

Social Procurement Policies in Government Construction Contracts : Law, Policy and Practice

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Certificate of Original Authorship

I, Rhonda Therese Bell, declare that this thesis is submitted in fulfilment of the requirements for the award of Doctor of Philosophy, in the Business School at the University of Technology Sydney.

This thesis is wholly my own work unless otherwise referenced or acknowledged. In addition, I certify that all information sources and literature used are indicated in the thesis.

This document has not been submitted for qualifications at any other academic institution.

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Abstract

This research addresses the persistent implementation gap between social procurement policy objectives and their practical execution in Australia's construction industry. Governments increasingly use procurement as a strategic tool to achieve broader societal outcomes, with many mandating that construction firms employ disadvantaged populations in government infrastructure projects. There is evidence of significant barriers to successful implementation for the construction industry and of policy impact at project and institutional levels. This study specifically focuses on improving the implementation of the requirement to employ people from disadvantaged groups in social procurement policies in government infrastructure projects.

This study explores how policy aspirations could be better translated into policy actualisation and operational realities. To do so, this research investigates the three key stages of procurement policy implementation – policy documentation and application, the tender phase, and project implementation. 23 semi-structured interviews with a diverse range of stakeholders from NSW and Victoria were undertaken. To gain a deeper understanding of the context and nature of social procurement policies, this study analysed policy documents and associated government material from New South Wales and Victoria. This approach enabled a comparison of the contrasting approaches between the two states.

The research informs policy by identifying institutional and procedural reforms necessary to enhance policy-led procurement. Rather than relying on vague, open-ended requirements in tender processes, employment and social value requirements should be clearly articulated, with firms competing based on their implementation plans. Key recommendations include increasing the base weighting of social criteria in tender evaluations, expanding funding of third-party policy intermediaries to bridge connections between firms and not-for-profit organisations, strengthening accountability in government contracts through standardised reporting and consistent application of appropriate and proportional financial penalties, and improving procurement officer training programs. These changes aim to shift compliance from a box-ticking exercise to genuine policy engagement.

The study makes a theoretical contribution by integrating Agency Theory and Systems Thinking to examine implementation dynamics. It extends the literature by identifying principal-agent problems across procurement stages and the role of internal policy intermediaries in reshaping these relationships. Systems Thinking highlights previously overlooked leverage points, such as early-stage training, policy consistency, and incentive structures. By distinguishing between internal and external policy intermediaries, the research provides a new analytical framework that establishes the foundation for developing typologies in future social procurement research.

Contents

Certificate of Original Authorship.....	ii
Acknowledgements.....	iii
Abstract.....	iv
List of Abbreviations.....	xvi
Definitions.....	xvii
Chapter 1: Introduction to the Research.....	20
1.1 Introducing the Research Topic.....	20
1.2 Statement of Research Problem.....	4
1.3 Background and Context of the Research.....	7
1.3.1 New Public Governance and Government Contracts.....	8
1.3.2 Government-driven CSR and Public Policy.....	10
1.4 Research Questions and Objectives.....	13
1.5 Overview of Methodology.....	15
1.6 Scope of the Research.....	16
1.7 Social Procurement Policies.....	17
1.7.1 Overview of Employment Requirements in NSW and Victoria.....	18
1.7.2 What Are Social Value Requirements?.....	20
1.8 Thesis Outline.....	21
Chapter 2: Literature Review.....	24
2.1 Introduction.....	24
2.2 Public Procurement as a Policy Tool.....	30
2.2.1 Social Procurement Policies in the Tender Process.....	33
2.2.2 Social and Public Value.....	34

2.3	Public Procurement Law	38
2.3.1	Introduction	38
2.3.2	Australian Legal Context	38
2.3.3	United Kingdom: Legislative Mandate through Social Value Act.....	41
2.3.4	European Union: Permissive Framework with Variable Implementation.....	42
2.3.5	South Africa: Legislative Framework with Pre-qualification Scheme	43
2.3.6	United States: Consequences of Breach of Contract.....	45
2.4	Social Procurement Policy Research in the Construction Industry.....	46
2.4.1	Implications for Subcontractors	48
2.4.2	Barriers to Cross-Sector Collaboration	50
2.4.3	Importance of Third-Party Intermediaries.....	52
2.5	Overview of Theories in Previous Studies	55
2.6	Consideration of Possible Theoretical and Philosophical Approaches	57
2.6.1	Agency Theory	58
2.6.2	Systems Theory	61
2.6.3	Common Good and Social Procurement.....	63
2.7	Conclusion.....	64
	Chapter 3: Research Methodology	66
3.1	Introduction	66
3.2	Ontological and Epistemological Approach.....	67
3.2.1	Pragmatism.....	67
3.2.2	Realism.....	68
3.3	Methodological Approach and Research Design	69
3.4	Data Collection.....	71
3.4.1	Semi-structured Interviews	71

3.4.2	Analysis of Policy Documents	74
3.4.3	Recruitment Strategy and Sampling.....	76
3.4.4	Study Participants.....	78
3.4.5	Instruments for Data Collection.....	85
3.5	Data Analysis.....	87
3.5.1	Data Analysis – Interviews.....	90
3.5.2	Thematic Analysis	91
3.5.3	Analysis of Government Documents	93
3.6	Ethical Considerations in Reporting Findings	95
3.7	Conclusion.....	96
	Chapter 4: Findings – Social Procurement Policies in NSW and Victoria	98
4.1	Introduction	98
4.2	NSW Policy Overview	101
4.2.1	Legislative Framework.....	104
4.2.2	NSW Procurement Framework.....	104
4.2.3	NSW Government’s Ten-Point Commitment to the Construction Sector and Report	108
4.2.4	NSW Guide to ‘Weight’ to Be Assigned to Non-Cost Considerations	110
4.2.5	Summary of Policies in NSW	111
4.3	Participant Explanation of the Policies in NSW	113
4.3.1	Introduction	113
4.3.2	Varying Employment Requirements for Projects.....	114
4.3.3	Agencies Differ in Their Commitment to Policy Implementation.....	119
4.3.4	Weight Given to Non-Cost Factors in the Tender Process in NSW	120
4.3.5	Lack of Accountability and Inconsistent Contract Enforcement in NSW	121

4.3.6	Reporting Mechanisms.....	125
4.3.7	The Social Priorities of the NSW Government or ‘Social Value’ Requirements.....	128
4.3.8	Lack of Government Support and Guidance for Firms.....	129
4.3.9	Summary and Analysis of the Policies in NSW.....	131
4.4	Victoria Policy Overview.....	132
4.4.1	Legislative Framework.....	134
4.4.2	Social Procurement Framework—Victoria.....	135
4.4.3	Guidance Weight Given to Non-Cost Factors.....	140
4.4.4	Government Guidance on Corporate Social Responsibility.....	143
4.4.5	Analysis of Polices in Victoria.....	144
4.5	Participants’ Explanations of the Policies in Victoria.....	145
4.5.1	Varying Employment Requirements for Projects.....	145
4.5.2	Lack of Consistent Definition of Cohorts.....	151
4.5.3	Weight Attributed to Social Procurement.....	153
4.5.4	Inconsistent Contract Enforcement and Accountability.....	154
4.5.5	Reporting Mechanisms.....	156
4.5.6	Government Support and Guidance for Firms.....	157
4.5.7	Summary and Analysis of Participant Explanation of Victorian Policies.....	158
4.6	Summary or Integrative Analysis of Findings of the Policies in NSW and Victoria.....	159
	Chapter 5: Findings – Tender Process.....	167
5.1	Introduction.....	167
5.2	Overview of the Tender Process.....	168
5.2.1	Government Issues Expression of Interest.....	169

5.2.2	Responses to Employment Requirement in Government Tenders.....	171
5.2.3	Employment and Social Value Requirements Assessment	175
5.2.4	Government Contracts Awarded on Lowest Price	176
5.2.5	Importance of Finding Candidates Early in the Project.....	180
5.3	Lack of Commitment to Policy Implementation by Firms	181
5.3.1	A Tick-the-Box Approach to Employment Requirements	183
5.4	Unintended Consequences of Employment Requirements in NSW and Victoria..	186
5.4.1	Unintended Interplay Between Policies in NSW	188
5.4.2	Potential Negative Impact on Candidates	188
5.5	Conclusion.....	192
Chapter 6: Findings – Project-Level/Third-Party Intermediaries		197
6.1	Introduction	197
6.2	Implementing Employment Requirements at Project Commencement	200
6.2.1	Importance of Establishing Relationship with Third-Party Intermediaries ..	202
6.2.2	Importance of Preparing Candidates for Employment.....	204
6.2.3	Importance of Ongoing Support.....	206
6.2.4	Internal Policy Intermediaries Dealing With Onsite Managers	207
6.3	Purposeful Approach to Construction	212
6.4	Summary	216
6.5	External Third-Party Policy Intermediaries	217
6.5.1	Assisting Firms and Subcontractors Locate and Supply Candidates	219
6.5.2	Education of Managers and Subcontractors.....	222
6.5.3	Finding, Training and Supporting Candidate	223
6.5.4	Third-Party Policy Intermediaries Dealing with Managers	225
6.5.5	Summary	227

6.6 Conclusion and Summary	229
Chapter 7: Discussion	234
7.1 Introduction	234
7.1.1 Addressing the Aim and Objectives of the Research	235
7.1.2 Brief Overview of Findings	235
7.2 Discussion	237
7.2.1 Pre-Contract Stage: Implementing Policy-Led Procurement.....	238
7.2.2 Leverages and Lack of Incentives in the Tender Process.....	246
7.2.3 Policy Intermediaries at Project Level	255
7.3 Common Good and Social Procurement Research	265
7.4 Limitations and Future Research.....	266
Chapter 8: Summary and Conclusion	268
8.1 Introduction	269
8.2 Theoretical Contribution	269
8.2.1 Extension of Agency Theory in Public Procurement Context	270
8.2.2 Systems Thinking and Leverage Point Identification	270
8.2.3 Conceptual Framework for Policy Intermediary Roles	270
8.3 Implications and Recommendations for Improvement to Policy Design	271
8.3.1 Increase in Weight for Non-Cost Considerations.....	272
8.3.2 Legislative Approach	274
8.4 Recommendations for Practice.....	276
8.5 Conclusion.....	279
References	282
Appendices	308
Appendix A:	309

Appendix A1: Ethics Approval	310
Appendix A2: Participant Information Sheet with Consent Form	312
Appendix A3: Letter of Invitation	318
Appendix A4: Interview Guide	320
Appendix A5: Data Coding	323
Appendix A6: Submission.....	334
Appendix B: Extracts from Policy Documents – NSW.....	341
Appendix B1: NSW Procurement Policy Framework	342
Appendix B2: Industry Skills Legacy Program (ISLP)	352
Appendix B3: Small and Medium Enterprise and Regional Procurement Policy – Guidance to Weight	356
Appendix B4: ISLP Reporting Templates and Guide	360
Appendix C: Extracts from Policy Documents – Victoria.....	362
Appendix C1: Victorian Procurement Framework 2023.....	363
Appendix C2: Victoria’s Social Procurement Reporting Framework	368
Appendix C3: Victoria’s Social Procurement - Buyers Guide – Individual Procurement Activities	372
Appendix C4: Victoria’s Social Procurement – Buyers Guide – Guide to Evaluation	379
Appendix C5: Victoria’s Social Procurement – Buyers Guide – Contract Management, Reporting	386
Appendix C6: Social Procurement Model Clauses	394

List of Tables

Table 1.1 Industry Skills Legacy Program (ISLP): Skills and Diversity Targets	19
Table 1.2 Overview of Terms for Social Procurement.....	28
Table 2.1 Summary of Gaps in the Literature.....	53
Table 2.2 Table of Theories Previously Used – Studies Focussing on the Implementation of Social Procurement Policies	56
Table 2.3 Research Questions and Key Concepts.....	63
Table 3.1 Overview of the Research Approach.....	66
Table 3.2 Overview of the Research Design and Rationale and Objectives.....	71
Table 3.3 Overview of Participants.....	80
Table 3.4 Participants from NSW	83
Table 3.5 Participants from Victoria	84
Table 3.6 Summary of the Structure of the Interview Guide	85
Table 4.1 Broad Overview of Findings in This Chapter	100
Table 4.2 Infrastructure Skills, Training, and Diversity Targets for Major Construction Projects.....	107
Table 4.3 Individual Procurement Activity Requirements for Government Buyers.....	137
Table 4.4 Suggested Weighting for Social Procurement.....	141
Table 4.5 Suggested Weighting for Agencies	141
Table 4.6 Summary of the Comparison Between Victoria and NSW Policies as Outlined in This Chapter	164
Table 5.1 Table of Findings.....	194
Table 6.1 Comparison of Internal and External Policy Intermediaries in Social Procurement Implementation	232
Table 7.1 Research Questions, Key Findings and Solutions Proposed by Participants....	236

Table 7.2 Application of Systems Thinking in the Pre-Contract Stage of Social Procurement	244
Table 7.3 Application of Systems Thinking in the Tender Process of Social Procurement	254
Table 7.4 Application of Systems Thinking to Social Procurement Implementation	264
Table 8.1 Overview of Recommendations for Policy Improvement	275

List of Figures

Figure 1.2 Research Questions and Chapters	21
Figure 2.1 Procurement Management Framework Source (Harland et al., 2021).....	32
Figure 2.2 Relationship Between Government, Firms, and Not-for-Profit Organisations.....	37
Figure 3.1 Overview of Research Timeline	89
Figure 3.2 Examples of Preliminary Nodes and Parent Node	92
Figure 4.1 Overview of NSW Procurement Policies	103
Figure 4.2 Visual Overview of NSW Procurement Policy Framework.....	105
Figure 4.3 Overview of Victoria’s Framework of Policy.....	134
Figure 5.1 Broad Overview of the Tender Process	169
Figure 6.1 Current Understanding of Relationship Between Firms and Third-Party Intermediaries.....	199
Figure 6.2 Revised Understanding of Relationship Between Firms and Third-Party Intermediaries.....	221
Figures 7.1–7.3 Overview of Application of Agency Theory.....	260
.....	260
Figure 7.4 Systems Thinking Lenses	263
Figure 7.5 Application of System Thinking to Policy, Tender, and Project Stages	265
.....	265
Figure 8.1 Overview of Recommendations for Practice.....	278

List of Abbreviations

CSR	Corporate Social Responsibility
DBE	Disadvantaged business enterprises
EOI	Expression of interest
ER	Employment requirements
ICN	Industry Capability Network
ISLP	Industry Skills Legacy Program
KPI	Key performance indicators
NPG	New Public Governance
NSW	New South Wales
OECD	Organisation for Economic Cooperation and Development
PCPC	Public Construction Procurement Committee
SME	Small and medium-sized enterprises
SPP	Social procurement policies

Definitions

Term	Definition
Candidates	People from groups that experience social or economic disadvantage – such as long-term unemployed persons, those with disabilities, refugees, youth at risk, ex-offenders – who may be employed by construction firms to meet employment targets or social procurement requirements stipulated in government construction contracts
Clients	Where participants refer to ‘clients’, they are referencing government agencies they contract with (not private sector entities)
Employment Requirements	Requirements in government infrastructure projects to employ people from disadvantaged backgrounds
Firms	Construction companies, also known as head contractors or principal contractors, tendering for and are awarded contracts to deliver government-funded construction projects (Torje & Gluch, 2021). Construction companies responsible for managing the overall delivery of the project, including engagement and oversight of subcontractors and ensuring social procurement requirements are implemented (Troje, 2021).
Government Agencies	Includes all government departments, statutory authorities, and other public sector bodies responsible for public construction projects, as defined in relevant legislation in NSW and Victoria, including sections 162 and 172(1)(a) of the <i>Public Works and Procurement Act 1912</i> (NSW), the <i>Project Development and Construction Management Act</i>

Internal Policy Intermediaries	<p><i>1994 (Vic), and the Financial Management Act 1994 (Vic)</i></p> <p>Individuals employed in a construction project who are responsible for implementing social procurement policies</p>
Large Projects	<p>Government construction projects valued over \$500 million</p>
Leverages or Horizontal Policies or Linkages in Government Procurement Contracts	<p>Terms used in the public law literature (Arrowsmith, 2009, p.117; McCrudden, 2007a, p.569) to refer to contractual terms in government construction contracts that are not ‘inherently necessary’ to achieve the primary objective of the contract. In construction literature, these policies are referred to as ‘social procurement policies’ (Loosemore, 2018). These policies are used to create additional indirect social value outcomes in the construction project.</p>
Medium-Sized Project	<p>Government construction projects valued up to \$500 million.</p>
Not-for-Profit Sector	<p>Comprises not-for-profit organisations, educational institutions, and social enterprises that operate independently of government bodies and the private sector (Salamon et al., 2017, pp.23–24)</p>
Participants	<p>Individuals who took part in the qualitative interviews conducted as part as part of this research.</p>
Social Procurement Policies	<p>Policies setting out social and environmental objectives that government agencies may choose to incorporate in government procurement contracts and which are separate to the main purpose of the contract (Furneaux & Barraket, 2014). These policies often include requirements to employ people from disadvantaged backgrounds. In public law and</p>

procurement literature, they have been referred to as ‘linkages’ (McCrudden, 2007a, p.569) or ‘policy-led procurement’ (Harland, 2023) and ‘horizontal policies’ (Arrowsmith, 2010).

