competition requires that competitive procurement processes are carried out in a non-discriminatory way. Competition is a key constituent of the Australian Government's procurement policy framework (Commonwealth of Australia 2008). Encouraging competitive markets gives suppliers a more equitable chance to access government supply opportunities and preserves the transparency and integrity of government procurement actions (Commonwealth of Australia 2008).

Theoretically, procurement policy guidelines aim to give all potential suppliers the same opportunities to compete for government business. Therefore suppliers expect to be treated equally on the basis of their commercial, technical and legal capacity, and not be discriminated against on account of their location, size, origin or ownership. The Commonwealth Procurements Guidelines expressly mention that SMEs should not be discriminated against.

Public agencies aim to make sure that procurement processes are readily communicated and accessible for the public, and that officials undertaking procurement processes understand the particular nature of SMEs in the context of VfM. However, familiarity adds complexity to this issue. A well-known supplier with established capability, a national or international company name, or an instantly recognisable product is much better placed to win bids than an unknown enterprise with more limited resources.

2.2.3 Risk management

Risk management is another integral feature of public procurement. Risk management is usually built into every procurement activity. There is some evidence that government is risk averse (Commonwealth of Australia 2008), which is directly linked to the public-policy tradition of stewardship of taxpayers' funds. Public buyers exercise discretion to identify and manage risk.

2.2.4 Ethical behaviour

Procurement officials are expected to (Commonwealth of Australia 2008):

- avoid or disclose any conflicts of interest
- deal with all suppliers and potential suppliers fairly and even-handedly
- seek advice when any issues of probity arise
- act scrupulously when using public property and funds.

2.2.5 Transparency and accountability

Transparency and accountability are essential elements of public procurement, from initially identifying a need for goods or services through to the final contract. Transparency ensures that during the procurement process, appropriate policy and legislative measures are met. This satisfies stakeholders (especially suppliers) that fair and ethical procurement processes are observed if there is scrutiny of an agency's procurement activities. Accountability, on the other hand, implies that officials of an agency are responsible for their decisions and actions during the procurement process, and are responsible for all outcomes.

An agency and its officials, therefore, develop procedures to make sure that the procurement process is open and transparent and that all decisions can be justified. Actions are usually meticulously documented and defensible in accord with the relevant state or federal legislation and can meet the stringent review by a state or federal Auditor General.

2.2.6 Mandatory procurement procedures

The procurement process also needs to be transparent and accountable to help the purchasing agency deal with complaints. The tendering process must be based on clearly articulated and defensible evaluation criteria.

Each state and federal jurisdiction has mandatory procedures that agencies must follow during procurement processes (see, for example, Government of Western Australia 2008b). There is not one single market with a primary list of suppliers or one standard purchasing arrangement for the Australian Government – many agencies make up the public procurement market in Australia. All agencies are expected to make procurement decisions in accord with policy although, increasingly, individuals can make their own business decisions and engage in processes within the confines of the guidelines.

2.2.7 Tendering processes

There are four major procurement processes that public agencies adopt:

1. Open tendering: In this process, a request for tender must be published to invite all potential suppliers of goods or services to bid for the work.
2. Select tendering: This process involves issuing an invitation to tender to specific suppliers selected from (Commonwealth of Australia 2008):
 - a multi-use list that includes suppliers who, from past experience, may be interested in submitting a tender
 - a list of suppliers who have responded to an expression of interest
 - a list of suppliers with a specific license or complying with a legal requirement which may be necessary to apply for a particular procurement process.
3. Direct sourcing: This refers to a direct approach by the agency to a single supplier, or limited number of suppliers, to make submissions (Commonwealth of Australia 2006). Direct sourcing may not be used to discriminate against any domestic or foreign supplier or to avoid competition (Commonwealth of Australia 2005; 2008). However, it may be used in extreme emergencies if an advantageous or unusual VfM situation arises, or if the goods or services required can only be provided by a particular supplier (such as a performer or artist) (Commonwealth of Australia 2008).

4. Panels: Agencies may have a panel of suppliers from whom they can purchase directly as required. To be included on a panel, a supplier must respond to a request for the tender to be a panel member. After a period on the panel, which usually consists of a year or more, the agency can request goods or services from the supplier on an ongoing or intermittent basis without tendering each time. The supplier therefore is only required to tender once. A panel agreement does not restrict the agency from purchasing elsewhere and it is still free to purchase from suppliers outside the panel (Commonwealth of Australia 2006).

Mandatory requirements must be met to make sure the procurement process encourages competition, and is accountable, transparent, efficient, effective and ethical.

2.3 Minimum requirements for desert businesses to win government contracts

It is not easy to state the minimum requirements for desert businesses to participate successfully in procurement. State and federal government policies relating to Aboriginal participation are more policy- than legislative-based and are not specifically directed to Aboriginal people and/or businesses in remote businesses.

Desert businesses are a valuable resource, yet there are barriers that hinder Aboriginal and desert businesses from developing a successful business model⁴ that enables them to compete for government business (Ireland et al. 2009; Stanley 2002). These include:

- distance from market
- inadequate support services
- lack of local and regional infrastructure
- underdeveloped technical and entrepreneurial skills
- lack of access to capital and land
- restricted access to transport
- lack of reciprocal trade opportunities
- lack of awareness of opportunities.

In addition, and relating to capital, Aboriginal people are typically disadvantaged by (Aboriginal and Torres Strait Islander Commission 1998):

- lack of savings
- variable employment history
- lack of a formal credit history
- no previous record of business
- potential land title restrictions on individuals who wish to use land as security.

However, these difficulties also apply to many SMEs, especially those established by young people or people without formal assets (such as real estate) they can borrow against to establish their business. Because there is no effective policy of positive discrimination in favour of SMEs (beyond the workings of existing 'buy local'), every type of business owner faces similar hurdles.

⁴ *Successful* in this context means a business structure which has policies and practices readily comparable to typical SME ownership, structure, financial resources and business practices. Therefore a successful model is one that conforms to the average ideas of a business. As the Bevis report (HORCIST 1994) shows, unconscious discrimination exists in many areas of procurement practice. For example, buyers tended to perceive overseas-owned businesses as better suppliers than Australian and/or New Zealand businesses (HORCIST 1994).

2.4 Formal and informal policies for remote desert businesses

The economic status of Aboriginal Australians is statistically well below that of other groups in Australia (Australian Bureau of Statistics 2008a), yet there are many possibilities to give desert businesses more opportunities to participate in public and private sector procurement. Local circumstances require local solutions that fit with the aspirations and capabilities of every community; to achieve these opportunities a number of parties need to collaborate innovatively. Federal and state governments have procurement policies and development programs that are tailored to the specific needs of each state.

Queensland has an Aboriginal business development program that distributes starting kits and modules, an Indigenous economic and participation strategy, and a business development grants program (Queensland Government 2007).

The SA Government, in conjunction with the federal agency Indigenous Business Australia, provides services for skill development, funds products with lower interest rates for Aboriginal applicants, and gives business support (which entails support for development, planning, facilitation, marketing and growth) (Government of South Australia 2007a).

The NT Government provides strong support through an Aboriginal business development program and an industry and business service. Procurement policy is specific – it aims to help develop Aboriginal people and businesses to a point where they are able to compete in the open tendering process. NT policy has recognised the need for improved procurement planning, and agencies are encouraged to try to coordinate and maximise opportunities for Aboriginal people when planning work in an Aboriginal community. There are a number of other initiatives undertaken by NT agencies which may also help Aboriginal businesses with procurement (Northern Territory Government 2006a):

- Under the policy, Aboriginal community organisations have the right to refuse works within their own community boundaries provided that they are willing and able to undertake the planned tasks themselves.
- Exemptions can be granted from publicly advertised tenders and other mandatory provisions of the policy, such as accreditation under Contractor Accredited Limited.
- There was an increase in tender threshold for small businesses and contractors (Tier 3 acquisitions) from AUD10 000 to AUD50 000.
- To register with the Northern Territory Industry Capability Network, businesses must indicate on the application form that they are interested in tendering for procurement opportunities offered by the NT Government.
- Quotes can be delivered electronically, by fax, by post or by hand, covering all possible lodgement arrangements.
- Officers explain the requirements of tendering, face-to-face, in presentations to suppliers/contractors in all regions of the Territory (Tier 3 provisions).
- The Tender Response Schedule form, required when submitting a tender of any value, was redesigned so it is easier to understand and fill out. The revised form was shortened from 23 pages to 11, avoids repetition and does not require a signature on every page. The revised form helps officials to provide a better quality debrief to an unsuccessful tenderer and limits value judgments.

The NT has also developed an Indigenous Business and Industry Service, which has a range of programs available to help community stakeholders and industry, such as mining, with procurement. The Indigenous Business and Industry Service aims to (Northern Territory Government 2006b):

- identify jobs and business opportunities for Aboriginal people
- encourage Aboriginal people to take opportunities to develop enterprises by providing start-up information
- identify and reduce barriers which may discourage Aboriginal people from taking up business opportunities
- provide ongoing support for people who take opportunities by maintaining contact, and organising expert assistance and follow-up on project developments.

The Indigenous Business and Industry Service also works with the Indigenous Mining and Enterprise Task Force, which acts to improve and increase Aboriginal employment and contracting opportunities in industry – mainly focusing on mining (Northern Territory Government 2007).

2.5 ‘Buy local’ policies

‘Buy local’ policies instituted by state and federal governments give Aboriginal businesses the chance to be involved in public sector contracting opportunities. Oil, gas and other mining enterprises give desert businesses the opportunity to be involved in these markets, which benefits both the mining industry and desert businesses.

A number of Aboriginal-owned enterprises are located on land that has a cultural link or heritage. Usually owned by Aboriginal individuals, families, partners, businesses or joint ventures, these industries include retail, arts, crafts, cultural tourism, fisheries, natural resource management, pastoral, mining, service industries, trades, earthmoving and transport. Many of these enterprises could service government, mining and building industries (Moylan 2005).