Social Value Requirements

The requirement in government infrastructure projects for construction firms to generate additional social value – beyond the inherent public value of the project. This may be separate from any specific employment requirements to employ people from disadvantaged backgrounds.

Subcontractors

Construction businesses – often small to medium-sized enterprises (SMEs) – engaged by principal or head contractors to perform specific components of work or services within publicly funded construction projects. Typically operating at the lower tiers of the contracting hierarchy, subcontractors are bound by commercial subcontracting arrangements and can be particularly affected by social procurement policies, especially those involving any employment requirements (Loosemore, 2020).

Third-Party Organisations

Entities such as not-for-profit organisations, training institutions, and social enterprises, which may train, supply, or support candidates from disadvantaged backgrounds and assist the construction industry in meeting social procurement or employment objectives. Previous research has also referred to these organisations as third-party intermediaries (Barraket & Loosemore, 2018).

Third-Party Policy Intermediaries

Individuals or organisations – external to the construction project – who support firms to implement social procurement policy requirements, particularly

	employment-related requirements in public construction projects. These roles or organisations are dedicated to implementing employment requirements.
Tier One Construction Firms	Large construction firms that undertake complex, large-scale projects, typically valued over \$500 million
Tier Two Construction Firms	Medium to large construction firms that typically undertake projects valued up to \$500 million

Chapter 1: Introduction to the Research

1.1 Introducing the Research Topic

The strategic deployment of government contracts as instruments to implement social policies emerged in the mid-nineteenth century and transcends the traditional function of government contracts as mere vehicles for goods and services procurement (Brammer et al., 2012; McCrudden, 2007a, p. 26). Today, governments are increasingly leveraging their substantial purchasing power and privileged contractual position to embed environmental and social imperatives within their commercial relationships with private sector entities (Arrowsmith, 2010, 2023; Harland et al., 2021; Meltzer et al., 2024).

Of particular significance is the emergent trend among nation-states, notably the United Kingdom (UK), some European Union (EU) members and, relatively recently, Australia, to strategically harness their infrastructure expenditure by including social procurement requirements in their contractual requirements with construction firms (Ankersmit 2020; Troje, 2021b; Watts, Fernie, et al., 2019; Wójcik, 2016). This proliferation of policy-driven procurement practices underscores the critical role of government procurement and subsequent contracts as a mechanism for addressing enduring social

challenges, such as underemployment amongst disadvantaged groups, including refugees and ex-offenders (Erridge, 2007; Furneaux & Barraket, 2014; Harland et al., 2021).

When tendering for government projects, construction firms must address how they will meet any social procurement requirements specified by the government agency responsible for the project (Loosemore, Keast, & Barraket, 2022a). In Australia, generally, depending on the size of the project, social procurement policies (SPP) may mandate that construction firms employ people from disadvantaged backgrounds (also referred to in this study as ‘candidates’) and/or use social enterprises in their supply chain (Barraket & Loosemore, 2018; Denny-Smith et al., 2021). These groups may include ex-offenders, long-term unemployed, disengaged youth, refugees, and homeless persons (Loosemore et al., 2020).

Separately, government agencies might include an open-ended and non-prescriptive requirement for construction firms to formulate a strategy as to how they might add social value to the project, known as ‘social value’ requirement. This research investigates the social procurement policies implemented by the New South Wales and Victorian governments, specifically focusing on employment requirements that mandate construction firms to integrate disadvantaged candidates into their workforce for government infrastructure projects. The emphasis on employment requirements is warranted by its increasing prominence within social procurement frameworks as well as substantial empirical evidence indicating significant impediments to their effective implementation (Montalbán-Domingo et al., 2018; Troje & Gluch, 2020a). As a secondary scope, this research explores stakeholder perspectives on the open-ended and non-prescriptive social procurement policy requirement for construction firms to demonstrate supplementary social value generation beyond the intrinsic benefits delivered by the infrastructure project itself (Loosemore et al., 2020).

Previous research has identified implementation challenges, yet the relationship between policy design and the practicalities of implementation remains insufficiently understood (Loosemore et al., 2024; Troje & Gluch, 2020). While international studies provide useful insights into barriers to successful implementation (Murphy & Eadie, 2019; Troje & Anderson, 2021; Troje & Kadefors, 2021), the Australian context differs in important structural and institutional respects (Landau & Howe, 2022; Loosemore et al., 2024).

Construction procurement in Australia is undertaken by both the Commonwealth and the individual State governments, each operating under distinct legislative and policy frameworks (Forsyth, 2018, Landau and Howe, 2022). This makes the contrasting approaches to social procurement between jurisdictions—particularly New South Wales and Victoria—especially significant, yet still under-examined in the literature (Loosemore et al., 2024).

Previous studies in Australia have utilised case studies of collaborative arrangements between firms and not-for-profit entities that were formed to implement social procurement policies (Loosemore et al., 2020). Many studies on social procurement have focussed on a single-stakeholder perspective (Loosemore et al., 2020; Loosemore, Keast, Barraket, et al., 2022; Loosemore & Reid, 2019). In contrast, this study employed semi-structured interviews with a broad range of stakeholders. Participants were directly involved in employment requirements at strategic or operational levels, within and external to government construction projects. Consequently, all interviews explored the implementation of employment policies within the framework of contractual obligations in government contracts.

Additionally, supplementary data was obtained through an analysis of publicly available government documents, including social procurement policies, reports on employment requirements and social procurement contract templates. This documentary analysis was enriched by incorporating findings from the Government Inquiry into the Procurement Practices of Government Agencies in New South Wales and their Impact on the Social Development of the People of New South Wales, which coincided with the timeframe of this research (Standing Committee on Social Issues, 2024). These complementary data sources revealed significant discrepancies between policy aspirations and operational realities, highlighting the central research problem addressed in the following section: the persistent implementation gap between social procurement policy objectives and their practical execution within the construction industry (Bridgeman & Loosemore, 2024).

The construction industry plays a pivotal role in shaping Australia's built environment and has far-reaching social, economic, and environmental implications (Chiveralls et al., 2012; Hurlimann et al., 2018; Hurlimann et al., 2019). The industry's performance is critical to national prosperity and long-term sustainability (Brown et al., 2020; Ebekoziem et al., 2021). Specifically, the construction industry is a major economic driver, contributing approximately \$360 billion to the Gross Domestic Product (8%–9%) in 2023–2024 and is the

fourth largest employing industry (1.3 million)(Australian Bureau of Statistics, July 2024). In 2023–2024, over 83,453 Commonwealth contracts were issued, with building and construction contracts representing the second-largest category (Department of Finance, 2025). It is estimated that government contracts represent 10% of gross domestic product (Seddon, 2023, p. 323).

However, the construction industry faces several significant issues. These challenges include a long-standing reputation for prioritising cost and profit considerations over safety and an entrenched resistance to change—particularly in relation to the adoption of corporate social responsibility (CSR) practices (Loosemore & Lim, 2018; Truscott et al., 2009; Watts et al., 2015). Although CSR and sustainability initiatives are increasingly embedded in policy and procurement frameworks, the construction industry has demonstrated limited uptake and inconsistent implementation, reflecting both institutional inertia and a lack of alignment between social procurement policy objectives and prevailing commercial imperatives (Loosemore et al., 2023a; Loosemore & Reid, 2019; Martin et al., 2018)

1.2 Statement of Research Problem

This research explores the requirements embedded within social procurement policies, specifically the mandate to employ individuals from disadvantaged backgrounds. As a secondary focus, the study examines the ambiguous and broadly defined expectations of construction firms to generate social value beyond the inherent value created by the project deliverables themselves.

Prior research investigating the implementation of social procurement policies within the construction sector, across both Australian and international contexts, has identified substantial barriers to successful policy execution (Loosemore et al., 2019; Lou et al., 2023; Troje, 2021a). These barriers predominantly arise from entrenched industry practices and the hierarchical, project-based structure of the sector, which is often bound by cost and time constraints (Loosemore et al., 2019; Loosemore & Reid, 2019). For instance, a key barrier is that head contractors assume primary responsibility during the tendering phase, yet subcontractors often bear the operational burden of implementing employment obligations without receiving resources or institutional support (Troje & Andersson, 2021; Troje & Gluch, 2020a). A key objective of this research is, therefore, to reduce the gap between

policy intent and implementation by examining the employment requirements within the framework of relevant social procurement policies in New South Wales (NSW) and Victoria, encompassing both the tender process and subsequent implementation phases.

Social procurement policies operate within the formation and implementation of government procurement contracts and ‘find their way into key stages in procurement procedure’ (Rees, 2024, p.12). These stages include the issuing of the expression of interest, the tender process, contract awarding, and project-level implementation (Rees, 2024, p. 26). Accordingly, this research examines social procurement across key dimensions of policy implementation: policy analysis, the tender process and implementation at project level.

Policy Analysis

There is evidence both internationally and in Australia that structural and operational complexities continue to impede the successful implementation of social procurement policies (Lou et al., 2023; Meltzer et al., 2024). Scholars have argued that a critical issue lies in governments potentially underestimating the complexities of construction projects and the capacity of firms and subcontractors to achieve employment targets (Loosemore et al., 2019; Loosemore et al., 2024; Lou et al., 2023). For this reason, many studies have primarily focused on the impact of the social procurement requirements on the industry and often do not explore the policy framework or its context in sufficient depth (Loosemore et al., 2024; Lou et al., 2023; Troje, 2021a). This indicates that further research is warranted to explore how social procurement policies, and specifically their employment requirements, are articulated within policy frameworks.

Furthermore, although previous research has addressed broader policy considerations (Troje, 2021a), this study incorporates insights from the policy-led procurement literature (Harland et al., 2021) and integrates legal perspectives drawn from relevant common law cases in jurisdictions beyond Australia (see Chapter 2, Section 2.3).

Tender Process

Government contracts typically commence when government agencies issue project requirements, including any social procurement specifications. When tendering, firms must address these requirements, including any employment targets and other social procurement requirements (Loosemore et al., 2024). The social procurement requirements may form part of a firm’s contractual obligations with the government agency when the contract is awarded

(Barnard, 2017; Denny-Smith et al., 2021; Federspiel & Dittmer, 2013; Halloran, 2013, 2017).

Once the contract is awarded to the successful construction firm, firms have difficulty finding and training people from disadvantaged backgrounds, as previous research has found (Loosemore et al., 2019; Troje, 2021a). There is also evidence that the social procurement policies are creating confusion and uncertainty (Loosemore et al., 2024; Troje & Kadefors, 2018). The tender process is, therefore, a critical phase for social procurement implementation in government contracts (Seddon, 2023, p. 504), yet it has received limited scholarly attention in social procurement research.

Practical Implementation—Project Level

Previous research has found that firms have difficulty finding, training and supporting people from disadvantaged backgrounds (Loosemore, Denny-Smith, et al., 2021). To meet employment requirements, firms and subcontractors are encouraged to collaborate, or at a minimum engage, with not-for-profit organisations that may be able to supply, train, and support people from disadvantaged backgrounds (Loosemore et al., 2019). These organisations are commonly referred to as ‘third party organisations’ and play a crucial role in facilitating the social procurement requirements and specifically supplying candidates to meet employment requirements (Loosemore, Denny-Smith, et al., 2021). Previous research has identified barriers to cross-sector collaboration, including traditional recruitment practices and the impact of the transitory project-based environment (Loosemore, Denny-Smith, et al., 2021).

The importance and role of intermediaries has been explored in the sustainability literature (Kivimaa et al., 2019), and their presence has been found to facilitate cross-sector collaboration (Agogué et al., 2017; Barraket, 2020; Edler & Yeow, 2016; Kivimaa et al., 2019). However, the mechanisms through which construction firms engage with third-party organisations remain underexplored (Lou et al., 2023). Additionally, Troje (2021b) suggests that further research is needed to understand how employment requirements are implemented at project level. This underscores the need for further investigation into strategies that promote meaningful and sustainable cross-sector engagement at project level.

Substantial evidence demonstrates that firms and subcontractors frequently lack the requisite resources to effectively identify, train, and support candidates from disadvantaged

backgrounds (Loosemore et al., 2020; Loosemore, Denny-Smith, et al., 2021; Loosemore, Keast, et al., 2022b). Given the considerable constraints imposed by the transitory and project-based nature of construction work on collaborative arrangements with third-party organisations, this research seeks to enhance understanding of how firms might effectively engage with external support organisations, particularly where firms lack the internal capacity to independently recruit, train, and employ individuals from specific disadvantaged backgrounds.

The research aims to bridge the gap between policy intent and practical implementation, thereby improving policy alignment. One of the key objectives is to investigate improvements to the policy design of the employment requirements in order to identify solutions to persistent challenges in policy execution. The following section outlines the background and context of the research, before presenting the research questions, objectives, and scope and providing an overview of the methodology.

1.3 Background and Context of the Research

The practice of including social procurement and environmental requirements in public procurement is transforming traditional procurement into a mechanism for addressing broader societal challenges, such as the underemployment of disadvantaged groups (Barraket et al., 2016; Flynn & Davis, 2014; Watts et al., 2021). The research investigates the emerging practice of incorporating employment requirements and the requirement to create additional social value in the project within government contracts, the objective being to improve policy design and implementation.

This development raises important questions regarding the appropriate utilisation of government contracts and procurement practices within two broader key academic paradigms: New Public Governance (NPG) and government-driven CSR. To contextualise this research, the following section provides an overview of NPG and government contracts and also considers this research in the context of government-driven CSR (Almatrooshi et al., 2018; Eadie & Rafferty, 2014).

The first paradigm is NPG, which characterises how governments increasingly attempt to enhance public value creation by advancing collaborative relations across sectors and levels of society (Krogh & Triantafillou, 2024; O'Flynn, 2007). The second paradigm is

government-driven CSR (Moon, 2004). This research takes place amid the increasing use of procurement by governments to encourage CSR in contractual relationships with for-profit entities (Dentchev et al., 2015; Eadie & Rafferty, 2014; Knudsen et al., 2015). Each of these paradigms is briefly outlined in the following sections, concluding with an overview of international approaches and recent relevant case law.

1.3.1 New Public Governance and Government Contracts

Traditional public administration has undergone a significant transformation since the 1980s, moving from traditional hierarchical approaches (Hughes, 2003, p.1) towards what scholars term New Public Governance (NPG) (Bryson et al., 2014; Krogh & Triantafillou, 2024). This shift has fundamentally altered how governments achieve public policy obligations. Where traditional public administration assumed direct government service provision, NPG represents a departure from traditional hierarchical public administration, instead emphasising networked, collaborative approaches to policy implementation (Bryson et al., 2014; Krogh & Triantafillou, 2024).

The shift to NPG and the related New Public Value paradigm also represents an evolution in public sector management thinking (O'Flynn, 2007). This paradigm acknowledges the growing involvement of non-governmental actors, including for-profit and not-for-profit organisations, in public service delivery as co-creators of public value (Brown, 2021; Krogh & Triantafillou, 2024). Within this framework, the state should function as a facilitator, aligning the efforts of public, private, and not-for-profit entities with clearly defined public goals and outcomes (Bryson et al., 2014; Goldfinch & Halligan, 2024).

As a result, increasing attention has been paid to how public value is created and measured (Brown, 2021; O'Flynn, 2007) and how policies can be used to require for-profit firms to create value in addition to the main purpose of the contract (Brown, 2021; Cashore, 2021; Harland et al., 2021).

This research focuses exclusively on employment requirements in government infrastructure projects and, therefore, is conducted in the context of government contracts (Rees, 2024, p. 12). Social procurement policies establish broad social procurement objectives, which government agencies then incorporate as project requirements into the tender/request for tender (Rees, 2024, p.12). The construction firms then formulate a response and any requirements are considered and weighed when awarding government

contracts to construction firms (Arrowsmith, 2010; Furneaux & Barraket, 2014). Once a contract is awarded, the obligation to employ individuals from disadvantaged backgrounds (in this study referred to as ‘candidates’) may become part of the contractual obligation between the government and the construction firm (Loosemore, Denny-Smith, et al., 2021).

Seddon (2023) examines the role of government as a trustee of public funds obliged to act in the public interest and explores the unique nature of government contracts with private entities. The author argues that the increasing reliance by governments on contracts, being a private law instrument, often conflicts with the ‘public purpose of government’, specifically public law values such as openness, fairness, participation, honesty, and rationality (p. 18). Seddon argues that the resulting contracts often reflect private law principles that prioritise efficiency and risk allocation over public values and concludes that the use of private legal frameworks often sits uneasily with the normative obligations of public law (p. 19).

Seddon (2023) further argues that the tension caused by governments’ increasing reliance on contracts represents one of the central constraints of the NPG paradigm. The author suggests that, outside the public law literature, other disciplines, such as management and economics, do not often consider NPG in the context of the ‘inherent limitations of contracts as a tool for achieving public outcomes’ (p. 6). This research may thus provide an opportunity to explore this tension.

Construction firms provide an interesting example to explore this tension as they are known to have cost- and risk-focussed priorities and be resistant to adopting CSR practices (Hurlimann et al., 2018; Hurlimann et al., 2019; Zhang et al., 2019; Zheng et al., 2022). This research investigates how such issues may play out in the context of social procurement policies that require the employment of disadvantaged groups in government contracts, particularly where governments seek to create social value or public value outcomes with construction firms (Farag, 2019; Farag & McDermott, 2015; Furneaux & Barraket, 2014).

The NPG paradigm has emerged concurrently with governments driving CSR for-profit firms and with the evolution of corporate purpose among for-profit firms (Knudsen & Moon, 2017, 2022; Langford, 2020; Mathiopoulos, 2017). This parallel development reflects a shifting landscape where public administration frameworks and business practices increasingly intersect and influence one another (Dentchev et al., 2015; Erridge, 2007; Knudsen & Moon, 2022; Moon & Parc, 2019). As governments adopt more collaborative and

value-oriented approaches to governance, they simultaneously exert greater influence on corporate behaviour through various policy instruments (Albareda, 2007; Albareda et al., 2008; Dentchev et al., 2015).

Accordingly, the following section briefly outlines the complex interplay between government-driven CSR initiatives, the evolving conceptualisation of corporate purpose, and the public policy mechanisms that have the potential to shape this relationship (Knudsen & Moon, 2017; Mayer, 2021). This analysis will illuminate how governments and changing business practices mutually reinforce new understandings of the role of corporate social responsibility in addressing societal challenges (Nelson, 2008; Tamvada, 2020).

1.3.2 Government-driven CSR and Public Policy

Brammer et al. (2012) observe that CSR research often navigates this tension between voluntary engagement and legally binding obligations—a paradox that is particularly evident in the context of social procurement policy. Research into social procurement policies occupies a unique position at the intersection of government regulation and CSR, where the voluntary nature of corporate social responsibility meets the binding obligations of public procurement frameworks (Albareda et al., 2007; Fox et al., 2002; Steurer, 2010b). The relationship between public procurement and corporate social responsibility has been well established in the literature, as governments increasingly use procurement to pursue social and ethical objectives beyond value for money (McCrudden, 2007b; Steurer, 2010b). McCrudden (2007b) provides a foundational analysis of how procurement frameworks can be leveraged to advance CSR objectives, offering a useful conceptual basis for understanding the intersection of government purchasing power and broader social accountability.

These policies have the potential to encourage social procurement practices through contractual mechanisms and are therefore potentially part of an array of government measures that challenge the conventional view of CSR as a solely voluntary action (Alvarez et al., 2020; Dentchev et al., 2015; Knudsen & Moon, 2022; Knudsen et al., 2015). The integration of employment requirements into government contracts is an example of a broader shift in CSR from voluntary initiatives to institutionally embedded obligations (Dabic et al., 2016; de Bakker et al., 2020; Isaksson et al., 2019).

The role and scope of CSR remain subject to ongoing scholarly debate. Gond and Moon (2011) characterise CSR as an evolving concept, while Okoye (2009) argues that CSR

constitutes an essentially contested concept, suggesting that a definitional consensus is unlikely to emerge. This conceptual ambiguity is compounded by CSR's historical foundation as a voluntary framework (Latapí Agudelo et al., 2019).

Voluntariness is traditionally a defining characteristic of CSR (Dentchev et al., 2015; Gatti et al., 2019; Tamvada, 2020). This voluntary dimension of CSR is exemplified in Carroll's (1991) influential definition, which positions CSR as encompassing the economic, legal, ethical and discretionary expectations that society has of firms. Subsequently, Carroll (2016) has emphasised that these responsibilities should not be interpreted as hierarchical. Scholars have often noted that Carroll's definition and the associated CSR pyramid frame CSR as encompassing practices that extend beyond mere compliance with the law (McWilliams & Siegel, 2001; McWilliams & Siegel, 2011; Moran et al., 2019).

Dahlsrud's (2008) meta-analysis of CSR definitions reveals that most conceptualisations frame the concept in terms of activities that are voluntary and beyond the law. Crane (2008) defines CSR as a set of company values encompassing 'voluntary activities that go beyond those prescribed by law; internalising or managing negative externalities; a multiple stakeholder orientation beyond just shareholders; aligning social and economic responsibilities to maximise profitability; and embodying practices and values that extend beyond philanthropy' (p. 10). However, there is a growing body of literature questioning the extent to which CSR is genuinely voluntary (Dentchev et al., 2015; Gatti et al., 2019; Thirarungrueang, 2013). Mares (2010), for example, argues that CSR should not be viewed as a purely voluntary concept and contends that it is increasingly acquiring legal significance. In line with this shift, social procurement policies enforce CSR-related practices through contractual mechanisms, thereby challenging the conventional understanding of CSR as solely voluntary action (Alvarez et al., 2020; Ankersmit, 2020; Snider et al., 2013).

The increasing use of policies by governments to encourage CSR takes place as part of a broader debate about the changing nature and purpose of the firm (Dentchev et al., 2015; Knudsen & Moon, 2022; Langford, 2020). Historically, modern firms existed for a public or social purpose (Husted, 2015; Latapí Agudelo et al., 2019). Today, there is renewed debate about the purpose, role, and nature of the corporation, in academia (Clarke, 2015; Mathiopoulos, 2017; Mayer & Roche, 2021; Marshall & Ramsey, 2012), the legal field (Horrigan, 2010, 2025; Langford, 2020), and corporate circles (Australian Institute of Company Directors, n.d.; Business Roundtable, n.d.).

While modern corporations are principally accountable to shareholders (Clarke, 2020), it has been suggested that the corporation's purpose, nature, and role should be considered in its social and environmental landscape (Langford, 2020; Mathiopoulos, 2017; North, 2018). Recent scholarship indicates a recognition of the need for corporations to address social needs and mitigate societal risks (Clarke, 2013, 2015, 2020; Langford, 2020; Stout, 2013).

There are competing visions of the corporation's purpose (Edmans, 2020; Freeman, 1984; Friedman, 2007; Waitzer, 2018). Friedman's (2007) view—that the firm's only social responsibility is to maximise profits—has influenced modern management practice and corporate law (Clarke 2013, 2020). Tracing the development of corporate theory, Clarke (2015) argues that many of the predictions made by Berle and Means (1991) concerning the negative consequences of separation of ownership and control have been borne out over time.

Freemans' (1984) stakeholder theory offers a competing and increasingly dominant perspective, which is now widely regarded as a valuable tool for strategic management (Bonnafoous-Boucher & Rendtorff, 2016; Freudenreich et al., 2020; Marshall & Ramsey, 2012). Stakeholder theory has informed legal and policy developments, such as the incorporation of the 'enlightened shareholder' in the United Kingdom's *Companies Act 2006* (Clarke, 2017, p.406). Similarly, Mayer (2016) contends that the corporation's purpose should be to produce profitable solutions to societal problems, advocating a model that requires minimal legal intervention. Supporting this view, Edmans (2020) presents extensive empirical evidence demonstrating the economic advantages of purposeful governance. The COVID-19 pandemic has further intensified these debates, illustrating how firms can benefit by responding to societal needs and risks (Crane & Matten, 2021; Ebekoziem et al., 2021; Sakthivel et al., 2021; Zhao, 2021).

Social procurement policy research occupies a critical intersection of public policy, corporate purpose, and evolving CSR frameworks in private enterprises (Alvarez et al., 2020; de Bakker et al., 2020; Fox et al., 2002; Steurer, 2010a). The analysis of social procurement policies, particularly employment requirements, provides a distinct context for examining this intersection, as there is evidence that social procurement policies are driving social procurement practices in Australia's construction industry (Eadie & Rafferty, 2014; Loosemore, Alkilani, et al., 2021). Previous research into CSR practices within this sector has revealed them to be limited, inconsistent, and characterised by an insufficient

understanding of CSR principles (Loosemore & Lim, 2018; Truscott et al., 2009). Importantly, it is into this complex environment that social procurement policies were introduced.

1.4 Research Questions and Objectives

This research examines the requirement in government construction projects to employ disadvantaged groups as part of social procurement policies. Although secondary, it also considers the requirement for construction firms to demonstrate how they may generate additional ‘social value’ within construction projects. The overarching aim is to bridge the gap between policy intent and implementation. A key objective is to identify new enablers to successful implementation and policy design.

This study seeks to improve policy design and implementation by analysing three critical stages of the implementation process: the introduction of written social procurement policies in New South Wales and Victoria and participants’ views on these policies; the incorporation of employment requirements in the tender phase; and the application of these requirements at the project level. Chapter Two provides a review of the literature examining the evolving landscape of social procurement policies in the construction industry. This review has informed the development of the research questions guiding this investigation. Through critical analysis of existing scholarship, the review identifies gaps in the current body of knowledge.

The literature reveals that while social procurement initiatives are gaining prominence globally, gaps remain in the research about their practical implementation within the Australian construction sector. Australian and international studies have highlighted misalignments between policy frameworks and the realities of construction projects, noting that social procurement policies can generate confusion and uncertainty. There is little in-depth analysis of written social procurement policies and government documents, particularly in the Australian context. This suggests that further research into how such policies—and specifically employment requirements—are framed is warranted, especially in light of jurisdictional differences across Australian states.

Despite the critical role of the tender process in awarding government contracts, research into how social procurement requirements operate in this phase is limited. Research

has also identified third-party organisations from the civil sector as critical in facilitating the implementation of social procurement, particularly employment requirements. However, little is known about how these organisations interact with construction firms at the project level.

This study, therefore, seeks to enhance our understanding of project-level practices related to employing disadvantaged groups, with a particular emphasis on the role of not-for-profit organisations in supporting implementation. By examining the current and potential contributions of these organisations, this research aims to identify pathways that enable firms and subcontractors to meet policy requirements more effectively, while also providing governments with greater insight into the feasibility and impacts of these policies.

The research questions are designed to address these knowledge gaps and contribute to both the theoretical understanding and the practical application of employment requirements in construction settings. Particular attention is given to the interplay of barriers and enablers that influence implementation across different contexts. The overarching research question and sub-questions are:

How might the policies be framed or refined to bridge the gap between policy intent and implementation?

1. What are the relevant social procurement policies that identify the employment and ‘social value’ requirements within the jurisdictions of New South Wales and Victoria? How do they operate in practice?
2. What are construction managers’ and relevant actors’ responses to policies requiring the employment of people from disadvantaged backgrounds and the creation of social value in government projects in the tender process in NSW and Victoria?
3. How do relevant actors implement the policies and interact with third-party organisations at the project level? How do third-party policy intermediaries assist firms in meeting employment requirements?

By addressing these research questions, this study seeks to bridge critical knowledge gaps while also providing practical insights that may inform policy development and industry practice in the domain of social procurement within the Australian construction sector.

1.5 Overview of Methodology

Chapter 3 presents the research methodology, delineating the qualitative framework employed in this investigation. Data collection was conducted through semi-structured interviews with 23 participants. The participants were a representative cross-section of policy stakeholders. Participants' views on the policies are presented in this study's findings chapters. The analysis also incorporated publicly available government documentation, encompassing standardised social procurement clauses and policy frameworks. A comparative analysis was undertaken between the official policy positions articulated by the NSW and Victorian Governments and the interpretations provided by participants across both jurisdictions. The implementation of the employment requirements in the tender process and at project level, focussing on interaction with third parties, was also explored with all participants.