A federal ‘buy local’ policy was established by the Australian and New Zealand Government Procurement Agreement (ANZGPA) and remains in the current Commonwealth Procurement Guidelines (subject to the existing Free Trade Agreements) (Commonwealth of Australia 2008). The guidelines encourage the public sector to buy from local companies, especially from SMEs. The policy aims to achieve this by giving competitive businesses opportunities to bid for and win government work (Government of Western Australia 2002) or through a policy of non-discrimination between potential suppliers (Commonwealth of Australia 2008). The ‘buy local’ policies established at state and national levels (and the ANZGPA) may conflict with each other and the Free Trade Agreements if a contract exceeds AUD679 000 for goods and/or services (or AUD9.75 million for a construction contract) (Government of Western Australia 2008c).

While these policies remain, they have a limited scope and are often not well-understood by agencies or suppliers. However, ‘buy local’ policies could still be used to encourage remote area participation in contracting, despite the existence of Free Trade Agreements. All of the states examined in this study have their own ‘buy local’ policies or incentives. For example, the Queensland Government has an association, developed in 2001, that facilitates business relationships with local government (Local Government Association of Queensland 2007). SA also has a ‘buy local’ campaign that encourages local buyers to support the region by choosing local employment (Government of South Australia 2007b). The NT Government has a local government procurement policy designed to better support local businesses.

The WA and NT Governments have substantial ‘buy local’ policies for procurement. WA policy states that ‘government agencies must maximise the use of competitive local businesses in goods, services, housing and works purchased or contracted on behalf of the government’ (Government of Western Australia 2002). The policy includes aspects of:

- Industry development: agencies must make sure there is potential for local business development, participation and employment in government procurement activities.
- Accountability: procurement officers must facilitate supply relationships with local business, and the number and value of contracts awarded to local businesses must be reported.
- Planning and practice: government agencies must realise the VfM benefits from purchasing locally. Local businesses may be able to meet supply requirements but must not be shielded from economic competition.
- Government preferences: incentives from the government give local businesses preferential consideration in purchasing decisions, and a 10% preference on quotes is given to local suppliers when assessing VfM.
- Private sector providers: in selecting private sector providers, the government has to make sure that local business opportunities are maximised.

Together with the ‘buy local’ policies, other state policies such as the Aboriginal Employment Policies and Aboriginal Economic Development Strategy have the potential to improve participation and strengthen the Aboriginal procurement process. These policies and strategies aim to increase the government’s supply of services by enterprises which Aboriginal residents own, operate or are employed by in remote communities. In WA, there are more strategies to strengthen the ‘buy local’ policy, which include procurement development in regional areas to improve procurement expertise and practices, involving local suppliers in developing industry participation plans for projects, and actively supporting tenders from local suppliers (Government of Western Australia 2002).

2.6 The implications of state borders and procurement contracts

Australia’s constitutional framework militates against cross-border collaboration between states. Because the jurisdiction of each state government ends at the border, interstate collaboration is only really possible if specific initiatives are generated by cooperative efforts between individual state governments.

Collaborative efforts between the Commonwealth and state governments have been effective in some arenas, especially where Commonwealth funds have been used for particular initiatives (education and health are long-standing examples). The National Competitive Policy initiatives of the 1990s and early 2000s have resulted in an extension of Commonwealth authority into areas that were previously the domain of the states: railways, electricity and road transport. In a quite different way, the states’ collaboration with the Commonwealth over achieving uniform corporation laws has also yielded positive results in relation to national corporate records.

Federal–state relations are once again under review by the current national government as it redefines the relationship between the Commonwealth and the states. This definition is being delayed by the need to focus on arrangements to stimulate the entire national economy. The problem of cross-border dealings is often resolved by defining the law which is deemed to apply in a contractual situation. This is done by a ‘deeming device’ and stating that the ‘laws of [name of state] will apply to this contract’. This is not a perfect solution, but it reduces some of the uncertainty that parties to the contract will likely experience.

Another opportunity to clarify cross-border procurement issues as they affect desert businesses may be by approaching the APCC. This is a ministerial advisory body that aims to improve state and federal procurement arrangements. It has a secretariat in Canberra and meets regularly to address policy issues in public procurement (APCC 2006). As noted earlier, some of its recent major work has been to strongly encourage professionalisation of state and federal government procurement practitioners. This has the potential to significantly raise procurement performance standards and practices across the nation.

2.7 Conclusion

Overall, there are few specific government procurement policies that relate to remote businesses in Australia. However, state government policies seem to be more clearly directed to Aboriginal businesses (because those policies are tailored to the specific needs of each state) than those of the Commonwealth.

The procedural requirements established by all governments, examples of which appear throughout this section, are quite specific and designed to provide transparent and accountable processes that are open to public scrutiny. Procedural requirements about precise timing and format for lodging tenders or expressions of interest are also very specific and, once again, designed to provide proof that all bidders are treated without discrimination.

The existing ‘buy local’ policies of the states and non-discrimination policies of the Commonwealth Government provide potential for greater participation in government contracting by desert businesses. However, anecdotal evidence suggests the outcomes of such policies are limited at the state level and possibly quite poor at the Commonwealth level (Commonwealth of Australia 1994). Nevertheless, approaching organisations such as the APCC may give opportunities for increased collaboration between the states and the Commonwealth. This may help in developing informal but effective avenues to improve the business opportunities of desert businesses.

For these policies to benefit desert businesses, there may need to be some form of mandatory action similar to that provided in the USA for Historically Underutilized Businesses (HUB) (see Section 3.8.3). This policy mandates the participation of small business operators in public sector contracts, subject to a range of provisions. The strength of the HUB policies are a focus on non-discrimination and providing business opportunities for HUB group members. Australia now has a federal Minister for Small Business; perhaps this office could be encouraged to consider creating similar legislation to help desert businesses participate in procurement.

3: Building procurement capability for special interest groups: selected international experiences

3.1 Introduction

This section identifies a range of effective strategies in other countries which have the potential to improve the economic development, procurement policies and standards, and commercial aspirations of Aboriginal businesses. Implementing some of these strategies in Australia may help to transition towards a more stable economic environment for Australian Aboriginal businesses.

Public procurement strategies have a long history of being used to achieve social outcomes (Govender & Watermeyer 2000). However, in the case of Aboriginal businesses, four basic constraints in the small business sector act to discourage Aboriginal people worldwide from taking full advantage of procurement opportunities. These constraints include access to markets, credit, skills and supportive institutions (Govender & Watermeyer 2000), and are the key targets of government interventions to improve opportunities for Aboriginal communities, businesses and people.

Government contracting can be used as a tool for social regulation and as an instrument to promote economic opportunity (Arrowsmith 1995; Bolton 2006). To achieve this, a government is expected to participate in the market as a purchaser, and simultaneously regulate or stimulate the market by exercising its purchasing power in ways that advance social and economic policy. Governments may also regulate market participants, and encourage market development or maintenance through policies that increase competition. Policy choices vary significantly according to the ideologies of the current government and dominant economic perspectives.

Since World War II, there have been a variety of developments worldwide, designed to tackle discrimination of minority groups and provide greater balance in procurement. There are three typical approaches: using procurement to thwart employment discrimination; using procurement to stimulate entrepreneurial activity in disadvantaged groups, in the form of ‘set asides’⁵ for minority businesses in particular; and using procurement to increase awareness of distributive justice (McCrudden 2004).

⁵ A ‘set aside’ refers to the practice of making part or all of a government procurement contract available to a particular supplier group (such as SMEs or specific Aboriginal businesses), to give an exclusive tendering opportunity. It is often used to develop or maintain supplier capability or to foster industrial collaboration.

At a supranational level, the World Trade Organization (WTO) Agreement on Government Procurement (GPA) (1994) promotes non-discriminatory public procurement activities. Parties to this agreement must not discriminate against suppliers from other 'GPA countries' and must treat these foreign suppliers 'no less favourably' than domestic suppliers (WTO 1994). While a number of the countries investigated in this section are members of the WTO, the GPA is a multilateral agreement that does not bind all members. The USA and Canada are signatories to this agreement; however, an annex has been included to allow preferential procurement policies, including set asides, for minority groups and small business (WTO 1994).

This section outlines the specific policies and services provided by Canada, South Africa, the United Kingdom (UK) and USA to improve employment and contracting opportunities of Aboriginal suppliers. The policies of Malaysia, New Zealand (NZ) and the European Union (EU) are also briefly discussed. The terminology in this paper correlates to the specific terms used by each country to define Aboriginal people, and racial and ethnic minorities. Policies in these countries that relate to ethnic minorities and small enterprises are also examined, because there is considerable overlap of characteristics among Aboriginal business and communities (McCrudden 2004).

First, we review contracting policies designed to improve opportunities for participation by Aboriginal and minority businesses. The countries examined in this study are Canada, the EU, Malaysia, NZ, South Africa, the UK and the USA. Although policies and strategies identified did not always completely address all the relevant issues, most include developmental strategies that could be adapted to develop Australia's public procurement opportunities.

3.2 Canada

In 1996 the Government of Canada introduced a Procurement Strategy for Aboriginal Business (PSAB). It was evident that few Aboriginal suppliers, despite sufficient capabilities, were receiving government contracts. This was thought to be because of lack of knowledge about federal government procurement and application processes (Indian and Northern Affairs Canada 2002).

The aim of the PSAB is to increase the number of Aboriginal-owned businesses bidding for and winning federal government contracts. The strategy considers both supplier- and purchaser-side elements of the procurement process; however, it does not provide financial support to businesses. The key initiatives of the PSAB are outlined below (Indian and Northern Affairs Canada 2002).

A wide range of assistance is available in Canada, with an emphasis on providing equity but not loans. The government's Aboriginal community programs and preference assistance systems have been developed and expanded on a large scale to provide business and economic development for this minority group (Government of Canada 2008a; West 2002).

3.2.1 Mandatory and voluntary set asides

For certain contracts valued over CAD5000, competition is restricted to Aboriginal suppliers. Set asides are mandatory if Aboriginal populations are the primary beneficiaries of the procurement. The purchasing authority may also voluntarily set aside certain contracts for bidding among Aboriginal suppliers. While set asides restrict competition to Aboriginal suppliers, normal bidding and contracting processes still apply – the Aboriginal supplier must still represent good VfM. If a suitable supplier cannot be found, bidding is opened to non-Aboriginal suppliers.

3.2.2 Supplier development

The PSAB works to raise Aboriginal suppliers' awareness of federal government procurement opportunities, policies, processes, bidding requirements and evaluation criteria. This information is outlined in the PSAB *Guide to Federal Government Procurement*, which is available to Aboriginal suppliers from Indian and Northern Affairs Canada.