Many of the previous studies in Australia have employed case studies of collaborative arrangements of large construction firms, where third-party organisations were physically present at the project site, to examine the implementation of the social procurement policies (Barraket & Loosemore, 2018; Loosemore, Denny-Smith, et al., 2021; Loosemore et al., 2020; Loosemore, Keast, Barraket, et al., 2022) and incorporated the perspectives of stakeholders within that project. Other studies have focused on social procurement from the perspective of a single stakeholder group such as subcontractors (Loosemore et al., 2020), or employment professionals (social procurement champions) (Loosemore, Keast, et al., 2022a; Loosemore, Keast, et al., 2021)

Prior research on social procurement policies has combined the requirements of integrating social enterprises into supply chains and meeting employment targets for disadvantaged groups. Studies have also sometimes included private sector clients. (Loosemore et al., 2024; Troje, 2021a; Troje & Gluch, 2020b).

This study has employed a purposeful recruitment strategy, ensuring that participants had a direct professional connection to the employment of disadvantaged groups in government-funded projects only.

1.6 Scope of the Research

The research is geographically confined to NSW and Victoria and, specifically, examines the employment requirements for disadvantaged groups and social value obligations within government infrastructure projects, rather than social procurement policies more broadly. Furthermore, while the integration of social enterprises within supply chains is a feature of social procurement policies, issues relating to social procurement policies are not included in this research.

Previous studies have explored the creation and measurement of social value in construction projects (Burke & King, 2015; Farag, 2019; Watts, Dainty, et al., 2019). This research focuses on exploring how the social value requirement as a policy is framed in NSW and Victoria. The research also explores how firms interpret and respond to this requirement in the tender process, which requires the firm to indicate how they might create additional social value in a government project. Although the study does not explicitly investigate the creation and measurement of social value, participants provided insights on whether employment requirements contribute to broader social value or social sustainability objectives.

This research does not examine the specific challenges faced by each individual cohort of disadvantaged groups for several reasons. Prior studies have shown that different groups, such as ex-offenders and unemployed youth, encounter distinct barriers to employment in the construction industry (Loosemore et al., 2019; Loosemore, Bridgeman, et al., 2021; Meltzer et al., 2024). The creation of social value in Indigenous policies has also been examined in-depth (Denny-Smith, 2022; Denny-Smith et al., 2020). By contrast, this study adopts a broader policy-level perspective, examining how social procurement policies frame and implement employment requirements for disadvantaged groups collectively, rather than analysing each cohort separately. The aim is to improve employment outcomes for all disadvantaged cohorts, including Indigenous people, through an enhanced understanding of overarching policy implementation mechanisms.

This study takes this approach for two key reasons. First, it aims to enhance the broader policy framework and improve firms' implementation strategies, thereby strengthening outcomes for all disadvantaged groups collectively. Second, it recognises that many challenges in meeting employment requirements stem from the structural

characteristics of the construction industry, including its project-based nature and short-term employment cycles.

Indigenous employment policies were also not the primary focus of this research for several reasons: these policies have operated for a significant period in both states with established infrastructure and support mechanisms; they constitute separate policy frameworks with distinct governance arrangements; and research focusing specifically on Indigenous employment typically requires specialised ethics approval due to the unique cultural and historical considerations involved (Denny-Smith et al., 2020). While some participants were professionally involved in the implementation of Indigenous employment policies, this was not the central focus of the interviews.

The research examines the employment and social value requirements within the context of the tender process. However, it does not extend to a detailed analysis of the commercial considerations and documentation involved in tendering, nor does it investigate how governments formulate the criteria for awarding contracts. The following section provides an overview of the structure of the thesis.

1.7 Social Procurement Policies

Social procurement policies set out social and environmental requirements that government agencies might include in public procurement contracts and that are not essential to the main purpose of the procurement contract (Arrowsmith, 2010; Loosemore et al., 2018). Furneaux and Barraket (2014) have provided a wider definition of social procurement within the context of public management. The authors suggest that social procurement is the government's acquisition of a range of assets and services, with the aim of creating social outcomes both directly and indirectly. Social procurement policies in the context of this study concern the delivery of social value indirectly in government contracts (Rees, 2024, p. 25).

Social procurement policies are referred to as 'horizontal policies' in the public and procurement law literature because they sit alongside the main contract purpose (Arrowsmith, 2010). Social procurements are not essential to what the government is buying—instead, governments are using their purchasing power to create additional social benefits through procurement contracts. For example, if the government is buying road construction, the social procurement policy might require the contractor to hire local workers or provide

apprenticeships. The creation of the road is the central purpose of the contract and is the direct public value being created by the contract (Samuelson, 1954); the employment of disadvantaged groups is the indirect social value created through the contract (Troje, 2020). This distinction is explained further in Section 2.2.2.

Within the broader literature, definitions of social procurement are frequently tied to the creation of social value within supply chains (Lou et al., 2023). Social procurement is also often positioned as a component of sustainable development, as it often refers to firms incorporating environmental practices in their supply chain (Hutchins & Sutherland, 2008; Lou et al., 2023; Luísa & Alawiya, 2016; Willar et al., 2021).

This study investigates participants' perspectives on addressing both longstanding and emerging barriers within social procurement policy frameworks. Chapter 4 presents a comprehensive comparative analysis of policy instruments from both jurisdictions, specifically examining employment provisions and social value requirements.

To contextualise the employment provisions and social value requirements analysed in Chapter 4, this section provides an overview of relevant social procurement policies in New South Wales and Victoria. This contextual foundation is followed by an outline of the research scope and thesis outline.

1.7.1 Overview of Employment Requirements in NSW and Victoria

In NSW and Victoria, government tenders can include employment requirements, although they may vary depending on agency and project. Notwithstanding such variation, several shared key features are discernible. Government agencies in both states may impose specific employment requirements in projects, including the employment of people from various disadvantaged groups (Loosemore & Reid, 2019). In addition, when tendering for larger contracts, firms may be required to show how they would create additional social value in a project (Denny-Smith et al., 2021; Troje, 2021b).

The Victorian Government has adopted a Social Procurement Framework that requires all departments and agencies to consider employment and job readiness targets for disadvantaged groups, including those with a disability, migrants, the long-term unemployed, or workers in transition (Victorian Government, 2025).

NSW does not have a standalone social procurement policy. In 2018, the NSW Government did, however, develop the 'Ten-Point Commitment Plan', in conjunction with

the construction industry, to facilitate the efficient delivery of infrastructure projects in NSW (NSW Government, 2018). The 2023 Progress Report (NSW Government, 2023) for the Plan suggests that not only ‘government departments’ but ‘contractors may also adopt additional targets on the project’, including long-term unemployed persons, refugees, and asylum seekers, people with disability, returned service men and women.

As part of the Ten Point Commitment Plan, the NSW Government has also introduced the Industry Skills Legacy Plan (ISLP) (NSW Government, n.d.-a), which includes employment targets (see Table 1.1). The ISLP does not refer to the employment of disadvantaged groups; the only reference to the employment of disadvantaged groups is found in the Ten Point Commitment Plan. The table below is drawn from the ISLP policy.

Table 1.1

Industry Skills Legacy Program (ISLP): Skills and Diversity Targets

Target	Contract Value \$7.5–\$10m	Contract Value \$10–100m	Contract Value over \$100m
Aboriginal Procurement Policy	Applicable	Applicable	Applicable
20% of Trades Workforce to be Apprentices	N/A	Applicable	Applicable
20% of Project Workforce to be Learning Workers	N/A	N/A	Applicable
2 % of Trades Workforce to be Women	N/A	N/A	Applicable
8% of Project Workforce to be Young People	N/A	N/A	Applicable
Report on Local Employment Outcomes	N/A	N/A	Applicable

Source: Infrastructure Skills Legacy Program (ISLP) (NSW Government n.d.)

The ISLP provides important contextual background for the employment requirements in NSW, although these are not directly examined in this research. The relationship to the requirements to employ people from disadvantaged backgrounds is explored further in Chapter 4.

1.7.2 What Are Social Value Requirements?

In government contracts with construction firms and other for-profit companies, there may be a requirement to show how ‘additional indirect social outcomes’ might be created in the project (Loosemore et al., 2024). This requirement may be embedded in the contractual obligations, requiring the for-profit entity to ensure these outcomes are realised as part of the government project (Loosemore et al., 2024). Previous research has referred to ‘social value requirements’ in government projects, yet the origin, nature, and relationship of this requirement in social procurement policies are unclear (Loosemore et al., 2024; Lou et al., 2023).

Depending on the contract size, construction firms tendering for government projects in both NSW and Victoria may be required to demonstrate how they intend to generate additional social value within the project. In NSW, the Procurement Policy Framework incorporates social value considerations as part of a ‘non-price evaluation criterion’, requiring tendering firms to outline how their proposals align with the NSW Government’s economic, ethical, environmental, and social priorities (NSW Government, 2024, p. 56). The requirement to demonstrate alignment with the government’s environmental and economic priorities, however, falls outside the scope of this research.

Similarly, in Victoria, the Social Procurement Framework emphasises the policy aim to integrate social value in government projects, outlining mechanisms for enhancing social outcomes through procurement processes (Victorian Government, 2018).

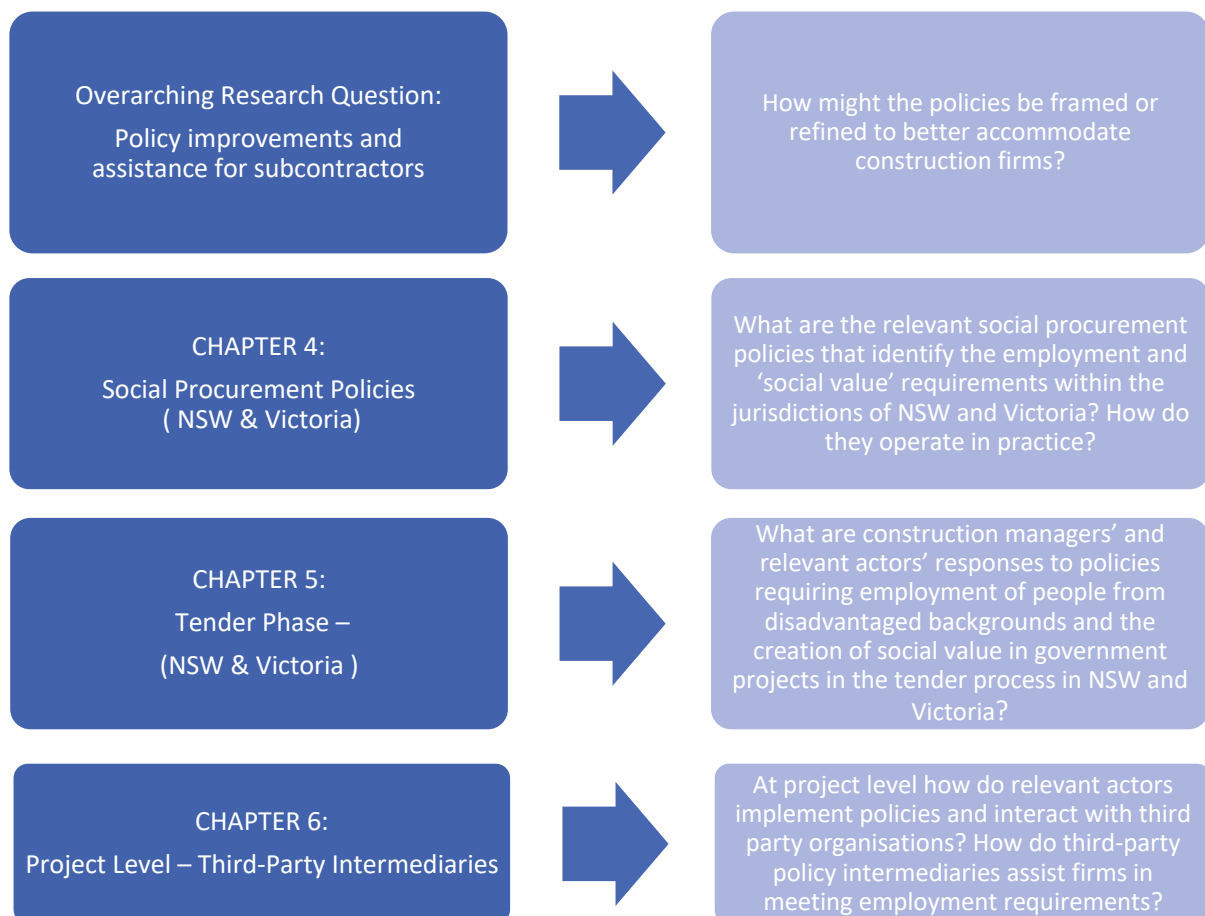
The increasing emphasis on social procurement policies has spurred academic interest in defining, measuring, and reporting social value within construction projects (Bridgeman & Loosemore, 2024; Daniel & Pasquire, 2019b; Farag et al., 2016; Wright, 2015). However, the scope of this research is confined to exploring how the social value requirement in NSW and Victoria is framed. The research also explores participants’ views of the social value

requirement in NSW and Victoria, and how construction firms interpret and respond to this requirement during the tendering process.

1.8 Thesis Outline

Figure 1.2

Research Questions and Chapters



Chapter 1 establishes the context and rationale for the research, outlining the research objectives, questions, and methodological approach. It also provides a brief overview of the subsequent chapters.

Chapter 2 synthesises the literature on social procurement within the construction industry, identifying the known barriers to and enablers for implementing employment requirements. It examines the theoretical frameworks used in previous studies and explores alternative theories that could be applied. The review highlights gaps in existing research that informed the development of the research questions. Additionally, the chapter provides a brief overview of social procurement research outside the construction industry, offering broader contextual insights.

Chapter 3 outlines the methodological approach used for data collection and analysis, incorporating ethical and risk management considerations. It includes detailed examples of NVivo coding to illustrate and support the methodology. The approach is specifically tailored to align with the exploratory qualitative design of the research.

Chapter 4 presents the detailed findings from the analysis of policies in Victoria and NSW, supported by participant explanations. The purpose of the chapter is to examine the written policies associated with the employment requirements to investigate the improvement of policy alignment with implementation. The findings are divided into NSW and Victorian participants. **This chapter addresses Research Question One:** What are the relevant social procurement policies that identify the employment and ‘social value’ requirements within the jurisdictions of New South Wales and Victoria?

Chapter 5 presents the findings from the analysis of participants’ experiences and perspectives on the tender process. Given the differences in the approach to written social procurement policies identified in Chapter One, the findings are divided into NSW and Victoria. **This chapter addresses Research Question Two:** What are construction managers’ and relevant actors’ responses to policies requiring the employment of people from disadvantaged backgrounds and creating social value in government projects in the tender process in NSW and Victoria?

Chapter 6 examines the role of third-party policy intermediaries in supporting the implementation of social procurement policies. The findings are presented first from the perspective of participants internal to the construction project, followed by the perspectives

of third-party intermediaries external to the project. Given that the chapter focusses on policy implementation at the project level, and the findings did not justify state-based differentiation, the results are presented collectively. **This chapter addresses Research Question Three:** How do relevant actors implement the policies and interact with third-party organisations at project level? How do third-party policy intermediaries assist firms in better implementing employment requirements?

Chapter 7 discusses the key findings in relation to the existing literature, synthesising the research outcomes, highlighting their contributions to knowledge, and introducing new theoretical insights by using both Agency Theory and Systems Thinking. It also examines this study's limitations and proposes directions for future research.

Chapter 8 presents recommendations for policy improvements that may be considered by governments and offers practical guidance that may be of assistance to industry. It summarises the theoretical and practical contributions of the research, followed by a concise conclusion to the thesis.

Chapter 2: Literature Review

2.1 Introduction

Social procurement has emerged as a significant policy instrument whereby governments leverage their purchasing power to achieve social outcomes beyond the primary purpose of acquiring goods and services (Lou et al., 2023). In the context of government contracts with construction firms, social procurement policies increasingly mandate the employment of people from disadvantaged backgrounds. In this research, this mandate is referred to as *employment requirements*. Governments also require firms to show how they might create social value in a project (Loosemore et al., 2025). However, there is a gap between the policy aspirations and practical implementation, which this study seeks to bridge. Informing this research is the existing construction literature on social procurement policies, from which the research questions are drawn.

Structure of the Literature Review

This literature review presents the relevant research through a structured approach that moves from general to specific contexts. Consideration of social procurement in public procurement encompasses policy, legal, and practice considerations (Rees, 2024, p.6). The review begins with a brief overview of social procurement policies in the broader public procurement literature. The next section outlines the legal framework, canvassing common law cases that engage with some of the issues raised in this study. Social procurement research in the construction literature is then reviewed. Theoretical frameworks are addressed last, as they were applied following the conclusion of the research, consistent with a deductive approach. This literature review is therefore structured as follows:

1. Social Procurement Policies in Public Policy
2. Legal Frameworks and International Approaches
3. Social Procurement Policies in Construction Research
4. Theoretical Approaches—Agency Theory and Systems Thinking

First, the literature review explores social procurement policies within the broader context of the public procurement and public policy literature. This section aims to establish a foundation of broad issues and offer a detailed overview of the broader procurement and

public policy literature. Importantly, the definitions of social and public value used in this research are then considered. This approach provides a contextual understanding that attempts to bridge the broader procurement literature with sector-specific analysis.

The second section examines the legal frameworks governing social procurement, with a focus on an overview from Australia and other jurisdictions. While Australian states increasingly adopt social procurement requirements within public procurement, internationally, some countries have established a comprehensive system for embedding social objectives into procurement processes (Arrowsmith, 2020; Arrowsmith et al., 2009; Klaaren & Watermeyer, 2022; Loosemore et al., 2024). This section considers recent case law concerning social procurement in the tender process, illuminating persistent issues including accountability and compliance.

The third section then examines the current state of knowledge regarding social procurement in the construction industry, with a particular focus on employment requirements for disadvantaged groups in government projects. The research questions arose from this literature.

Finally, an overview of agency theory and systems thinking is offered, justifying their selection as the theoretical frameworks for analysing the complex relationships between government agencies, construction contractors, and social outcomes in procurement policies.

Overview of the findings of this literature review

The review of the construction literature has shown that despite a recent increase in research into social procurement policies in the construction industry, critical gaps remain in our understanding. While there is evidence of a disconnect between policy design and its operational realities, gaps remain in our knowledge about how social procurement policies are implemented (Troje & Gluch, 2020). Specifically, few studies have examined the employment requirements in the context of broader social procurement policies, and a comparative examination of the differing approaches to how policies are framed in the jurisdictions of New South Wales (NSW) and Victoria has not been conducted yet.

The few studies that mention employment requirements in relation to the tender process mostly do so in the context of the head contractor agreeing to employment requirements and passing these requirements on to subcontractors, who are then responsible for meeting these requirements (Loosemore et al., 2020; Troje, 2020; Troje & Andersson,

2021). Studies have further found that both firms and subcontractors have difficulty finding and training people from disadvantaged backgrounds and that there is confusion about the social procurement policies as well as associated employment requirements (Loosemore et al., 2024).

However, there are no in-depth studies about the inclusion of social procurement policies and employment requirements in the tender process. There is a parallel scarcity of research regarding third-party organisations, which, in this context, are organisations that assist in finding, training, and supporting firms in implementing employment requirements and social procurement policies (Lou et al., 2023).

The requirement to employ people from disadvantaged backgrounds and associated social procurement practices has an impact at institutional and project levels (Loosemore et al., 2020; Troje, 2021a; Troje & Andersson, 2021). Previous research has found that a key barrier to the successful implementation of these policies is the hierarchical nature of the industry, whereby head contractors tend to pass the employment requirement to employ people from disadvantaged backgrounds to subcontractors on a project (Troje, 2021a; Troje & Andersson, 2021). Subcontractors often lack the resources to find, train, and support suitable candidates (Loosemore et al., 2020).

Research has, however, also identified that it would assist firms and subcontractors in implementing social procurement policies (Lou et al., 2023). Further attention is needed to explore the mechanisms that could support subcontractors in effectively implementing employment requirements established by head contractors (Loosemore et al., 2020). Additionally, further attention is warranted as to when and how firms and subcontractors connect with not-for-profit organisations that can supply people from disadvantaged backgrounds (Loosemore et al., 2020,).

Research to date has illuminated the critical importance of firms, particularly large construction firms, collaborating with the not-for-profit sector to meet the social procurement requirements (Loosemore, Denny-Smith, et al., 2021; Meltzer et al., 2024). Studies have also explored the perspectives of individual stakeholders in social procurement implementation (Loosemore et al., 2020; Loosemore & Reid, 2019). However, very few studies in Australia have explored the perspectives of a cross-section of stakeholders who are not part of collaborative efforts by a large tier-one construction firm (Loosemore et al., 2024).

This literature review finds that the effectiveness of social procurement policies may be improved by increasing our understanding of the intricate interactions between policy design, tender processes, and support structures at a practical level. The following section considers social procurement policies in the public procurement, public policy, and public law literatures. Other studies have helpfully applied principles from the broader policy literature (Troje, 2020); however, this review draws specifically on social procurement policy implementation in public procurement.

Social Procurement Terminology

As a preliminary step, it is useful to clarify the diverse terminology and definitions used across different research domains. While some studies reference broader social procurement policies as a policy tool, legal scholarship has referred to social procurement policies as horizontal policies. (Arrowsmith 2010). Legal scholarship also often discusses these policies in terms of contractual clauses that are not strictly necessary for achieving the primary purpose of the contract (Rees, 2024, p. 26). The following outlines the various terms used in different disciplines to refer to social procurement policies in government procurement.

Rees (2024) observes a ‘proliferation of terminology to describe horizontal policies’ (p.26). Studies in the construction literature in Australia have consistently used the term ‘social procurement policies’ (Furneaux & Barraket, 2014; Loosemore, Keast, et al., 2021). Arrowsmith (2010) conceptualises policies of this nature as horizontal and has previously referred to them as ‘secondary’ policies, acknowledging their ancillary nature relative to the contract’s primary procurement objectives. The authors note that social provisions serve a dual function: they constitute evaluative criteria in the contract allocation process while simultaneously operating as binding contractual terms (Arrowsmith, 2010).

In the public procurement literature, Harland et al. (2021) refer to these policies as ‘policy procurement’, ‘regulation’, and ‘strategic policy instrument’ (p. 221). Such policies have also been referred to as social value policies (Farag, 2015), sustainable public procurement (Miemczyk et al., 2012) and socio-economic policies or collateral policies (Cibinic & Nash, 1998).

Public policy and legal scholarship often discuss the social procurement policies once they have become contractual terms. McCrudden (2007a) and Epstein (2013) employ the

term ‘leverages’, referring to terms in the contract between firms and the government that have been included even though they are not strictly necessary to fulfil the contract’s main purpose. Seddon (2023) refers to the contract clauses that pursue additional ‘policy objectives’ as an ‘extraneous purpose clause’ (p. 52).

The term ‘social procurement policies’ is predominantly used in the construction literature and, therefore, adopted throughout this research. This research examines written social procurement policies, specifically the employment requirements for hiring people from disadvantaged backgrounds. The term ‘requirements’ is used because government tenders initially establish criteria that must be met to win the contract. Once the contract is awarded, these criteria become contractual obligations or ‘requirements’ that construction firms must fulfil under their agreement with the government. The following table sets out the terminology used across various areas of literature.

Table 1.2
Overview of Terms for Social Procurement

Term for Social Procurement Policies and Social Procurement Clauses	Area of Literature	Description of Terms
Social procurement policies (Loosemore et al., 2020) Social value requirements (Farag, 2019; Wright, 2015)	Construction	Procurement of social outcomes from the private sector with social outcomes embedded as secondary outcomes (Furneaux & Barraket, 2015; Troje, 2020)
Horizontal policies (Arrowsmith, 2010) Secondary policies (Arrowsmith, 2006) Social value considerations (Rees, 2024, p. 26)	Public procurement law	Social or environmental objectives that a contracting authority chooses to include in its procurement process, even though they are not inherently necessary to achieve the contract’s functional purpose (Arrowsmith, 2010). Primary purpose of procurement is to purchase goods and services on

		competitive terms. Factors relating to horizontal policies are designated as 'secondary' as they do not relate to this need (Arrowsmith & Kunzlik, 2009).
Policy-led procurement, regulations (Harland, 2023) Sustainable public procurement (Miemczyk et al., 2012)	Public procurement	Public procurement is used as a policy lever to achieve wider social goals and sustainability issues and encourage CSR (Harland et al., 2023)
Community benefit policies (Scotland) (Halloran, 2013; Wontner et al., 2020)	Construction/public procurement	Government policies setting out socio-economic criteria that are inserted into supply contracts (Wontner et al., 2020)
Procurement linkages (McCrudden, 2007a) Extraneous purpose clauses (Seddon, 2023, p. 52) Social clauses (Barnard, 2017; Federspiel & Dittmer, 2013) CSR clauses (Eadie & Rafferty, 2014)	Public law and public policy	Where governments advance conceptions of social justice and equality, and include terms in the contract with for-profit firms to implement these objectives. Terms of the contracts advancing this objective are referred to as linkages (McCrudden, 2007, p. 569)

The following section engages with recent research that positions procurement as a tool for advancing secondary social policy objectives, with a focus on the conceptual and practical aspects of policy framing in procurement settings (Grandia & Meehan, 2017; Harland et al., 2021).

2.2 Public Procurement as a Policy Tool

The strategic use of public procurement spending as a policy instrument to address complex social challenges has historical precedent (McCrudden, 2007a). For example, governments have utilised procurement leverages to counter discrimination in Northern Ireland and the United States (Arrowsmith & Kunzlik, 2009, p. 117), as well as to address unemployment and social inequality (McCrudden, 2007a). Bason and Austin (2022) suggest that due to financial pressure and ‘major societal challenges’, governments need to use procurement to respond with innovative solutions. Several authors have suggested that the intent of social procurement policies is to solve protracted social problems or ‘wicked problems’, such as inequality amongst disadvantaged groups and homelessness, through training and employment (Barraket & Loosemore, 2018; Farag, 2019; Lönngren & van Poeck, 2021). Reflecting this, the relationship between employment services and social procurement policies has also begun to receive scholarly attention (Daguerra et al., 2024).

Despite the growing academic interest in public procurement as a policy tool, there is no consensus regarding its definitional boundaries. Hudon et al. (2021) adopt the Organisation for Economic Development (OECD) definition, which characterises public procurement as the purchasing of goods and services by governments and state-owned enterprises. The authors also note, however, that public procurement is a process that not only involves contractual considerations but also encompasses legal, administrative, and political elements, emphasising its role in safeguarding the public interests (Hudon et al., 2021). Thai (2001), in his seminal work on public procurement, delineates two fundamental procurement objectives: the primary procurement of goods and services, and the secondary pursuit of socio-economic outcomes, including poverty alleviation, local market support, minority inclusion, and educational enhancement.

The increasing use of social procurement policies appears to address both these goals (Arrowsmith & Kunzlik, 2009; Grandia & Meehan, 2017). Snider and Rendon (2008) argue that public procurement has evolved from a mere purchasing function to a strategic mechanism for ‘policy implementation and societal transformation’. Arrowsmith (2010) refers to social procurement policies as ‘horizontal policies’ because they sit parallel to the main purpose of the contract. Arrowsmith (2010) argues that horizontal policies reflect an ‘evolving recognition that procurement can be leveraged not only for economic efficiency but

also for achieving broader social and environmental outcomes (p. 150). There is evidence of an increase in the inclusion of social criteria in government public procurement contracts. (Flammer, 2018; Montalbán-Domingo et al., 2019; Montalbán-Domingo et al., 2018).

A recurring theme in the public procurement and public policy literature is that the increasingly multifaceted role of public procurement inherently generates tensions between economic rationality and social policy objectives (Grandia & Meehan, 2017; Harland et al., 2021). As Harland et al. (2023) explain, public procurement increasingly involves the ‘critical need to balance between achieving policy objectives and ensuring value for money outcomes’.

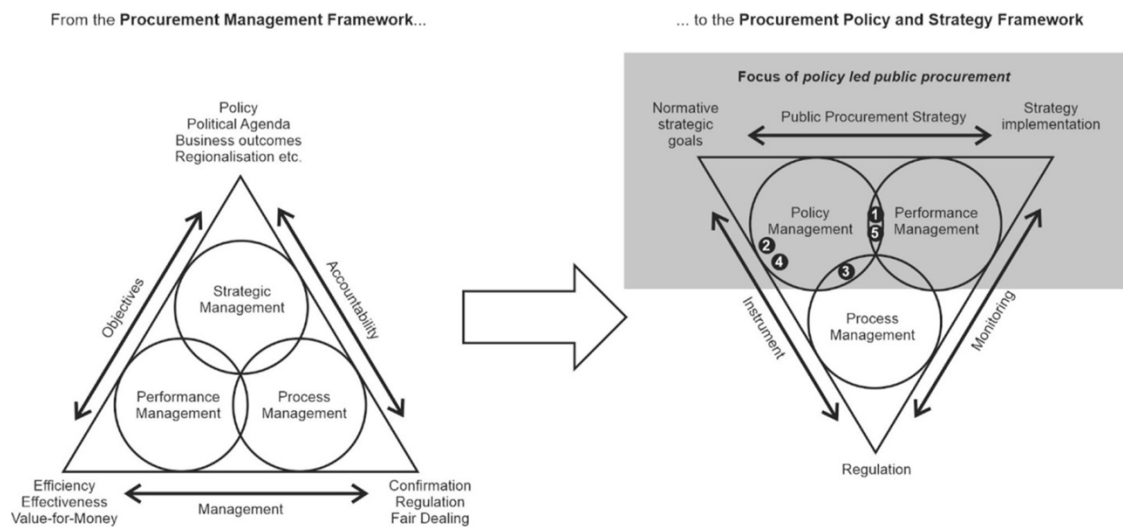
Harland et al.’s (2021) analysis of policy-led procurement reflects the growing view that procurement is no longer a ‘mere purchasing function’. Introducing the special issue on policy-led procurement, the authors propose a conceptual framework that repositions procurement from an operational activity to a strategic policy lever. The authors suggest that there should be further interdisciplinary research, particularly integrating strategic management, performance management, and process management perspectives. This illuminates the complex dynamics of balancing policy imperatives with the most ‘economically advantageous’ tender, usually referred to as ‘best value for money ‘ (Harland et al., 2021).