3.2.3 Subcontracting and joint ventures

The PSAB encourages Aboriginal businesses to develop joint ventures with other Aboriginal and non-Aboriginal businesses when bidding for and fulfilling government contracts. For contracts not subject to the North American Free Trade Agreement or the GPA, suppliers who need help to complete a contract are encouraged to subcontract to Aboriginal suppliers. In these cases, subcontracting an Aboriginal business is used by the purchasing agency as an evaluation criterion.

3.2.4 Supplier information for purchasers

These activities aim to raise awareness among government purchasing staff about Aboriginal and other business capabilities, and the PSAB. There is online information about Aboriginal suppliers at the Supplier Registration Information System (Government of Canada 2008b) and the Aboriginal Business Directory (Government of Canada 2008c). For some low-value contracts, purchasing agencies may use source lists, which give details about qualified Aboriginal suppliers who can be contacted directly with information about bidding opportunities.

3.2.5 Performance objectives for purchasing bodies

Departments or agencies that purchase more than CAD1 million of goods and services a year are required to establish annual performance objectives on issuing contracts to Aboriginal suppliers and developing supplier capacity. These objectives encourage agencies to use Aboriginal businesses and to be receptive to marketing by Aboriginal businesses.

To be eligible for the initiatives of the PSAB, suppliers must meet the following criteria (Indian and Northern Affairs Canada 2002):

- at least 51% of the company must be owned and controlled by Aboriginal people
- 51% of a joint venture must be owned and controlled by Aboriginal people
- at least one third of employees must be Aboriginal if the company has six or more full-time staff
- 'Aboriginal' is defined as status or non-status First Nations, Métis or Inuit who are Canadian citizens and ordinarily reside in Canada
- suppliers must complete a Certification of Requirements for the Set Aside program for Aboriginal Business.

The Government of Canada evaluated PSAB in 2002. The report concluded that the strategy was successful in meeting its objectives and that continuing was warranted. From a potential 25 000, 3500–4000 (and growing) Aboriginal suppliers participate in the PSAB process. Government business with Aboriginal suppliers has increased from CAD76.5 million in 1997 to CAD262.6 million in 2001 (Osborne 2003).

However, despite an increase in the number and value of federal government contracts awarded to Aboriginal businesses, the distribution of contracts favoured large urban firms. Key reasons for this are a lack of communication between agencies and Aboriginal suppliers, and poor commitment to promotion of PSAB. The report also highlights a need for uniform reporting by purchasing agencies and stricter monitoring of the Aboriginality criteria of the program. This is required to prevent 'shell' companies being created which are structured to circumvent eligibility criteria. Another barrier to implementing PSAB is poor access to technology and the Internet by Aboriginal firms (Departmental Audit and Evaluation Branch 2002).

In 1986 and before PSAB, the Canadian Government introduced a Federal Contractors Program which complemented the Federal Employment Equity Act to assist Aboriginal communities. Organisations with 100 or more employees who wanted to bid on federal government goods and services contracts of CAD200 000 or more had to implement employment equity and sign a certificate stating they had done so (McCrudden 2004).

3.3 European Union

Overall, EU directives on public procurement do not allow any form of preferential treatment, set asides or domestic supplier favouritism. These directives are set within the core principles of the EU Treaty, which include transparency and non-discrimination (Commission of the European Communities 2001). However, selected policies of the EU do give some scope for improving employment and business opportunities for Aboriginal and minority suppliers. These include integrating social policy into procurement processes, and specific policies for SMEs.

The European Commission clarifies for member states how social considerations and objectives can be incorporated into public procurement activities within EU law. The EU Treaty Internal Market rules and public procurement directives focus on non-discrimination and transparency. The directives indicate how social policy can be implemented at each stage of the procurement process while maintaining the core principles of VfM and equal access for all community suppliers. Key methods of improving employment opportunities include (Commission of the European Communities 2001):

- Bidders who do not comply with equal opportunity employment provisions will be excluded.
- Measures will be built into the contract that favour certain people or require affirmative employment practices (for equality in gender, race or ethnicity)
- As long as the rules of the EU Treaty (transparency and non-discrimination) are upheld – that is, low-value contracts of less than EUR211 000 for services/supplies, or less than EUR5 278 000 for works – purchasing agencies in member states can pursue social objectives in developing and awarding contracts that are not covered by the EU public procurement directives.

The Small Business Act for Europe aims to help small businesses become internationally competitive suppliers. The Act advocates improving opportunities for SMEs to do business in the European market by improving access to finance, training and development; lowering Value Added Tax (VAT) for locally supplied services; and creating more opportunities in public contracting (Europa 2008).

3.4 Malaysia

Aboriginal Malays (or Bumiputeras) are the political majority, but traditional economic minority in Malaysia. Throughout Malaysia's post-British Empire history, this has led to economic imbalance and unrest between races. To resolve deep-seated inequalities, the Malaysian Government developed policies to create positive discrimination and promote economic growth and opportunities for Bumiputeras (McCrudden 2004; McCrudden & Gross 2006). Sometimes this appears to disadvantage the minority Chinese community.

The 1997 WTO Trade Policy Review Report (WTO 1997) on Malaysia indicated that a preferential system for public procurement had been implemented, and that the level of preference was dependent on the value of the contract. The Malaysian government supports policies that ensure that smaller contracts attract more preferential treatment for Bumiputera companies than larger contracts, by having two different scales: one for goods and services procurement and another specifically for manufacturing. A 2.5–10% margin of preference over the industry average is given to Bumiputera companies.

This margin is inversely proportional for contracts valued at less than MYR15 million. Bumiputera manufacturing companies also receive a margin of preference of 3–10% over a reference price. This is inversely proportional for contracts valued up to MYR100 million. Furthermore, contracts valued between MYR10 000 and MYR100 000 (and works contracts valued up to MYR100 000) are reserved for Bumiputera suppliers. The government sets aside 30% of works projects for Bumiputera companies (McCrudden 2004) and a preference system exists for domestic SMEs (McCrudden & Gross 2006).

Majlis Amanah Rakyat (MARA), an agency under the Malaysian Ministry of Entrepreneur and Cooperative Development, promotes Bumiputera participation in commercial and industrial activities. MARA provides training, educational programs and loans. MARA gives advice about business development, media, contract and legal issues. MARA also supports Bumiputera businesses by helping them secure loans and equity investment, by leasing premises, and by providing transport services. These services and programs are targeted particularly at Bumiputeras in rural areas (MARA 2006) who struggle to share in the growing wealth of Malaysia's non-Indigenous population.

Because of the worsening global recession and its effects on Malaysia, Prime Minister Mr Najib Razak announced that longstanding investment quotas based on race will be abolished, and that other reforms, such as those in the services sector (including financial services), will be introduced (*The Economist* 2009). While it is too early to assess the impact of these developments, it represents another stage of the complex path undertaken by successive governments in Malaysia to balance political reality. Government needs to discriminate positively in favour of the Indigenous Malay community, foster the positive economic strength of the minority Chinese in Malaysia and concurrently attract potential foreign investors.

3.5 New Zealand

The NZ Government endorses a relatively strict policy of non-discrimination in its procurement activities. While it encourages identifying opportunities for domestic suppliers, the government's procurement policy does not give preference to local suppliers. Purchasers are instructed to consider domestic capabilities by selecting internationally competitive domestic suppliers that represent the best VfM. Therefore the policy does not include domestic price preference or offsets, and does not require purchasers to use industry or regional development procurement goals. These policies reflect NZ's endorsement of the Asia-Pacific Economic Cooperation (APEC) Non-Binding Principles on Government Procurement, which include a section on non-discrimination (NZ Government 2007).

The goals of current NZ Government procurement policy framework are:

- best VfM over whole-of-life
- open and effective competition
- full and fair opportunity for domestic suppliers
- improving business capabilities (including e-commerce capabilities)
- recognising NZ's international trade obligations and interests.

To make sure that domestic suppliers receive fair treatment and equal opportunity, purchasers must record reasons for not selecting domestic suppliers for contracts valued at NZD100 000 or more. Purchasers must also debrief both unsuccessful and successful suppliers (NZ Government 2007).

In June 2009, the NZ Government announced a major reform program for public procurement. While it is too early to report on the effect of these proposed changes for domestic suppliers, the reform program does make significant provision for SMEs to participate in government procurement opportunities (NZ Government 2009).

3.6 South Africa

As earlier examples show, procurement policies can be used by government to promote opportunities within an industry and to achieve socioeconomic objectives. This is of immense value to an Aboriginal community, especially in a developing country. Foreign contractors commonly undertake works using local labour, but without using local businesses – they are perceived as having insufficient capability (Govender & Watermeyer 2000).

Public procurement is specifically recognised as a policy tool in the Constitution of the Republic of South Africa (Act 108 of 1996). To enable the constitutional requirement, the South African Government created the Affirmative Procurement Policy, the Preferential Procurement Policy Framework Act 2000 and, more recently, the Broad-Based Black Economic Empowerment Act 2003 (BBBEE). Basically, public sector procurement is used to:

- increase economic activity
- tackle the legacy of restricted business ownership
- increase economic opportunity for those individuals excluded from the business community during the apartheid years in South Africa.

In 1994, when the black majority government was elected, political and economic apartheid structures that were designed to protect the interests of minorities and restrict access by the black majority (in terms of property, public service and economic opportunity) were inherited. The Affirmative Procurement Policy was introduced as an intervening policy to equalise business ownership patterns along racial lines. It gave economic opportunities and support to people who were previously disadvantaged by the apartheid system to own, manage and control SMEs (Govender & Watermeyer 2000).

The Preferential Procurement Policy Framework Act, Section 217(3) of the South African Constitution, is a preferential procurement strategy. It creates a ‘preference point’ procurement system that provides marginal groups with preferential terms in bidding for public contracts. Marginal groups are defined as suppliers ‘who are historically disadvantaged by unfair discrimination on the basis of race, gender or disability’ (South African Government 2000). The purchasing agency must specify the reason for preference point allocation, the type of marginal group it targets and the social goal it wishes to achieve. The contract must be awarded to the supplier with the highest points unless there are objective criteria that suggest it should be awarded to another. These provisions may be overruled by the Minister if (South African Government 2000):

- it is in the interests of national security
- likely tenders are international suppliers

or

- it is in the public interest.