Harland et al. (2023) propose that regulations (social procurement policies) be at the forefront of public procurement. Figure 2.1 illustrates the previous approach, as suggested by Schapper et al. (2006), where regulations are secondary to public procurement activities, to an approach where regulations are at the forefront of procurement decisions. The numbers on the new framework refer to how the articles in the special issue are positioned in the proposed new approach (Harland et al., 2021).

The authors also argue there is a need for further examination of not only how procurement decisions are made but also how social procurement can be framed to ensure wider social and environmental objectives are prioritised (Harland et al., 2021). Finally, Figure 2.1 highlights the need for greater accountability in the performance of government contracts (Federspiel & Dittmer, 2013; Girth, 2014).

Figure 2.1

Procurement Management Framework Source (Harland et al., 2021)



Harland et al. (2021) suggested a new framework that reflects the significant shift from procurement being a narrowly defined administrative function towards a more sophisticated strategic policy instrument. This challenges traditional efficiency-driven approaches, embracing a holistic framework that simultaneously addresses economic, social, and environmental objectives. To achieve this, the authors suggest that public procurement should embrace ‘market knowledge, collaborative relationships and long-term orientation’ (p.225). Such an approach underscores the increasing complexity of procurement as a policy implementation mechanism, which must balance nuanced societal outcomes with management principles.

Wontner et al. (2019) have investigated the Welsh government’s ‘community benefit’ procurement policy requirements. Their research reveals tensions between community benefit policies and conventional contractual arrangements. The study explores possibilities for mutual advantage between the government and construction firms. The findings indicate that enhanced communication and early engagement between government and contractors may improve outcomes for disadvantaged groups, emphasising the importance of understanding the respective needs of all contracting parties.

2.2.1 Social Procurement Policies in the Tender Process

Policy design of social procurement policies begins at the tender stage. At this stage, broad social procurement policies are developed to provide government agencies with a framework of potential social procurement requirements that can be incorporated into project specifications (Arrowsmith, 2010). Once the contract is awarded, the social procurement requirements may form part of the contract (Arrowsmith, 2010). These may include environmental requirements, inclusion of social enterprises in the supply chain or the employment of people from disadvantaged backgrounds (Rees, 2024, p. 17). Social procurement policies are positioned as secondary to the primary objectives of government procurement contracts (Harland et al., 2023). This is also reflected in the tender phase, where they are usually included in the non-cost part of a tender specification (Rees, 2024, p.13).

Rees (2024), in a chapter on horizontal policies in *Reforming Public Procurement Law*, examines social procurement policy considerations in the tender process, identifying several issues from the combined perspective of a leading practitioner, a legal expert in European and UK procurement law, and an academic. Rees (2024, p.25) discusses the ‘weight’ placed on social procurement policies as a criterion when governments award a contract to a construction firm. The weight represents the percentage value assigned to factors considered when awarding government contracts. The author observes that in her experience as a legal practitioner, social procurement requirements typically account for only 10% of the overall evaluation weighting in a government tender and therefore exert minimal influence on tender outcomes. However, Rees (2024, p. 25) notes that in practice she has been involved in tenders where a 20–30% weighting has been applied to social procurement requirements. The author suggests that when this increased weight is applied to social procurement requirements, there is potential to significantly influence the award of multimillion-dollar contracts.

Rees (2024, p. 26) further states that some government agencies treat social value requirements as ‘free’. In the author's opinion, government agencies often do not properly factor in the cost of delivering the social procurement requirements, in an effort to burden bidders with the cost. This approach can result in bidders submitting the lowest price and being awarded the contract but failing to deliver on social procurement commitments once the project has commenced (Rees, 2024, p.25). Moreover, Rees (2024, p. 27) records the

views of many UK experts that current assessment and scoring methodologies continue to favour lowest-price outcomes and are poorly suited to evolving procurement practices.

While extensive research exists on the tender process from multidisciplinary (Piga & Treumer, 2013) and legal perspectives (Geoffrey, 1998; Lindsey & Eden, 2011), a comprehensive analysis of these procedures falls outside the scope of this study. The tender process is examined to explore an understanding of how social procurement policies operate in the process.

Policy design of social procurement policies begins at the tender stage (Rees, 2024, p.19). This research, therefore, investigates the operational dynamics of social procurement policies across multiple stages—policy formulation, tender processes, and project implementation in construction projects. By examining these interconnected stages, the study aims to critically analyse the inherent tensions and strategic challenges embedded in contemporary procurement approaches.

The following section briefly outlines definitions of social and public value adopted in this research, followed by a review of the legal issues that are relevant to the issues raised by the findings in this research.

2.2.2 Social and Public Value

Governments increasingly leverage procurement to address social issues, which raises important questions about how we define and measure the value they create (Daniel & Pasquire, 2019; Denny-Smith et al., 2021; Farag, 2019). Value is inherently difficult to define as it is a subjective concept whose meaning varies across industries and stakeholder perspectives (Farag et al., 2016; Martin et al., 2018; Meynhardt, 2009). In the context of this research, an appropriate definition of value may be ‘the sum or entirety of benefits obtainable from the exchange’ (Kivleniece & Quelin, 2012, p.274). This interpretation aligns with Benington & Moore’s (2011, p. 33) view that public value should encompass the broader set of societal benefits beyond the simple exchange of economic value. Consequently, this definition also highlights the importance of considering wider social and collective benefits for all parties in government contracts (Brown, 2021).

The increasing emphasis on social procurement policies has spurred academic interest in defining and measuring social value and better understanding how it is created within construction projects (Bridgeman & Loosemore, 2024; Daniel & Pasquire, 2019b; Farag et

al., 2016; Watts, 2019; Wright, 2015). Davies et al., (2023) explored the creation of social value under the U.K. Public Services Social Value Act 2012) and found there is a need for establishing accountability mechanisms and a standard system of measuring the creation of social value in government projects. However, the scope of this research is confined to exploring how the ‘social value requirement’ in social procurement policies, which requires firms to create additional social value in the government construction project, is framed in NSW and Victoria. The research also explores how construction firms interpret and respond to this requirement during the tendering process. Social procurement research also raises important questions about how social value and public value are defined. Therefore, the following section considers what appropriate definitions of social value and public value could be.

Barraket et al. (2015) suggest that the characterisation of the type of value being created by social procurement policies will depend on the lens used. This author notes that the terms ‘public value’ and ‘social value’ often appear interchangeably throughout the social procurement literature. The value created by firms has been described as public (Bryson et al., 2014; Cabral et al., 2019; Keast & Mandell, 2012), social (Frag, 2019), and shared (Porter & Kramer, 2019). However, distinguishing between them is crucial for understanding policy impacts.

In infrastructure projects, two distinct types of value emerge. The primary purpose of a government construction contract is to create a physical structure for public use (Loosemore et al., 2020). This may be recognised as creating ‘public value’ as defined by Samuelson (1954) in his seminal work. Samuelson (1954, p. 387) defines public value as a good which all enjoy in common, in the sense that an individual’s use of the physical public goods leads to no reduction from any other individual’s use of that good. For example, a new bridge or railway is built to serve the broader community but is not reduced in value by individual use of the bridge or railway.

Social value in the context of social procurement policies represents the additional benefits that construction firms create when implementing the policies through their contractual obligations with the government (Cartigny & Lord, 2017; Daniel & Pasquire, 2019a; Wright, 2015). When construction firms employ people from disadvantaged backgrounds, they generate value beyond the infrastructure itself project (Daniel & Pasquire, 2019; Denny-Smith et al., 2021; Farag, 2019) or what Section 1(3)(a) of the *UK Public*

Services (Social Value) Act 2012 describes as additional benefit to the community over and above the direct purchasing of goods and services. This distinction receives critical focus during tender processes, where firms must demonstrate their capacity to create social value alongside delivering primary project outcomes (Daniel & Pasquire, 2019).

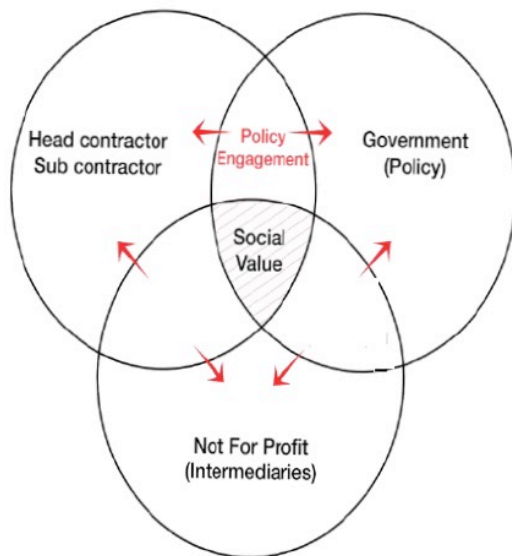
This dual value creation presents unique challenges for construction firms (Troje, 2020). While they have extensive experience delivering public infrastructure, creating social value requires new capabilities and relationships, particularly with social sector organisations (Farag, 2019). These requirements are reshaping how some firms approach government contracts and forcing some firms to reconsider their role in addressing social challenges (Loosemore et al., 2020).

While the dual creation discussed above creates new demands, research shows that construction firms struggle to connect with entities from not-for-profit organisations, highlighting the need for government support in implementing social procurement policies (Loosemore et al., 2024). The Venn diagram below (see Figure 2.2) illustrates the relationship between three key sectors: government entities, construction firms (including subcontractors), and not-for-profit organisations. Each sector occupies its own circle, with overlapping areas representing zones of collaboration and shared interests where social value may be created. The diagram highlights the importance of further research into understanding how these sectors currently interact in practice and how these interactions can be strengthened.

The intersections between these circles represent promising but underdeveloped collaborative spaces where sectors may connect. These intersections demonstrate how sectoral strengths could be combined to achieve outcomes that individual sectors cannot accomplish alone (Barraket & Loosemore, 2018; Cabral et al., 2019). The limited understanding of these intersection points also represents a key research opportunity for exploring how to foster more effective cross-sectoral relationships for social value creation (Loosemore, Denny-Smith, et al., 2021).

Figure 2.2

Relationship Between Government, Firms, and Not-for-Profit Organisations



This literature review now shifts from policy debates to the legal framework that governs procurement. While the preceding discussion considered the policy dimensions of social procurement and the concepts of social and public value, the focus here is on the legal principles that structure government tendering. Government procurement processes are underpinned by principles of transparency, fairness, and competition, and operate within legislative, regulatory, and procurement rules (Seddon, 2023, p. 376). To understand how social procurement functions in practice, it is therefore essential to situate it within this broader legal framework.

The discussion begins with an outline of the Australian procurement framework before turning to relevant international legal cases, where social procurement obligations are embedded in legislation and further developed through judicial interpretation. Although these cases arise in different legal, political, and institutional contexts, their reasoning provides valuable insights that inform the analysis undertaken in this study.

2.3 Public Procurement Law

2.3.1 Introduction

The following section considers a broad overview of the public procurement legal framework in Australia and how social procurement policies relate to this broader framework in New South Wales. In Australia, the procurement framework is shaped by a combination of legislation, government policies, and administrative guidelines that establish the principles governing the tender process (Seddon, 2023, p. 7). At both the Commonwealth and state levels, these frameworks emphasise transparency, fairness, and competition, while also incorporating objectives that extend beyond value for money (Seddon, 2023, p. 375). Although social procurement is not embedded in legislation to the same extent as in some international jurisdictions, policy initiatives and administrative rules have increasingly sought to integrate social considerations into government contracting (Seddon, 2023, p.53). Understanding this framework provides the legal and institutional context within which social procurement policies operate.

The following section also offers a concise overview of selected international jurisdictions that have established significant social procurement legislative and policy frameworks, accompanied by relevant case law. These jurisdictions are selected on the basis of their legislative developments and recent case law, which may provide important insights into the issues examined in this research. The consideration of the cases in different legal, political, and institutional environments offers insights into how some of the findings in this research have been dealt with at a judicial level. Therefore, considering the reasoning of certain cases could offer insights that inform the findings of this study.

2.3.2 Australian Legal Context

The following section firstly provides a brief overview of the Australian public procurement framework at federal level and state level. The section then illustrates the operation of the public procurement framework at state level by canvassing issues raised during the NSW Government's inquiry into *Procurement practices of government agencies*

and its impact on the social development of the people of NSW (‘the Inquiry’) (NSW Government, 2024a).

In contrast to other countries, particularly those mentioned briefly below, Australia lacks a specialised legal framework governing government tendering processes (Seddon, 2023, p. 370). Australia became a member of the *World Trade Organisation Government Procurement Agreement* (GPA) in 2019 and is a signatory to the *Australia United States Free Trade Agreement* (AUSFTA) (Seddon, 2023, p.60). Chapter 15 of AUSFTA includes a government procurement regime that is aimed at preventing discrimination against foreign suppliers. At the Commonwealth level, this obligation has been implemented through the Commonwealth Procurement Rules (CPR) and is underpinned by the *Public Governance, Performance and Accountability Act 2013* (Cth). This gives the obligations a binding legal force at the federal level, as the Commonwealth has implemented Chapter 15 of the AUSFTA through legislation (Seddon, 2023, p. 371).

The use of Commonwealth procurement as a policy instrument is not limited to social outcomes. Forsyth (2018) examines how the Code for the Tendering and Performance of Building Work 2016 sought to regulate industrial relations in the construction sector by conditioning access to government contracts on compliance with workplace relations requirements — demonstrating that procurement has long been recognised at the Commonwealth level as a powerful lever for shaping contractor behaviour beyond the immediate terms of the contract.

Relevantly, Article 15.6.1 of the AUSFTA provides that tender documentation must include all the information that will be considered in the awarding of a government contract (Seddon, 2023, p.62). It also requires that the criteria and requirements be clearly set out. Accordingly, as Seddon (2023, p. 62) argues, ‘very vague selection criteria’ are not consistent with Article 15.6 of AUSFTA. In contrast, at the state and territory level, Chapter 15 has been only partially implemented. In practice, procurement obligations at the state level are primarily expressed through policy documents rather than enforceable legal rules (Seddon, 2023, p.375). These policies are administrative in nature and do not carry the same statutory force as Commonwealth procurement legislation (Seddon, 2023, p. 371).

The aim of the Inquiry was to assess how the government procurement practices influence social development outcomes for NSW residents (NSW Government, 2024a). The Inquiry provided valuable contextual evidence of the complex issues that arise in

procurement and the growing trend towards socially conscious procurement in NSW. Issues explored in the Inquiry include the inconsistent approach to tenders by various government agencies, the inconsistent interpretation of best value by government agencies, and the weighting applied to social procurement considerations (NSW Government, 2024a). As part of this research, submissions were made to the Inquiry (documented in Appendix A6). The findings of the Inquiry are discussed in greater depth in the Discussion chapter (Chapter 7) at 7.2.1 and 7.2.2.

Social procurement requirements contained in tender documentation are typically incorporated into government construction contracts as contractual obligations once the contract is awarded (Seddon, 2023, p. 52). These obligations are generally regarded as ancillary or secondary to the primary purpose of the contract, which is the delivery of the construction works (Arrowsmith, 2010).