The key features and criteria of the preference point system are outlined in Appendix 1.

A second initiative of the South African Government to improve procurement prospects for black South Africans was created by the BBBEE. The BBBEE addresses South African Aboriginals’ employment, income distribution, economic growth and socioeconomic development. Historically, there was limited financial and other support for black business owners. These businesses are usually small or micro-enterprises in low skill industries. Key strategies of BBBEE include (South African Government 2004):

- increasing black ownership and control of businesses
- developing human resources and skills
- equitably distributing employment and income

- investing in black-owned enterprises
- preferenced procurement opportunities.

The South African Department of Trade and Industry has created codes of practice and industry-specific charters that help agencies and suppliers to implement the principles of BBBEE. These codes are mandatory only for state-owned entities and public companies. Businesses are scored using a point system to indicate their compliance with the three core principles of BBBEE: direct empowerment, human resource development and indirect empowerment (see Appendix 2 for the point system). There are eight levels of BBBEE achievement. Level 1 indicates that suppliers achieved more than 100 points. Businesses can also obtain bonus points from criteria specified within the codes. For example, a company in the construction industry with more than 50% black ownership is able to move up one level. Simpler codes are provided for small enterprises, and micro-enterprises are exempt.

The government will only consider tenders from suppliers who comply with BBBEE requirements and, to be fully compliant, suppliers must themselves purchase from compliant suppliers (First National Bank 2008). These strategies aim to encourage state departments to use their purchasing activities to foster empowerment and socioeconomic change (Creamer 2002).

Criticisms of these strategies relate to the fragmented approach and poor implementation (Creamer 2002). Because of a lack of effective enforcement, there is little extension to the private sector. Fraud is also a problem when contracts are set aside for black businesses – people are often hired to be the ‘black face of a white business’ (Coomey 2007). The BBBEE has also been criticised for reaching neither the areas nor industries that require the most intervention. Evaluation of the policies reveal that, as of 2006, there has not been an improvement in income distribution, employment or education for the majority of the South African Aboriginal population (Ponte et al. 2007).

According to Coomey (2007), to successfully achieve equality in business ownership and employment there has to be investment in education and skills, policies to support black entrepreneurs, clarity and transparency in policies, rules and quality standards. Government also must address problems of black health, housing, and access to land and capital.

3.7 United Kingdom

Both public and private sector programs provide opportunities for minority groups in the UK. The programs focus on (Ram & Smallbone 2001):

- business development, including sheltered markets
- management and technical assistance
- preferred access to small business capital.

Ethnic Minority Businesses (EMBs) in the UK are small, young and more likely to be located in areas of economic disadvantage. These businesses tend to be within certain industry sectors, including transport, clothing, catering and hospitality, retail and distribution. EMBs also have different needs for business support in finance, networking, markets, motivation and training (Whitehead et al. 2006).

Supplier-diversity initiatives in the UK target EMBs. Compared to equal opportunity in the workforce alone, supplier diversity is considered to provide greater benefits to the community (Rasheed 2007). Reviews of current business development programs showed that there are barriers to EMBs participating in large-scale public and private projects. EMB owners are also less likely to take advantage of mainstream business development services. Reasons for less participation include a lack of accessibility

and appropriateness, and lack of relevant business tools for EMBs. Culture-specific issues and lack of access to finance hinder the ability of EMBs to take advantage of business opportunities (Ram & Smallbone 2001; 2003).

Enterprise agencies that target EMBs provide a number of services, including:

- advisors and mentors who are racially similar to EMB owners
- EMB outreach services and networking
- start-up and business development support
- financial support.

Some development programs to target EMBs include:

- engaging with community leaders
- funding for local enterprise agencies
- working with local authorities for grants
- creating business clubs
- help to remove barriers to access finance
- giving IT support and management training.

However, services are fragmented and differ between locations. There has been little evaluation of the success of programs that target EMB owners, compared with mainstream services. Because the UK is party to the WTO Government Procurement Act, it does not provide set asides for small businesses or EMBs.

Ram and Smallbone (2001) indicate a number of areas that need to be addressed when governments develop strategies and policies for minority business development and contracting opportunities. Key areas include providing culturally sensitive services, engaging with EMBs and improving EMB access to finance and business sectors. Wider promotion of EMBs in public contracting activities was also recommended (Ram & Smallbone 2001).

A report by the Better Regulation Taskforce and the Small Business Service also outlines a number of recommendations about the role of government procurement for developing small businesses in the UK. In response to this report, the British Government implemented two pilot procurement schemes that aimed to increase small business access to government contracts. The West Midlands pilot involved advertising lower-value contracting opportunities (below GBP100,000) to SMEs, giving advice and training in how to do business with the government, and developing common core pre-qualification criteria for lower-value contracts. The Haringey pilot encouraged subcontracting with SMEs and developing a tool kit of policies, documentation and good practice guides for local procurement agencies. These programs are examples of how government can help SMEs participate, regardless of the background of the owners and operators.

3.8 United States of America

The Civil Rights Movement was a significant attempt to end discrimination against all black Americans and start developing anti-discriminatory principles in federal procurement in the USA and several other countries. In the mid- to late-1960s, the government prohibited discrimination and took proactive measures to achieve greater equality for disadvantaged groups. Subsequently, set asides and the Employment Act were introduced to make sure that a proportion of government contracts were fulfilled by black-owned businesses (McCrudden 2004). The USA Government has a number of programs that target business and employment by:

1. minority-owned businesses
2. Native American-owned businesses
3. Historically Underutilized Businesses (HUB).

3.8.1 Minority-owned businesses

A race-neutral system for affirmative action in public procurement activities was introduced in 1989 after successful legal action against the City of Richmond by a non-minority business owner. Preferential treatment of minority businesses was viewed as reverse discrimination (that is, against non-minority businesses). Procuring agencies now must provide statistical evidence of disadvantage when implementing programs that give preferential treatment on the basis of race or gender (Celec et al. 2000; La Noue & Sullivan 1995).

Founded in 1972, the National Minority Supplier Development Council is an incorporated organisation comprising member businesses. It has some 3500 corporate members and matches more than '15 000 minority-owned businesses (Asian, Black, Hispanic and Native American) with member corporations which seek to purchase goods and services' (National Minority Supplier Development Council 2009, p. 1). Its overall aim is to connect public, private and foreign-owned companies with minority suppliers to increase procurement and business opportunities for minority-owned businesses. The National Minority Supplier Development Council is involved in certifying businesses as minority-owned and has a database of suppliers. Purchasers are given referrals to capable minority-owned businesses. Minority suppliers can access education and learning programs, and working capital loans and financing.

Local, state and federal government bodies in the USA undertake preferential procurement activities. There are procurement targets based on the proportion of minority business enterprises in the market. Growth in the number and size of minority businesses has been attributed to this improved access to government contracts, although it seems that larger firms benefit most from preferential procurement (Bates 2001; Bates & Williams 1996).

3.8.2 Native American-owned businesses

The Native American Business Centre (NABC) is operated by the Minority Business Development Agency. The NABC helps traditionally owned businesses bid for and win public contracts, through training and consulting services, contracting and financial opportunities, and certification. These services help businesses effectively market their goods and services to government buyers (General Services Administration 2004; Minority Business Development Agency 2006).

The USA Government also encourages Native American business development on Aboriginal land. The USA Government General Services Administration has developed a simplified acquisitions process that Native American people can use, and businesses residing on native land are exempt from mainstream USA taxation laws (Stanley 2002).

The National Center for American Indian Enterprise Development has existed for almost four decades. It started as a group of seven Indigenous community leaders who envisioned how better economic conditions could alleviate many problems for Indigenous people. The National Center for American Indian Enterprise Development aims to develop and expand the Indigenous private sector by creating business relationships between American Indian enterprises and private industry. This employs American Indian people, increases the number of viable tribal and individual American Indian businesses, and positively impacts and involves reservation communities (National Center American Indian Enterprise Development 2008).

Insight Centre for Community Economic Development is a research, consulting and legal organisation that is committed to building economic opportunity in vulnerable communities. Insight Centre for Community Economic Development has its own business initiative that provides information to state and local government and small business to advance strategies to build family and community assets to overcome the racial wealth gap. Information for each state is demonstrated on the website <www.insightcced.org>, allowing agencies to see the procurement status of each state (see Appendix 3).

3.8.3 Historically Underutilized Businesses in the USA

The USA Small Business Act 1953 was passed by the USA federal government and established the Small Business Administration (SBA). The Act also authorised the creation of small business programs which gave government contracting opportunities, financial assistance, training, education and entrepreneurial development. The SBA programs included the Service-Disabled Veterans Owned Business and Historically Underutilized Businesses (HUB).

The most relevant example for this research is fostered under Section 8(a) of the Small Business Act 1953. Under this section, a firm qualifies for assistance if it is owned and controlled by a socially and economically disadvantaged person. A firm is given this status under the Small Business Act if it meets the following criteria (S Nassoux 2008, pers. comm., August⁶):

- owned by African Americans, Hispanic Americans, Asian-Pacific Americans, Native Americans or subcontinent Asian Americans
- has a net worth under USD250 000, excluding the owner/s' personal residence (net worth is broadly defined as the difference between the value of total assets less any debts or other liabilities)
- the business must have been operating for at least two years
- the business must display a 'sense' of success
- business owners must display good character.

It is important to note that Section 8(a) firms stay in the SBA program for nine years. This provides continuity. During this period, each firm works with a Business Development Specialist from the SBA district office closest to their company.

The Business Development Specialist is responsible for developing the firm, and each year conducts an annual review of the firm to make sure it is still eligible to be in the program and to re-evaluate the firm's goals, size and financial status. During this period, the firm is allowed to win sole-source, federal agency contracts valued up to USD3 million for services and USD5 million for manufacturing. Note that this conflicts with the Australia–United States of America Free Trade Agreement. The 8(a) firms can also benefit from joint ventures and mentor–protégé programs.

Not only does the SBA provide assistance to businesses, it also monitors how public agencies provide support for 8(a) firms. SBA is tasked with grading federal agencies on how well they are meeting their small business goals. Each federal agency has an annual small business contracting goal of 23% of their total contracts.