In circumstances where firms do not fulfil the terms of the contract, enforcement of such clauses is difficult (Seddon, 2023). Seddon suggests that an order for damages is unlikely to be warranted, ‘*as no loss is suffered by the government if this type of obligation is not performed*’ (p. 53). As a result, the breach of these obligations would ordinarily not justify contract termination or a common law damage claim. Seddon further suggests that, in this context, the inclusion of a liquidated damages clause is appropriate and justified, as it provides a predetermined consequence for non-performance of these obligations, which might otherwise be difficult to enforce through conventional contract remedies.

Compared to other jurisdictions, the legal framework for the Australian tender system is relatively underdeveloped (Seddon, 2023, p. 371). Seddon (p. 370) notes there is limited case law concerning the tender process in Australia. The leading authority, *Hughes Aircraft Systems International v Airservices Australia* (1997) 146 ALR 1, established that government authorities are subject to obligations of fairness and good faith and recognised that a process contract may arise during the tendering process. This pre-tender contract requires the government to treat bidders fairly and consistently.

The following sections contrast the Australian approach with the approach taken in the United Kingdom, the United States, and South Africa. These countries have incorporated social procurement policies into legislative frameworks to differing degrees. Each country’s approach is explained, and relevant case law is considered to demonstrate how the respective approaches to social procurement policies have been tested within each country.

2.3.3 United Kingdom: Legislative Mandate through Social Value Act

The UK's social procurement legislation, the *Public Services (Social Value) Act 2012* (UK), mandates that public authorities in the UK consider how their procurement decisions can generate broader economic, social, and environmental benefits beyond the core purpose of the contract (UK Government, 2021). The legislative framework requires all government agencies to actively evaluate and incorporate social value considerations into their decision-making processes at every stage of the procurement cycle (Cartigny & Lord, 2019).

Under this system, public authorities must consider how services being procured can improve the economic, social, and environmental well-being of their local area. This includes factors such as creating local employment, developing skills, supporting small and medium-sized enterprises, reducing environmental impact, and promoting community cohesion (Cartigny & Lord, 2019).

As noted by Arrowsmith (2021), the *Social Value Act* imposes a procedural obligation to consider social value rather than a substantive obligation to deliver it. This is confirmed by the UK Government's own 2015 review, which concluded that the Act's impact has been primarily cultural and procedural. The review also found inconsistent inclusion of social value criteria by agencies and a lack of knowledge regarding how to incorporate social value into tender requirements (Cabinet Office, 2015).

The UK Government also introduced the *Procurement Act 2023* (UK). The Act introduces significant reforms to enhance social procurement through two principal mechanisms. First, the Act transitions from the 'Most Economically Advantageous Tender' framework to a 'Most Advantageous Tender' (MAT) approach, enabling procurement decisions to extend beyond purely economic considerations. The Act also facilitates broader value considerations by expanding evaluative criteria to encompass non-financial benefits, particularly social outcomes (Social Value Portal, n.d.).

Under the UK legal framework, authorities are required to place greater emphasis on social value outcomes in procurement (Social Value Portal, n.d.). Under Section 12 of the *Procurement Act 2023* (UK), contracting authorities must 'have regard to the importance of maximising public benefit' when awarding contracts (Social Value Portal, n.d.). Rees (2024), referring to the Green Paper *Transforming Public Procurement*, suggests that the MAT

changes may be about reinforcing current social procurement practices rather than adding clarity or increasing the scope of the inclusion of social procurement considerations.

2.3.4 European Union: Permissive Framework with Variable Implementation

European social procurement law, primarily governed by Directive 2014/24/EU, allows but does not mandate the inclusion of social objectives in public procurement across member states (Ludlow, 2016). Governments may use social criteria in technical specifications, award decisions, and contract conditions, and may reserve contracts for social enterprises and organisations employing disadvantaged workers (Ankersmit, 2020). While these provisions support broader EU goals such as inclusion and sustainability, it is left to the Member States to decide how they implement the Directive (Ankersmit, 2020). EU countries must comply with the minimum standards and provisions set by the Directive, but they are free to adopt more ambitious social procurement rules if they wish, as long as they remain consistent with EU principles like transparency, competition, and non-discrimination (World Economic Forum, n.d.).

EU Directive of 2014/24 under Article 57(4)(a)–(i) sets out a number of grounds upon which Member States can exclude tenderers based on their conduct. For example, firms that do not fulfil their contractual obligations or show persistent deficiencies in their performance may be excluded from tendering for future government contracts (Trepte, 2024, p. 177). These provisions also relate to ‘integrity related criteria’ and ‘corrupt activity’ (Trepte, 2024, p. 176).

There have been judicial challenges to the social procurement laws in Europe. In the case of *Tim SpA v. Consip SpA and Ministero dell’Economia e delle Finanze* (Case C-395/18), the European Court of Justice addressed the permissibility of incorporating social considerations into procurement selection criteria. The decision clarified that while contracting authorities can include obligations under relevant laws or directives related to the contract's activities, these must be explicitly stated in the procurement documents. This ensures that all bidders are aware of the criteria and can compete on an equal footing.

In *Vitali SpA v. Autostrade per l’Italia SpA* (Case C-63/18), the European Court of Justice examined the compatibility of Italian procurement provisions that imposed a 30% limitation on subcontractor utilisation with EU procurement law. The Court’s judgment

established that whilst the pursuit of social policy objectives constitutes a legitimate procurement aim, such measures must not contravene the fundamental principles enshrined in EU public procurement legislation. The Court held that any social requirements incorporated into procurement procedures must satisfy the tests of proportionality, transparency, and non-discrimination to preserve the integrity of competitive tendering processes and ensure equal treatment of economic operators.

Following evidence that the application of social procurement policies in Europe by Member States is inconsistent (Gormley, 2024, p.124), the European Commission conducted a comprehensive inquiry into European procurement laws and their implementation in 2024, with a particular focus on social procurement provisions. The findings were released in May 2025. This investigation yielded recommendations for strengthened legislative frameworks, enhanced monitoring mechanisms, and increased accountability measures to better support Member States in achieving social procurement objectives (European Commission, n.d.). The Commission's findings prompted the proposal of several coordinated measures designed to establish greater uniformity and coherence in social procurement approaches across the European Union (European Commission n.d.). Nevertheless, there is evidence that the application in Europe (Gormley, 2024, p.124) by member states, though the complexities of the European Union are partly to blame for this (Gormley, 2024, p.124).

2.3.5 South Africa: Legislative Framework with Pre-qualification Scheme

South Africa's distinctive political history and the legacy of apartheid have fundamentally shaped its approach to social procurement priorities, making it one of the most comprehensive and legislatively mandated systems globally. South Africa's experience offers valuable insights into both the potential benefits and challenges that can emerge when governments adopt a strong legislative approach to social procurement. South Africa has recently reformed its procurement approach with the *Public Procurement Act 28 of 2024*, which establishes a framework for preferential procurement implementation. This system builds upon their established Broad-Based Black Economic Empowerment (B-BBEE) framework, creating a pre-qualification mechanism that fundamentally transforms how social procurement is approached (World Economic Forum, n.d.).

Under the new South African system, firms must demonstrate their social procurement standards and receive formal certification before they are eligible to bid on government contracts. Bidders are required to submit rating certificates issued by accredited verification agencies, with their status level contributing significant points in the evaluation process (Klaaren et al., 2023). The system creates tangible incentives for social procurement by providing higher recognition values for companies with better ratings—Level 1 suppliers receive higher recognition than Level 2 suppliers for the same procurement expenditure (Klaaren et al., 2023). This approach effectively screens potential contractors based on their demonstrated commitment to social procurement, including factors such as race ownership quotas, management representation, skills development programs, enterprise development initiatives, and socio-economic development contributions (Klaaren et al., 2023).

In *SMEC South Africa (Pty) Ltd v South African National Road Agency SOC Ltd* (075024/2023) [2023] ZAGPPHC 1108 (29 August 2023), SMEC challenged the legality of a newly introduced four-step evaluation process for awarding government contracts. The company argued that the system lacked clarity and transparency, and that its ownership requirements effectively excluded certain firms—such as SMEC—from participating, thereby rendering the process potentially unconstitutional and discriminatory. The High Court granted an interim injunction temporarily suspending the use of the contested scoring system pending a full judicial review, and acknowledged the risk of irreparable harm arising from SMEC’s potential exclusion from an allegedly unlawful procurement process.

However, in February 2024, the same court dismissed SMEC’s application for leave to appeal, on the basis that there was no reasonable prospect of success (*SMEC South Africa (Pty) Ltd v South African National Road Agency SOC Ltd* (075024/2023) [2024] ZAGPPHC 134 (8 February 2024)). The court noted that it could not reverse the awarding system through appeal alone, indicating that systemic reform must be pursued through other legal or policy channels.

This case illustrates the critical importance of both clarity and fairness in the design and implementation of tender evaluation frameworks. These cases suggest that while a clear criterion in procurement processes can rightly give rise to legal challenges, even systems that are procedurally clear may attract litigation if they are perceived to produce exclusionary or inequitable outcomes. It illustrates the tension between policy objectives—such as promoting ownership transformation in a country such as South Africa—and maintaining an open,

competitive procurement environment, particularly where evaluation criteria may have structural exclusionary effects.

2.3.6 United States: Consequences of Breach of Contract

The United States has a long history of incorporating social procurement into government contracts (McCrudden, 2004, 2007a). Social procurement in the U.S. has historically aimed to leverage public spending to achieve broader societal outcomes, including supporting disadvantaged groups, promoting minority-owned businesses, and advancing environmental sustainability (McCrudden, 2007a). The country's public procurement system is highly regulated yet decentralised, resulting in a patchwork of statutory mandates, administrative rules, and state-based procurement initiatives mainly targeting disadvantaged groups and environmental initiatives (World Economic Forum, n.d.). This patchwork approach reflects the diverse priorities of different jurisdictions, creating both opportunities and challenges for implementing consistent social procurement policies across federal, state, and municipal levels (McCrudden, 2007a).

The following case involves a breach of contractual and regulatory obligations by a construction firm that failed to implement social procurement requirements. The case concerned a construction company that had been awarded a government contract for a major infrastructure project. The contract contained a legal requirement to include a social enterprise in the supply chain. Although this requirement was embedded in regulation, the company had not included the social enterprise in practice while falsely representing to the government that it had. In reality, the social enterprise was paid a fee for providing accounts in its name but without performing any work. As a result, the owner of the construction firm was prosecuted for fraud.

Kousisis v United States ((605) U.S. (2025)) was a criminal prosecution of the manager of a construction company for fraud. The case involved federally funded infrastructure projects, which, based on regulation, mandated that a portion of the contracts be subcontracted to disadvantaged business enterprises (DBEs) who had to perform a "*commercially useful function*" (p.1). The construction firm won the contract and named a DBE as a supplier. The firm, however, never intended to use the DBE and continued to use its preferred supplier for paint. The firm only used the DBE to send the preferred supplier's accounts in their name. When the arrangement was discovered, Kousisis was charged with

fraud. On appeal against the Supreme Court's conviction, the firm argued that the DBE was rewarded, and no party suffered economic loss.

The primary purpose of the contract was an infrastructure project. Importantly, on appeal, the firm did not challenge the prosecution's argument that the firm's representation was a material representation. This is surprising given the prosecution maintained that a material representation must go to the heart of the contract (*Kousisis v United States* (605) U.S. (2025) p.7). In a separate concurring judgment, Justice Clarence Thomas questioned whether misrepresentations regarding DBE compliance were material, arguing that DBE requirements were secondary to the contract's primary objectives (*Kousisis v United States* (605) U.S. (2025) p.2). The court ultimately held that no party had to suffer economic loss for the fraud to be committed, and the defendants' conviction was upheld (p.1). The defendant was sentenced to nearly six years in prison.

The above review of the legal approaches from other jurisdictions shows that even when social procurement legislation is formally implemented, significant challenges persist in embedding these policies effectively within government procurement contracts. These challenges often relate to inconsistencies in interpretation, varying enforcement mechanisms, and the tension between achieving social objectives and meeting traditional procurement priorities such as cost, efficiency, and risk management. Moreover, legislative frameworks alone appear insufficient to ensure that social outcomes are systematically realised in practice, highlighting the need for further investigation into how such policies operate within specific sectors. Accordingly, the following section examines research within the construction management literature concerning the implementation and effectiveness of social procurement policies. From this body of work, the central research question for this study emerges.

2.4 Social Procurement Policy Research in the Construction Industry

Social procurement policies and, in particular, the employment of disadvantaged groups have gained traction in government construction contracts, where infrastructure projects offer potentially significant opportunities for social impact. The hierarchical structure of construction projects typically involves head contractors responding to the social procurement requirements during the tendering process. Once the contract has been awarded,

these requirements may then become contractual obligations (Troje & Gluch, 2020). However, the practical implementation of these obligations is often delegated to subcontractors, who frequently lack the resources necessary to meet employment obligations effectively (Loosemore et al., 2020; Loosemore et al., 2019).

In Australia, research has tended to focus on collaborative efforts of project-based initiatives by large ‘tier one’ firms (Loosemore et al., 2020), or from a particular stakeholder perspective, such as subcontractors and employment professionals (Loosemore, Denny-Smith, et al., 2021; Loosemore & Reid, 2019; Troje & Gluch, 2020b). While much of the existing research has focused on the employment of disadvantaged groups, some studies have examined the broader implementation of social procurement practices generally, including voluntary initiatives with private clients (Loosemore, Keast, et al., 2022a; Loosemore & Reid, 2019). Therefore, some studies have sometimes blurred the lines between compliance with policy requirements and voluntary initiatives (Loosemore, Keast, et al., 2021; Troje, 2021a; Troje & Gluch, 2020a).

To date, one study has compared the impact of social procurement policies on construction firms in Victoria and Scotland (Loosemore et al., 2024). The study notes that both jurisdictions maintain robust frameworks. This study examined the capacity of firms to deliver social procurement requirements within their supply chains and found that policymakers must take into account the context in which such policies operate. The authors suggest that further research could usefully examine divergent policy approaches across countries. By contrast, the present study considers two Australian states—NSW and Victoria—within the same federal legal framework but with differing state-level policy approaches. It focuses specifically on employment-related requirements in social procurement and highlights the contrasting strategies adopted in each jurisdiction.

Existing research has identified several key structural and cultural barriers to the employment of disadvantaged groups in government construction projects (Loosemore, Keast, et al., 2021; Troje & Gluch, 2020b). Research has also found that there are challenges in fostering effective collaboration with not-for-profit organisations that potentially play a critical role in facilitating the implementation of social procurement requirements in government contracts (Loosemore & Reid, 2019; Murphy & Eadie, 2019). Previous research has identified that new roles will be needed within organisations to effectively operationalise the policies (Troje & Gluch, 2021). Finally, subcontractors, who are often tasked with

meeting the contractual obligations to employ individuals from disadvantaged backgrounds, face considerable challenges in doing so. These themes are explored in the following sections.