A number of USA states have also established their own complementary small business initiatives that support or coordinate with the federal SBA. The SBA and its 8(a) firms might not be a perfect model, but they provide a comprehensive approach to offering and managing federally funded assistance to SMEs. It is a nationally supported approach to increasing community participation in contracting opportunities.

⁶ The contributions of colleagues Susan Nassoux (USA Small Business Agency, Washington, DC) and Margaret Woodson (Governor's Office of Small and Minority Business Assistance, Columbia, SC) in August 2008 are gratefully acknowledged.

One of the final links in this chain is provided by the annual forum of the National Institute of Governmental Purchasing (NIGP 2009). A feature of the forum is the opportunity for government buyers to discuss the problems and opportunities presented by the 8(a) firms, and how state and federal agencies can better manage the contracting opportunities offered by their agency.

Craig et al. (2008) investigated the link between SBA lending and annual employment in a local market and reported a positive correlation (or success), especially in lower income markets. While the authors were cautious about their findings from a statistical point of view, they were clearly supportive of the role of the SBA and the outcome of the programs.

3.9 Conclusion

Each country or region gives different perspectives and approaches for using public procurement to achieve social outcomes. The summary table in Appendix 4 describes the key policies of each country and identifies strategies that could be effective in improving employment and public contracting opportunities for Aboriginal business.

The key issues preventing Australian Aboriginal people participating in public procurement are geographical, market and social isolation; lack of education and training; and less access to capital and business development support services, infrastructure and opportunities (Stanley 2002). In future, strategies that consider education, training and improved access to finance are an important part of strategies that relate directly to obtaining public contracts.

It is apparent that the strategies of the UK – which include providing culturally appropriate services; engaging with community leaders; mentoring, training and education; and financial support – could be helpful for the Australian context. These services can help build business capacity and entrepreneurial skills in minority businesses, increasing the sustainability of enterprise and communities. Targeting and developing rural and small businesses in Malaysia also has lessons for building business capacity in desert businesses, which are similarly isolated from markets and support services. Furthermore, programs that increase awareness among purchasing agencies, such as the Canadian PSAB, could be beneficial to desert communities and businesses.

Canada and South Africa have implemented public procurement policies that consider subcontracting to Aboriginal suppliers and joint ventures between Aboriginal and non-Aboriginal firms. These policies guide the awarding of public contracts and help promote opportunities for Aboriginal business. A similar strategy has been developed by Desert Knowledge Australia in collaboration with regional development agencies, businesses and other organisations. This program, known as the Desert Knowledge Linked Business Networks Project, uses information communication technologies to help create business clusters and cross-border alliances between remote desert enterprises. This project has provided economic and social gains to the businesses and communities involved (Taylor et al. 2008). It has created opportunities for:

- people to share knowledge and information
- businesses to grow
- collaborative events to occur
- bids and tenders to be put forward.

Further developing and supporting this project could further improve business and public contracting opportunities for desert and Aboriginal businesses.

Canada, USA, South Africa and Malaysia's preferential procurement and set-aside policies may be a viable future strategy for Australia. This could initially be limited to public contracts that specifically benefit desert and Aboriginal businesses. However, as Aboriginal business capacity increases, a similar program could be extended to other public contracts. This would need to fit with Australia's trade obligations, agreements and policies regarding non-discrimination.

Another strategy that would promote Aboriginal businesses' industry development and efficiency is standardising, simplifying and structuring procurement documents to allow fair opportunity for everyone. The Green Paper on Public Sector Procurement Reform in South Africa identified procurement documentation as a key reason that Aboriginal businesses do not participate and compete freely for public sector contracts. Uniformity in tender documentation would promote, and result in, effective participation by SMEs and emerging contractors. Simplifying administration procedures would also help (Govender & Watermeyer 2000).

Looking at other countries' public procurement policies and strategies has provided a number of international perspectives on Aboriginal and minority businesses. It has also revealed a number of strategies that could be of benefit to Australian Aboriginal businesses and remote businesses. Tailoring these policies and strategies to Australian and desert contexts could result in a promising strategy to address current issues of employing Australian Aboriginal people, and opportunities for business and contracting afforded to remote Aboriginal enterprises.

4: Some private sector experiences of community consultation and developing a local workforce

4.1 Introduction

The activities of mining companies in Australia usually take place in remote areas of the country where raw materials are located. Over the last 10 years, mining companies have increasingly been using local workers for their mining operations and consulting with local communities when planning their mining activities.

Although the arid zone accounts for some 45% of Australia's land mass, it is sparsely populated and inhabited by only 1% of the population (Sanders & Holcombe 2006). Taylor et al. (2006) give more details about this group of desert dwellers:

- about 50% of these people live in five urban settlements of more than 10 000 people
- a further 25% live in 17 smaller settlements of up to 3500 people
- the remaining 25% live in approximately 400 small settlements of around 100 people.

One of the main challenges for resource and related companies is to understand how they can use the local workforce in mining activities. Conversely, the challenge for remote communities is how to establish and maintain a harmonious relationship with the resource companies that operate on their traditional land.

Several researchers have suggested that remote Australian communities have to be involved in the planning and implementation of community and company agreements, which lead to long-term interaction, if they are to be viable and resilient. Stafford Smith et al. (2008) discuss whether it is even possible to have sustainable small settlements in outback regions of Australia where there is low and variable primary production and a sparse and mobile population. They review the sources of economic flow through settlements occupied by different communities with a common livelihood (whether based

on mining, grazing, tourism, cultural resources, welfare or services), and conclude that most desert livelihoods depend directly or indirectly on activities that are temporary (or located in centres of tourism).

Stafford Smith et al. (2008) also point out that Aboriginal communities are particularly dependent on social and natural capital, but that these elements are not monitored. This emphasises that desert settlements need a demand-driven approach to services. They suggest that if top-down solutions are used without taking into consideration how desert communities function, then long-term solutions will continue to be ineffective.

Before the introduction of native title legislation in the 1990s, mining and other resources companies operating in traditional lands did not necessarily consult with local communities before starting their activities (Eggleston 2002). After the Mabo case in 1992, mining companies and traditional owners increasingly created and developed relationships, which helped local communities to share in and benefit financially from mining activities. Furthermore, cross-cultural training now takes place in many Australian mining companies. This is usually delivered by Aboriginal groups and, in some cases, has led to senior members of mining companies travelling to remote areas of Australia to participate (Crawley & Sinclair 2003). Nevertheless, despite this improvement in relationships at a high level, the outcomes for desert communities have been limited (Daff & Pearson 2009).

In recent years, Australian minerals companies have increasingly spoken of Aboriginal communities as 'stakeholders' (Parsons 2008), suggesting that companies are developing new practices and levels of respect for dealing with local communities. However, the potential employment or business benefits have been very limited. In literature on communities, there is an increasing use of the terms 'community engagement', 'sustainable development' and 'corporate social responsibility'. However, according to Parsons (2008), the process is complicated by competing discourses: company staff seem to view Aboriginal community members as static and non-negotiable, whereas community members view their own community as mainly concerned with identity, land and respect.

A further complication in the relationship between mining companies and Aboriginal communities is that the different communities often have different concepts of development, industry and money. Some companies, in trying to understand and act on these differences, have used their attempts at community engagement as evidence that they are responding adequately to criticisms of their previous actions. Parsons (2008) believes that companies implicitly assume that contemporary capitalism can satisfactorily address these special issues, but that continuing problems between companies and local communities may prevent these problems being solved to everyone's satisfaction.

In spite of these difficulties, some mining companies are successfully interacting with Aboriginal communities. Century Zinc Mine (Century) in Queensland's Gulf of Carpentaria is an example of successful negotiations for access to local community land. Trebeck (2007) points out that rather than passively accepting development, some Aboriginal communities have been proactive about communicating their needs and successfully introducing them into company decision making. This has been adopted by a number of companies who are recognising and responding to community expectations. For many of them, this has become an important part of their strategic operations, although progress is slow and difficult.

In the case of Century, for example, a local community that held discussions and reached agreement with the company later held the company accountable for failing to complete all aspects of the agreement. The Jabiluka uranium mine in the NT, operated by Rio Tinto Ltd, also considered the wishes of local residents and deferred to them when developing on traditional lands (Eggleston 2002). According to Trebeck (2007), these examples demonstrate that Aboriginal communities can effectively apply leverage to mining companies when there is potential for future impact on profits.

Dabbs and Bateson (cited in Kemp 2003) state that mining companies are increasingly incorporating social justice concerns into their corporate policy. These are often created alongside already established environmental policies. Furthermore, mining companies are increasingly committing themselves to forms of sustainable development and corporate social responsibility. This approach is designed to minimise the potentially negative impacts of mining activities on the environment and local communities, as well as maximising benefits from mining for local communities (Kemp 2003). As well, some companies have joined with organisations to investigate participatory and human rights-based approaches to community development. A good example of this is the Corporate Community Leadership Program, which is a collaboration of BHP Billiton Ltd and Oxfam Community Aid Abroad. The Corporate Community Leadership Program aims to help managers understand the benefits of participatory development.

Aboriginal communities have become more proactive about increasing their ability to receive monetary payments from mineral development on their traditional lands. However, there is controversy about using this money to fund health, housing and education (O’Faircheallaigh 2004). Critics have suggested that government should supply funding for these services. They warn that accepting alternative funding may prevent local compensation for any negative impacts of mining activities and result in governments reducing future payments. However, Aboriginal people can benefit from accepting money from mining companies, and this may help them get extra funds from government or fund services that government does not cover. Communities can also increase their ability to deliver and control their own services, and improve their members’ organisational and governance skills (O’Faircheallaigh 2004).

Improved programs for working with Aboriginal communities continue to be developed both in Australia and overseas. An approach with potential – but not wide acceptance in Australia – is the concept of sustainable livelihoods. This fairly new approach to improving relations between traditional owners and mining companies has been successful in Canada (Davies et al. 2008). This framework helps in understanding how local people’s lives are affected in a number of different ways because of mining and other industrial activities. Considerations include health, wellbeing, income and the management of a community’s natural resources, which are key factors for understanding and promoting good relationships between companies and local communities.

The concept of livelihoods may also apply to different activities. Rea and Messner (2008) describe the development of livelihoods in water management training in central Australia as part of the Anmatyerr Water project. This research identifies culturally based livelihoods as an effective mechanism for fulfilling the natural resource management needs of both non-Aboriginal and Aboriginal owners and managers. Rea and Messner (2008) suggest that these activities create additional positive socio-cultural and economic outcomes by combining NRM with Aboriginal cultural resource management and by linking local communities with existing businesses and economies.

Finally, studies by Crawley and Sinclair (2003) and Lertzman and Vredenburg (2005) say that companies need to develop an ethical framework for human resource practices when dealing with Aboriginal communities. They argue that it is unethical to sacrifice the viability of Aboriginal cultures for the sake of industrial resource extraction. These studies also say that it is only ethical to engage with Aboriginal peoples if it is in a way consistent with their own perceptions of their wishes and needs. While many mining companies have already consulted Aboriginal communities – some for a number of years – achieving more participation of Aboriginal communities has been slow. There is evidence that many corporations provide opportunities for Aboriginal communities, but many of these suit city, rather than desert, communities. Overall, employment opportunities are negligible compared to their potential, as is explored further below.

4.2 Work opportunities and training

Increasingly and recently, mining companies have been using local community members in their company's workforce. However, this is particularly problematic because of the regular chronic shortages of qualified personnel. This issue also affects areas other than mining, such as the health care industry (*The Australian Nursing Journal* 1998). Aboriginal leader Noel Pearson has stated his concerns at the concentration of opportunities in the mining industry for Aboriginal workers (Rodgers 2008); although he was reported to have strongly supported the plan by Andrew Forrest (of Fortescue Mining Group) to create 50 000 jobs for Aboriginal workers in the mining industry, Pearson said he believed that Forrest's scheme was 'about getting corporate Australia across a full range of industries – not just mining'. Pearson also suggested that setting 1% of mining workforce vacancies aside for Aboriginal people, as practiced in countries such as Canada, would make a substantial difference to the standard of living of Aboriginal people in Australia (Rodgers 2008).

A consortium of healthcare organisations, including the National Aboriginal Community Controlled Health Organisation and James Cook University, was awarded a Commonwealth contract to investigate staff shortages in remote area health services. The 1998 study found that Australia lagged behind places such as New Zealand and North America, and that it was necessary for Aboriginal and Torres Strait Island peoples to have control of their own health services (*The Australian Nursing Journal* 1998). More recently, Sanders (2008) discussed the importance of the senior manager in remote communities and how governance problems faced by the isolated manager might be solved. Often a single manager is required to administer several communities. As Sanders (2008) suggests, if there were a more integrated system of governance among different community administrations then managers might see themselves as part of a more extensive, cohesive group, and their job would be easier.

Woodside Petroleum Ltd (Woodside) has repeatedly expressed its desire to increase its number of Aboriginal employees. This echoes comments by the Woodside CEO in 2007 that the company wished to 'improve Woodside's Indigenous employment record' (ABC 2007). While Woodside and other mining companies make an effort to attract Aboriginal employees, the sophistication of the jobs offered suggests a significant gap between companies' stated aspirations and their achievements.

Both Woodside (Woodside 2010) and Rio Tinto (Rio Tinto 2010) say a good deal about their engagement with Aboriginal communities. However, as media and research reports have shown, progress is very slow (ABC 2007; Daff & Pearson 2009).

A paper by Murray and Wronski (2006) discusses how successful the 'rural pipeline' (rural student recruitment, and rurally based education and professional training) is in increasing the rural workforce. They describe how this program has successfully put greater emphasis on urgent rural health issues. These include clinical education, training and research; sustaining the healthcare workforce; and the quality and safety needs of regional areas. Other important priorities include:

- the existing imbalance between sub-specialist and generalist medical training
- improved training and recognition of Aboriginal health workers
- continued investment in Aboriginal entry to other health professional programs.

4.3 Mining company activities

Key factors driving companies to employ more Aboriginal Australians include changes in the social and demographic circumstances in mining regions, and predicted Aboriginal population growth alongside a shortage of relevant skills (Crawley & Sinclair 2003). Despite increased activity generated by the

mining industry – which has the potential to create more opportunities for local Aboriginal workers – the overall employment rate for Aboriginal people has risen only marginally (ABC 2007; Daff & Pearson 2009; Tiplady & Barclay 2007).

In 2008 Rio Tinto Ltd, Newmont Mining Corporation (Tanami), Zinifex Ltd, BHP Billiton Ltd and Roche Mining took part in a major study: the Minerals Industry Indigenous Employment Research Project. The study found that mining companies have been providing more employment opportunities for Aboriginal workers. In spite of this improvement, researchers recorded a number of difficulties in relations between mining companies and local communities (Tiplady & Barclay 2007). Some of these will be discussed in the final part of this section.

We now report on a number of mining companies, their activities in relation to the Aboriginal workforce and a brief outline of their intended operations.

4.3.1 Aurukun

The Aurukun bauxite mine in Queensland is being developed by the Aluminium Company of China Ltd. This mine, which is expected to open in 2012, could provide over 700 new construction jobs over three years and is projected to operate for 30 years (Storry 2006). The Wik and Wik Way communities – the local traditional owners of the mine's proposed area – could stand to gain approximately AUD100 million in communal native title royalties over the 30-year life of the mine.

However, Storry (2006) believes that royalties alone will not create the economic development and activity that the Aurukun and other Aboriginal communities need to prosper, and that without mainstream employment and engagement in the real economy, longer-term viability of remote communities is unlikely. This is more apparent when one considers that members of some Aboriginal communities lack basic literacy and numeracy competencies, which are taken for granted by other more mainstream communities.

A number of Aboriginal communities have already been successfully negotiating with mining companies for some time. For example, the Waanyi, Gkuthaarn, Mingginda and Kukatj communities in Queensland signed a joint agreement with the Century mine and the Queensland Government in 1997. Under this agreement, AUD1.5 million (in addition to royalties from mining activities) was set aside for educating, employing and training the local Aboriginal workforce. This consists of about 20% of the total workforce at the Century mine (Storry 2006).

Storry (2006) also reports that although this is well above the national average for Aboriginal employment, which stands at 5%, most of these workers hold only very basic entry-level positions and few have a trade. It is hoped that continued investment in apprenticeship and training schemes will improve the skills of Aboriginal workers at Century.

In the case of Aurukun, if the mine is to be operational by the proposed date of 2012, there is an urgent need for a long-term strategy to develop a competitive Aboriginal workforce that has adequate literacy and numeracy skills. For this to happen, remote communities need help with formal schooling to fulfil company requirements for basic literacy, numeracy, and occupational health and safety (Storry 2006).

In the short term, there is a strong need to establish and maintain an adult learning initiative in remote communities. Evidence from Indigenous Canadian communities suggests that adult learning centres can be effective places to identify market needs and develop target training programs for Aboriginal people, in partnership with industry (Storry 2006). A learning centre could become a training hub for Aboriginal workers in the mining industry. Or a technical school for Aboriginal children could help encourage them to attend school in their communities, go on to vocational training and eventually enter the workforce in their community (Storry 2006).

4.3.2 Argyle Diamond Mine

The Argyle Diamond Mine, owned by Rio Tinto Ltd, is the world's largest supplier of diamonds. It is another example of where a successful long-term agreement (the Argyle Participation Agreement) has been forged between local traditional owners – the Gija and Miriwoong – and the company. While the historic agreement largely depends on the continuing success of the company's operations, it is estimated that the local communities stand to benefit from approximately AUD50–100 million.

The then General Manager of operations at Argyle, Brendon Hammond, said that the agreement, which developed relationships, would help with planning for the future. He said that the agreement was a capacity-building package addressing employment, training, business development, health and education (Dodd 2005). Another advantage of the partnership is that it will result in Argyle increasing its Aboriginal workforce to 50% of its 1500 person workforce. This is a substantial increase from the pre-agreement level of 25% of the total workforce.

Aside from the employment opportunities and financial benefits, the agreement will create:

- training positions
- contracting opportunities
- protection of sacred sites
- traditional owner access
- support for the transfer of the Argyle Pastoral Lease to native title when the mine ceases operations in 2024 (something which is unique among mining companies).

This received enthusiastic support from traditional owners (Dodd 2005).

4.3.3 BHP Billiton Ltd

One of the biggest supporters of Aboriginal employment is BHP Billiton Ltd. In 2007, BHP Billiton signed the biggest contract ever to be awarded to an Aboriginal company – an AUD300 million contract with Ngarda Civil and Mining. This agreement gives Ngarda responsibility for managing the Yarrrie Nimingarra Iron Ore Mine in WA's Pilbara region for five years. At least 70 Aboriginal workers will be employed there. According to Ngarda's Executive Chairman, Barry Taylor, the agreement with BHP Billiton is a hugely significant deal which will provide funding and jobs for local communities (Mayes 2007). BHP Billiton offers a range of opportunities for Aboriginal people, but comparatively few places. For example, the scholarship program recently offered to eligible students in vocationally relevant undergraduate degrees provides for five places each year – an investment of around AUD85 000 per cohort, per year (University of Western Australia 2009). While this is replicated in other cities and countries, it is a small opportunity for Aboriginal people compared to the potential available.

4.3.4 Century Zinc Mine

Century employs a higher proportion of local Aboriginal people than do most other remote area mines in Australia. Since Century has been operational, the number of Aboriginal employees has ranged from 100–120, accounting for about 15–20% of the total workforce. The company's policy on employing Aboriginal people is based on a 1997 agreement between Zinifex, Century and local communities of the traditional owners, called the Gulf Communities Agreement. The company is still committed to maximising employment of Aboriginal people in its operations (Barker & Brereton 2004).

Most of the positions at Century in which Aboriginal workers are employed require only basic entry-level skills and few Aboriginal people currently occupy supervisory positions. Opportunities for career progression into more senior jobs are very limited. Similarly, only a small proportion of Aboriginal people are employed in trades or other positions that require formal qualifications; however, Century's continued investment in apprenticeships should help to increase the skills of Aboriginal employees (Barker & Brereton 2004).

4.3.5 Woodside Petroleum Ltd

Woodside signed an agreement with the WA Government on 5 May 2009 for a liquefied natural gas project at Browse Point, in the Kimberley area. This AUD20 billion project is expected to create 6000 fly-in/fly-out jobs, as well as hundreds of positions for local Aboriginal groups (Rintoul & O'Brien 2009). However, the scale of Woodside's Aboriginal employment, compared to its overall workforce, is quite small. The company's own data shows that, in 2007, Aboriginal employees of both Woodside and its contractors totalled 120, representing 1–4% of all employees (Woodside 2009). This compares with 1393 Aboriginal employees, 8% of the workforce employed by Rio Tinto Limited (Rio Tinto 2009).

4.4 Gold mining industry

Since the 1880s, gold mining has played a significant role in Australia's development. Today, Australia is still highly active in prospecting for gold and is the third-largest gold producer in the world after South Africa and the USA (Australian Bureau of Statistics 2008b). According to Greg Barnes, CEO of the Australian Gold Council, the importance of gold exploration has been recognised through the establishment of two Cooperative Research Centres for mineral exploration by the mining industry and the Australian Government.⁷ Greg Barnes also points out that local Aboriginal workforces are playing an increasing role in the success of gold mining operations, and that more than 10% of the total workforce at Normandy Mining Ltd's gold mining operation at Tanami is Aboriginal.

4.4.1 Oxiana Ltd

Oxiana Ltd has taken advantage of experience gained from mining projects in Asia for their operations in Australia. One of their more recent operations is the Prominent Hill copper and gold mine at Coober Pedy, which started production in February 2009 (Doman 2009). Oxiana is involved with workforce training and considers itself a trailblazer in this area. It believes that mining companies occupy an important place at the 'coal face' of the problems of desert communities, and recognises its position in being able to bring local people into the workforce and make a substantial difference to the Coober Pedy community.

It is reported that the company operates a preferential employment policy that supports the people who are most affected by the company's mining operations. The number of local people employed is expected to grow from about 500 (as recorded in 2007) to more than 1000 when the company starts its open-cut mining operations (Roberts 2007).

4.5 Worker retention

According to Barker and Brereton (2004), local people are generally favoured as employees because, as residents of the region, they are less likely to leave a job and move to another project that offers more money. However, worker retention is an ongoing problem for mining companies hiring local Aboriginal staff. Limited research has been done to understand the reasons for retention problems among Aboriginal employees in the mining industry. A study by the Centre for Social Responsibility in Mining (Barker & Brereton 2004, p. 1), which examined Aboriginal worker retention at the Zinifex Century Mine in Queensland, suggested that that:

Mining operations may offer one of the few available avenues of employment that can be used as a stepping stone out of the poverty and welfare dependency cycles which inflicts [sic] many Aboriginal communities.

⁷ The Cooperative Research Centre for Landscape Environments and Mineral Exploration (CRC LEME) and the Predictive Mineral Discovery Cooperative Research Centre (PMD CRC) were established and supported under the Australian Government Cooperative Research Centre Program. They have since closed.

In spite of this, there is a high turnover among local Aboriginal workers – which is seen to be wasteful in light of the investment made by the company to establish and maintain a local workforce. Because of the challenges of creating and maintaining a stable local workforce, it is also difficult to provide training for Aboriginal employees who are identified as suitable for future higher-level positions in company management. A high turnover also results in the job pool being depleted. Research demonstrates that factors which result in low worker retention need to be urgently addressed, and might assist in improving the retention of local company workers (Barker & Brereton 2004).

In an interview the Minister for Indigenous Affairs, Jenny Macklin, expressed concern over Aboriginal worker retention in the mining industry (Karvelas 2008). The Minister said that when Aboriginal workers obtain jobs, they are often unable to stay in them because of a number of issues unique to their situation. For example, Aboriginal workers who are employed then lose their entitlement to public housing and find a larger proportion of their wages is spent on rent. The present climate of high rental charges and a tight rental market discourage potential workers (Karvelas 2008).

One of the most effective strategies to address the problem of retention is mentoring, which is a common practice in other industries. The mentoring process is based on a one-to-one relationship which encourages and develops trust. Some companies already have well-established mentoring processes, which are combined with other strategies such as providing family support, more flexible work rosters and addressing the problem of racism in the workplace. As a greater number of Aboriginal people join the workforce, it will become more and more important that they are given career development opportunities (Tiplady & Barclay 2007).

4.6 Early impacts of the global financial crisis

The global financial crisis (GFC), which commenced in 2008, has had a negative effect on the operations of mining companies in Australia. Several researchers have warned that in times of financial crisis, one of the first impacts is on the local workforce. However, it remains to be seen if a mining downturn because of global economic difficulties will subsequently be reflected in a corresponding downturn in opportunities for the Aboriginal workforce. A report from Access Economics, released on 5 May 2009, estimated a AUD40 billion loss to the national economy because of the crash in the commodities sector (Rintoul & O'Brien 2009).

Australian Aboriginal and Torres Strait Islander leaders have advised that the GFC has greatly affected progress made in Aboriginal economic development. Aboriginal academic Marcia Langton has reported, for example, that hundreds of Aboriginal workers lost their jobs when the mining industry reduced employees, and that Aboriginal trusts created with mining industry funding were also under threat. Professor Langton added that the financial crisis had made it more important than ever for governments to achieve land tenure reform, support Aboriginal businesses, teach corporate governance and business skills, and amend trust laws to benefit Aboriginal enterprises (Gibson 2009).

Fortescue Mining Group CEO Andrew Forrest stated that it was doubtful that the GFC would hinder his plan provide jobs for 50 000 Aboriginal people. Although Fortescue Metals had not reduced its Aboriginal workforce at the time of writing, it had to delay expansion and housing in Port Hedland because of the GFC (Weber 2008).

The Australian Employment Covenant was launched in early 2009 (Commonwealth of Australia 2009) and, while results have come more slowly than planned (Narushima 2009) the scheme has government, community and business (Commonwealth of Australia 2009; Narushima 2009) support (Australian Employment Covenant 2009).

4.7 Future strategies

This part will discuss some of the issues (highlighted by research) that detract from successful interaction between mining companies and the Aboriginal workforce.

Some mining company agreements, which are supposed to help fast-track mining operations, did not deliver financial windfalls for Aboriginal communities and resulted in enormous variations in outcomes (O’Faircheallaigh 2004). For example, only about a quarter of agreements deliver substantial benefits to Aboriginal people. At the other extreme, almost half of the agreements provided few substantial benefits.

O’Faircheallaigh (2004) also suggests that many land use agreements do not work because of the lack of negotiating power that Aboriginal people bring to them. Many of the most ineffective agreements are negotiated under the *Native Title Act*. This puts Aboriginal people in a weak negotiating position, because if they have not reached a satisfactory agreement with the mining company at the end of the six-month negotiating period, the company can apply to the National Native Title Tribunal and request that the mining lease be issued and the project be allowed to go ahead.

In every case where this has happened – 16 cases in the last 10 years – the National Native Title Tribunal has allowed the mining lease to be issued (O’Faircheallaigh 2004). Aboriginal people know that companies are aware that if they go to the tribunal, they will get an outcome which is good for them but not for the communities. The main challenge for Aboriginal people, O’Faircheallaigh (2004) believes, is being better organised and working out exactly what communities want to obtain from agreements with mining companies. To do this, it is necessary for local Aboriginal groups to organise themselves more effectively to develop one strong, united community when dealing with government and mining companies.

It is also important for Aboriginal communities to be better coordinated when working with regional land organisations. These organisations have the expertise and experience which can provide the required backing for negotiating with big companies and government. There also needs to be more investment in:

- individual futures
- individual education
- the capacity to buy homes
- the capacity to create joint ventures and be part of businesses
- improving the quality of life of the people who are not currently benefiting.

Indeed, the focus and scope of company spending could be better managed if corporate philanthropists could first consider donating to a series of charities that have well-established relationships with Aboriginal communities. These charities have produced positive results in the eyes of both the Aboriginal communities and the donor organisations. For example, World Vision has worked effectively with the Aboriginal community of Epenarra – 200km south-east of Tennant Creek – for more than five years to develop leadership and advocacy skills in local Aboriginal people (Kearney 2007).

4.8 Conclusion

This section has discussed some of the stakeholder initiatives between mining companies in Australia, and Aboriginal traditional owners and desert communities. The attitudes of companies seem to have changed in recent times. Negotiation with traditional owners over access to their lands has proceeded under conditions which acknowledge traditional owners as stakeholders in the mining process. The number of companies using community consultation practices in their negotiations has increased markedly. Also, more intensive efforts have been made to use the local Aboriginal workforce. This has received much publicity in the press – particularly the plan by Fortescue Metals, launched in early 2009, to create 50 000 new jobs for Aboriginal workers.

In spite of increased use of local labour, this section shows that Aboriginal workers need more training and development to ensure they have the potential to take up more senior positions which require qualifications. A number of well-established companies have actively provided more Aboriginal employment and training. These details have been discussed in this section (Qantas 2007).

Although local Aboriginal people are employed in positions in the mining workforce, there is also an urgent need for greater participation. Some companies are already making funds available to encourage this, but overall employment numbers are small. One of the most urgent problems in the area of Aboriginal employment is worker retention, which presents a major challenge for the mining industry. Approaches to overcome this were examined in this section.

The section also examined the possible effects of the GFC, how this has affected the hiring of local workers in Aboriginal communities and whether or not it will have a negative effect on future employment.

As the Australian economy recovers from the GFC, it should be expected that the resources industry will encourage and develop its Aboriginal employment. There are substantial benefits to mining companies from creating relationships with Aboriginal communities which allow access to land for prospecting and development, and help build a mutual trust which will facilitate continuing agreements in the future.

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Appendix 1: Key Features and Criteria for the South African Government's Preference Point System

Contract	Maximum Preference points	Lowest acceptable tender scores for a given price
Rand value above a prescribed amount	10	90
Rand value equal to or below prescribed amount	20	80

Framework for implementation of preferential procurement policy

- 1) An [organ of state](#) must determine its [preferential procurement policy](#) and implement it within the following framework:
 - a) A preference point system must be followed;
 - b) i) for contracts with a Rand value above a [prescribed](#) amount a maximum of 10 points may be allocated for specific goals as contemplated in paragraph (d) provided that the lowest [acceptable tender](#) scores 90 points for price;
 - ii) for contracts with a Rand value equal to or below a prescribed amount a maximum of 20 points may be allocated for specific goals as contemplated in paragraph (d) provided that the lowest acceptable tender scores 80 points for price;
 - c) Any other acceptable tenders which are higher in price must score fewer points, on a *pro rata* basis, calculated on their tender prices in relation to the lowest acceptable tender, in accordance with a prescribed formula;
 - d) The specific goals may include:
 - i) Contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;
 - ii) Implementing the programs of the Reconstruction and Development Program as published in *Government Gazette* No. 16085 dated 23 November 1994;
 - e) Any specific goal for which a point may be awarded must be clearly specified in the invitation to submit a tender;
 - f) the contract must be awarded to the tenderer who scores the highest points, unless objective criteria in addition to those contemplated in paragraphs (d) and (e) justify the award to another tenderer; and
 - g) Any contract awarded on account of false information furnished by the tenderer in order to secure preference in terms of [this Act](#), may be cancelled at the sole discretion of the organ of state without prejudice to any other remedies the organ of state may have.
- 2) Any goals contemplated in subsection 1(e) must be measurable, quantifiable and monitored for compliance (South African Government 2000).

Appendix 2: Point System used to Assess Supplier Compliance with Broad Based Black Economic Empowerment (BBBEE) Principles

Direct Empowerment	
Black Ownership	20 points
Black Management Control	10 points
HR Development	
Employment Equity	15 points
Skills Development	15 points
Indirect Empowerment	
Preferential Procurement	20 points
Enterprise Development	15 points
Socio-economic Development	5 points

Appendix 3: Affirmative Procurement System (USA)

State	Is there a central state agency that works with each state agency to increase their supplier diversity?	Does each state agency have a supplier diversity coordinator (or equivalent)?	Is there a central state agency that tracks amount of procurement to MBEs/ WBEs by each department?	What was the total state-wide procurement to M/WBEs in FY06? (dollars)	What was the total state-wide procurement to M/WBEs? (percentage of total spend)	What was the total state-wide spend to WBEs? (percentage of total spend)
Alabama	no	no	no			
Alaska	no	no	no			
Arizona	no, but the Community Outreach Program within Procurement plays some of this role	each agency has an implementation and monitoring plan	yes, the Community Outreach Program		5.0%	
Arkansas	no	no, but most procurement is centralised to OSP which does have coordinator	yes, the OSP	?		
California	no	no	no		not known	
Colorado	the MBO might start doing this	no	no			
Connecticut	not sure	not sure	yes, DAS Supplier Diversity Program	\$91.6 million	15.8%	
Delaware	yes, the OMWDBE	no, but each agency must have a plan	yes, the OMWDBE	\$36 million	2.0%	
District of Columbia	yes, the LSDBE	no	not clear if it tracks DBE spending or only LSDBE			
Florida	yes, the Office of Supplier Diversity within the Dept of Mgt Services	yes	yes, the Office of Supplier Diversity within the Dept of Mgt Services	\$1.6 billion	25.0%	
Georgia	no	no	yes, the Dept of Administrative Services		do not publish figure	
Hawaii	no	no	no	??		
Idaho	no	no	no			
Illinois	yes, the BEP	yes, each agency is required to have a liaison to the BEP	yes, the BEP	\$395 million	23.0%	
Indiana	yes, the M-WBE Division	no, most spending by DOA	yes, the MWBE Division		figures are not final	
Iowa	General Service Enterprises does a little of this	no	yes, the Department of Management and Procurement	\$31.8 million	2.6%	
Kansas	no	no	no, but they are thinking about using the self-registry to do this	?		
Kentucky	no	no	no	?		
Louisiana	no	no	no	?		

State	Is there a central state agency that works with each state agency to increase their supplier diversity?	Does each state agency have a supplier diversity coordinator (or equivalent)?	Is there a central state agency that tracks amount of procurement to MBEs/ WBEs by each department?	What was the total state-wide procurement to M/WBEs in FY06? (dollars)	What was the total state-wide procurement to M/WBEs? (percentage of total spend)	What was the total state-wide spend to WBEs? (percentage of total spend)
Maine	no	no	no	?		
Maryland	the GOMA did some of this but a new accountability office is being set up by the Governor.	yes, there are M-WBE liaisons	yes, the Gov's Off of Minority Affairs	\$1.02 billion	22.0%	5.7%
Massachusetts	yes, the Affirmative Marketing Program	yes	yes, the AMP	\$427 million, perhaps duplicative	not sure	\$236 million
Michigan	no	no	yes, the Dept of Management and Budget, but hard to get figures from system	?	?	
Minnesota	no	no	yes, the MMD	\$72 million (MBEs only); in FY04 had \$22 million from WBEs	5.0%	2% (\$22 million) in FY04
Mississippi	the Minority Business office does a little of this	no	yes, the Minority Business office		5.0%	
Missouri	yes, the OSWD	yes, each agency has a workforce diversity coord who also coord's supplier diversity	yes, OWSD	??	not yet published	
Montana	no	no	no	?		
Nebraska	no	no	no	?		
Nevada	no	no	no	?		
New Hampshire	no	no	no	?		
New Jersey	yes, Division of Minority & Women Business Development within the Office of Economic Growth	yes, under new E.O. each agency required to have an MWBE liaison; still being implemented	no, although the data should be in the e-procurement system		not known	
New Mexico	no	no	no			
New York	not really — the D of MWBD is supposed to	no	yes, the DMWBD	\$445 million	5.2%	
North Carolina	yes, the HUB office	yes, there are HUB Coordinators in every agency and local govt	yes, the HUB office	\$495 million	9.3%	?
North Dakota	no	no	no	?		
Ohio	yes, the Minority Business Enterprise Unit within the Dept of Admin Services	yes, coordinators and a plan	yes, the MBE Unit	\$109 million to MBEs and \$58 million to EDGE firms	9.1% (5.8% MBE; 3.3% to EDGE)	?
Oklahoma	no	no	no	??		

State	Is there a central state agency that works with each state agency to increase their supplier diversity?	Does each state agency have a supplier diversity coordinator (or equivalent)?	Is there a central state agency that tracks amount of procurement to MBEs/ WBEs by each department?	What was the total state-wide procurement to M/WBEs in FY06? (dollars)	What was the total state-wide procurement to M/WBEs? (percentage of total spend)	What was the total state-wide spend to WBEs? (percentage of total spend)
Oregon	no	no	yes, the OMWESB has just begun to track this	?		
Pennsylvania	yes	yes, not sure if implemented	yes	\$50 million (29.5 WBEs)	7.3%	4.3%
Rhode Island	yes, MBECO	no	yes, the Central Procurement Office	?		
South Carolina	yes, the OSMBA	yes, an MBE utilisation coordinator	yes, OSMBA	\$30 million	10.0%	
South Dakota	no	no	no	n/a	?	?
Tennessee	yes, the GO-DBE	not clear but each agency needs a plan	yes, the GO-DBE	?	?	
Texas	yes, the HUB office	yes, each agency has a HUB coordinator	yes, the HUB office	\$1.726 billion	13.7%	?
Utah	no	no	no	?		
Vermont	no	no	no, but Dept of Building and General Services does monitor M/W/DBE subcontracts	?		
Virginia	yes, DMBE	yes	yes, DMBE	?	4.3%	2.0%
Washington	yes, the OMWBE	yes, and the OMWBE puts the plan online	yes	\$32 million MBE; \$48 million WBE	2.9%	1.8%
West Virginia	no	no	no	?		
Wisconsin	?	?	yes, DOA	?		not tracked
Wyoming	no	no	no	?		

Appendix 4: International Summary Table

Country	Government Procurement Policies	Effective Strategies for Aboriginal Businesses
Canada	The Canadian Government's Procurement Strategy for Aboriginal Business (PSAB) aims to increase the number of Aboriginal suppliers bidding for and winning federal contracts. The strategy considers both purchasing- and supply-side approaches. Information for suppliers is provided in the PSAB guide.	• Mandatory and voluntary set asides. • Supplier information and development programs. • Sub-contracting and joint ventures. • Yearly performance objectives for purchasers.
New Zealand	The Government procurement policy framework centres on value for money over whole of life and open and effective competition with recognition of NZ's international trade obligations and interests.	• No domestic price preference or offsets. • No requirement to use government procurement for industry or regional development. • Full and fair opportunity should be given to internationally competitive domestic suppliers.
South Africa	The targeted procurement strategy offers marginal groups preferential terms in public contracts. Broad Based Black Economic Empowerment Act (BBBEE) addresses business ownership and control, employment, skills development, procurement and corporate social investment.	• Preference point system operates for suppliers who are historically disadvantaged by unfair discrimination on the basis of race, gender or disability.
United Kingdom	Supplier diversity and urban regeneration initiatives have been developed to improve market opportunities for Ethnic Minority Businesses (EMBs). Enterprise agencies that target EMBs and some mainstream Business Links services provide education and training, business development and financial support and mentoring for EMBs. Services are fragmented between different localities.	• Culturally appropriate support services. • Engagement of community leaders. • Improved access to financial support and start up grants. • Education, training and business development.
Unites States	The Minority Business Development Agency (MBDA) operates the Native American Business Centre (NABC). The NABC assists Native American businesses to obtain public contracts by providing consulting services, training, contracting and financial opportunities, and bonding and certification services. The Race neutral affirmation action system for public procurement requires that purchasers provide evidence for implementing programs that give preferential treatment based on race.	• GSA-simplified acquisitions process for tribal nations. • Exemptions from USA taxation laws for people and businesses on native land. • Advice services and training. • Contracting and financial opportunities.
Malaysia	The government has developed policies to promote economic growth amongst the Aboriginal Malays (Bumiputeras). These include policies for public procurement, provision of training, financial support and subsidies. Commercial and industrial assistance and training is provided though Majlis Amanah Rakyat.	• Preference system for public procurement based on the contract value. • Commercial and industry training and support. • Targets rural areas.
European Union	European anti-discrimination legislation has been incorporated into member state policy and law. The EU Treaty is based on the principle of non-discrimination. However policies to support minority business are in place in countries such as Germany, Sweden, the Netherlands and UK. For contracts under a certain value, evaluation and award criteria may include social objectives, but must not give local preference.	• Policy in general promotes non-discrimination and equal treatment of domestic and international suppliers. • Improve SME participation by improving efficiency rather than through a preference system. • There is a lack of clarity between directives under the EU treaty.

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