Emerging New Roles

Government social procurement policies are driving the adoption of social procurement practices within the construction industry (Loosemore et al., 2023a). Studies have suggested that the adoption of these practices has an impact at the institutional and project levels, creating the need for new roles (Loosemore et al., 2020; Loosemore et al., 2019). Existing research on emerging roles in social procurement has primarily examined the motivations of social procurement actors (Troje & Gluch, 2020b), the impact on professional roles (Loosemore, Denny-Smith, et al., 2021), and the role of ‘champions of social procurement’ within organisations—individuals who advocate for and drive social procurement integration within an organisation (Loosemore, Keast, et al., 2021).

Troje and Gluch (2020) note that significant gaps remain in understanding how social employment requirements are implemented. A clearer delineation of the roles and responsibilities of those directly involved in the implementation will enhance knowledge of these processes (Troje & Anderson, 2020). Further, Troje and Gluch (2020) argue that effective social procurement implementation may necessitate the development of ‘relational’ skills, knowledge, and competencies that remain underdeveloped in the construction industry. The authors highlight the need for expertise beyond traditional technical and managerial skills, including the ability to navigate cross-sector collaborations, foster partnerships, and engage with diverse stakeholders. Therefore, it is important to explore how roles operate in practice and how they address well-documented implementation challenges, although with a focus on interaction with third-party organisations.

2.4.1 Implications for Subcontractors

The construction industry’s hierarchical structure poses fundamental challenges for social procurement implementation. Several studies have highlighted how introducing social procurement policies impacts subcontractors (Loosemore et al., 2020; Troje & Andersson, 2021). While head contractors agree to employment requirements during tendering, the

practical responsibility often falls to subcontractors, who may lack the resources and support to implement this requirement (Loosemore et al., 2019).

Research with subcontractors reveals specific concerns: inadequate risk management, limited availability of candidates, and potential impact on safety and quality. Other concerns raised include insufficient government support, high training and supervision costs, and perceptions of increased workplace risk (Loosemore et al., 2019). There is also evidence of candidate supply constraints (Loosemore, Alkilani, et al., 2021; Troje & Gluch, 2020b). Barraket and Loosemore (2018) found subcontractors were nervous about policy design and a lack of consideration of risk management and potential impacts on safety and quality.

The clash of policy intent and industry reality is particularly manifest in procurement practices. For example, a head contractor will often not have an ongoing relationship with the subcontractor. Further, there is evidence that the managers from the head contractor overseeing subcontractors tend to be motivated by ‘mitigation of risk and minimisation of costs and transfer risk to the subcontractor’ (Barraket & Loosemore, 2018). Further, there is evidence that subcontractors are reluctant to employ people from disadvantaged backgrounds (Loosemore et al., 2019). For example, Loosemore et al. (2019) conducted a survey of 70 subcontractors to examine their perception of employing people from different cohorts of disadvantaged groups. The study identified the following barriers: ‘lack of government support and incentives; the cost of training, supervision and workplace support for targeted groups; and a perception’ that candidates may create risk and not be able to fit in and work effectively in the construction industry (p.15)

Case studies have found that collaboration by head contractors and subcontractors with the not-for-profit sector is critical for the successful implementation of social procurement policies (Loosemore, Alkilani et al., 2021). Subcontractors require support to implement these policies and often lack the necessary resources to facilitate such collaboration effectively (Loosemore et al., 2019; Troje & Andersson, 2021; Troje & Gluch, 2020). Loosemore et al. (2019) suggest financial aid and training for subcontractors would assist; however, the authors note there is very little research on the types of support needed for subcontractors.

Barraket and Loosemore (2018) suggest that incentives and encouragement for all stakeholders are needed to implement the policies successfully, although the forms of such incentives were not explored in depth. The authors conclude that excessive requirements and

poor understanding of industry realities would create sub-optimal outcomes. Similarly, Troje (2020) suggests that setting employment targets without a clear understanding of supply chain capacity may be counterproductive and could undermine the intended policy objectives.

Overall, Troje (2020) suggests more research is needed to understand how these policies unfold in practice and what can be done to mitigate the impact on subcontractors of the social procurement policies. This research will explore the known barriers outlined above from the perspectives of a cross-section of stakeholders, including actors within the project who directly deal with subcontractors (Cashor, 2020; Castañer & Oliveira, 2020). While the impact of employment requirements on subcontractors has been observed both in Australia and internationally, less focus has been placed on identifying strategies to support subcontractors in implementing these policies.

2.4.2 Barriers to Cross-Sector Collaboration

Cross-sector collaboration could offer solutions but faces its own obstacles (Loosemore, Denny-Smith, et al., 2021). The construction industry's fragmented nature and project-based structure make establishing stable relationships difficult (Loosemore, Denny-Smith, et al., 2021). Even well-resourced firms struggle to maintain effective partnerships with social sector organisations (Barraket & Loosemore, 2018). As outlined above for smaller subcontractors, these challenges multiply (Loosemore et al., 2020).

Barraket and Loosemore (2018) have examined the potential for social enterprises to collaborate in the industry by conducting a case study of three entities. They conducted in-depth qualitative interviews with senior managers responsible for social procurement in a large international construction firm and two UK social enterprises. The authors identify that the barriers for social enterprises to collaborate included existing supply chain practices, regularity, and performance imperatives that 'make social enterprises seem high risk'. They also found a disconnect between 'well-intentioned' head contractors and on-site priorities. They suggest government policies should be framed to consider the power structures in the construction industry (Barraket & Loosemore, 2018). The authors emphasise the importance of intermediaries for successful policy implementation.

Loosemore, Keast et al. (2022) conducted a case study of a project-based Multiplex Connectivity Centre, 'the Centre', developed by Multiplex (a large international construction

firm). The Centre is a project-based collaborative effort that brings together actors from the not-for-profit sector on-site to assist Multiplex in implementing social procurement and social value requirements. The Centre also acts as a project-based intermediary coordinating access to support disadvantaged groups, such as training and other support when employed, such as mentoring, transport, housing, and mental or physical assistance (Loosemore, Keast, Barraket, et al., 2022).

Focus groups and semi-structured interviews were used to examine barriers, risks, and opportunities in cross-sector collaboration. The authors found that cross-sector collaboration is challenging due to the ‘fragmented and dynamic nature of the construction project teams and the communities they have to engage with’ (Loosemore, Denny-Smith, et al., 2021; Loosemore, Keast, Barraket et al., 2022). According to the authors, the implementation of social procurement policies was potentially undermined by nervousness about the policy, lack of understanding of potential opportunities, candidate supply constraints, and traditional supply chain practices. The studies found that perceived risks were reduced by the project-based centre acting as an intermediary to bring together the not-for-profit actors and subcontractors on the project site (Loosemore, Denny-Smith, et al., 2021).

Loosemore, Denny-Smith et al. (2021) note key elements of collaboration are the establishment of stable, commonly recognised long-term goals and the need for both parties to collaborate. However, establishing collaboration in the project-based construction industry is difficult. This is unsurprising given the project-based and hierarchical structure of the construction industry. The authors found the project-based Centre reduced, though it did not eliminate all barriers to collaboration between stakeholders.

The above study of the Multiplex Connectivity Centre offers an instructive example of how project site intermediaries might function effectively. The authors found that the Centre brings together social sector organisations to coordinate support services, effectively reducing perceived risks for both employers and employees. The authors note that such centres demonstrate how on-site intermediaries can transform abstract policy requirements into practical outcomes (Loosemore, Keast, Barraket, et al., 2022).

These findings demonstrate significant barriers were present even when construction firms establish a project-based collaborative and were ‘linked by common values’ with not-for-profit organisations (Loosemore, Higgon, et al., 2020). Building on these findings, this

research aims to explore avenues for building cooperation and/or better coordination between firms and the not-for-profit sector.

However, replicating these practices across the industry presents challenges. The construction industry's fragmented nature and project-based structure make establishing stable, long-term relationships difficult, and firms may not have pre-established relationships with not-for-profit organisations (Troje, 2020). Loosemore et al. (2019) note that not many studies have explored cross-sector collaboration among various stakeholders.

In general, cooperation and coordination sit at the lower end of the relational scale and contrast with the aim of collaboration (Castañer & Oliveira, 2020). The key elements of collaboration are the formation of long-term trust relationships, open communication, shared risk, common goals and need for mutual success (Keast & Mandell, 2012). The industry is characterised by 'informal and mutable, low-trust relationships which involve little sharing of resources, risk and reward' (Barraket & Loosemore, 2018). Scholars have observed that many of the current arrangements in construction are characterised by short-term, largely involuntary, and low-trust relationships (Barraket & Loosemore, 2018; Erridge, 2007). Conversely, other studies have also found that many construction firms have established long-term arrangements, and this is also a barrier to the introduction of social procurement practices (Loosemore et al., 2023). This study, therefore, aims to focus on analysing pathways to maintaining a functional involuntary relationship with third-party organisations, that is, to reach 'coordination' (Castañer & Oliveira, 2020). This shift from the ideal of collaboration to the practical pursuit of coordination better reflects the realities of how organisations connect within the construction industry (Loosemore, Denny-Smith, et al., 2021; Loosemore, Keast, Barraket, et al., 2022).

2.4.3 Importance of Third-Party Intermediaries

Organisations

In previous research, organisations that facilitate connecting firms to individuals from disadvantaged backgrounds have often been referred to as third-party intermediaries (Loosemore, Denny-Smith, et al., 2021). In this research, the organisations from the not-for-profit sector are referred to as third-party organisations to distinguish these organisations from other intermediaries that may act as a connection between firms and the not-for-profit sector (Loosemore et al., 2024).

Intermediaries can be defined as ‘individuals, organisations or programs that work in between existing system structures’ to ‘facilitate communication or facilitate a particular goal’ (Bullock & Lavis, 2019). Disadvantaged groups often require support to maintain employment (Troje & Gluch, 2020b; Troje & Kadefors, 2018). Therefore, in the context of construction projects and policy implementation, third-party organisations can be individuals or organisations outside the project, which may assist construction firms and subcontractors in finding, training, and supporting candidates and facilitate ongoing support (Loosemore, Denny-Smith, et al., 2021).

As outlined above, firms and subcontractors often have difficulty locating and training candidates (Loosemore, Denny-Smith, et al., 2021). In broader social procurement literature, there is little research into the role of third-party intermediaries in social procurement (Barraket, 2020; Natoli et al., 2023). Barraket (2020) conducted a longitudinal case study to examine the role of social enterprises acting as intermediary organisations to connect to for-profit organisations. The author noted that the research focussed on intermediation as a process rather than the effectiveness of social procurement intermediation to progress social goals.

Intermediaries have been identified as a facilitator for cross-sector collaboration (Keast et al., 2013; Loosemore, Keast, et al., 2022a). The role of intermediaries has been explored in other disciplines and policy contexts, such as health policy research (Bullock & Lavis, 2019). However, their function in construction social procurement remains underexplored (Loosemore et al., 2024). The following table (Table 2.1) summarises the gaps in the literature that lead to the research questions. Theoretical approaches in the literature are then canvassed.

Table 2.1
Summary of Gaps in the Literature

Research Question	Previous Studies Found	Gaps the Research Question Addresses
Overarching Research Question:	Lack of understanding of the barriers to implementation and how they can be overcome (Troje & Kadefors, 2018)	Analysis of the context and content of the government policies and implementation in the tender

Research Question	Previous Studies Found	Gaps the Research Question Addresses
Improvements to policy design		process and third-party intermediaries
1. Policy Analysis and Comparison	<p>Lack of alignment between policy intent and implementation (Troje, 2021a)</p> <p>Significant barriers to policy implementation due to the project nature of the industry and the entrenchment of current practices</p> <p>Employment targets need to take into account firm capacity and supply chains to meet targets (Loosemore et al., 2019)</p>	<p>Analysis required of the specific issues when implementing policy-led procurement rather than application of the broader principles of policy alignment</p> <p>Framing and application of employment requirements, including written policy and context not considered in depth in Australia</p> <p>No comparison between NSW and Victoria</p>
2. Tender Process	<p>Critical importance of collaboration with construction and not-for-profit sector (Loosemore, Denny-Smith, et al., 2021)</p> <p>Firms and subcontractors have difficulty finding, training, and supporting people from disadvantaged backgrounds (Loosemore, Keast, Barraket, et al., 2022)</p>	<p>The process by which firms formulate responses to social procurement requirements within the tendering process represents a critical yet underexamined dimension.</p> <p>Current literature demonstrates limited attention to the mechanisms through which firms—particularly those lacking internal resources or established networks—identify, connect with, or recruit suitable candidates to fulfil social procurement obligations during the tender preparation phase.</p>
3. Project Level Implementation	<p>Critical importance of collaboration between construction and not-for-profit sectors (Loosemore, Denny-Smith, et al., 2021)</p> <p>Intermediaries are known enablers of collaboration between sectors (Loosemore, Denny-Smith, et al., 2021)</p>	<p>Limited research examining the role of third-party intermediaries (TPIs) in social procurement policy implementation (Lou et al., 2023)</p> <p>Insufficient understanding of how firms engage with and collaborate through TPIs to meet social procurement requirements, representing a significant gap in</p>

Research Question	Previous Studies Found	Gaps the Research Question Addresses
	Further research is needed on how social procurement is embedded into daily practices (Lou et al., 2023; Troje & Kadefors, 2018)	current procurement literature (Lou et al., 2023)

2.5 Overview of Theories in Previous Studies

Research into social procurement in the construction industry is still in its early stages, requiring the adoption of theories and concepts from other disciplines. Given its transformative impact on established industry practices, institutional theory has been a prominent framework in early studies (Barraket, 2020; Loosemore, Alkilani, et al., 2021; Murphy & Eadie, 2019; Troje, 2020). Notably, research in Sweden has highlighted the significant institutional effects of social procurement policies during their initial implementation (Troje & Kadefors, 2018).

Beyond institutional theory, scholars have applied organisational theory and practice theory to examine the evolving dynamics of social procurement (Barraket, 2020; Loosemore, Alkilani, et al., 2021; Troje, 2021; Troje & Gluch, 2020). Additionally, social innovation and field theory have been employed to explore the broader systemic implications of these practices (Barraket, 2020; Murphy & Eadie, 2019). Denny-Smith (2022) utilises social value theory and social exchange theory to analyse the divergent perspectives on social value generated through mandatory Indigenous employment policies. However, the prevailing theoretical approaches, including systems thinking, inadequately address the contractual dimensions of employment obligations inherent within social procurement frameworks.

Theories of cross-sector collaboration have been applied to studies examining partnerships between Tier One firms and other stakeholders, offering useful perspectives on cooperative strategies (Loosemore, Denny-Smith, et al., 2021; Loosemore, Keast, et al., 2022a). Barraket (2020) further highlights that the convergence of distinct institutional settings in social procurement results in an ‘intermingling of institutional logics’, a defining characteristic of this emerging field. These theories have provided valuable insights into the development of social procurement practices in the construction industry and explain specific

aspects of these practices. They do not offer a theory that might be applied across all aspects of the project and assist in explaining the contractual nature of the employment requirements. The following table summarises the key theoretical frameworks that were employed in previous studies.

Table 2.2

Table of Theories Previously Used – Studies Focussing on the Implementation of Social Procurement Policies

Theory	Source
Institutional Theory	Troje & Kadefors (2018)
New Institutional Theory	Troje & Andersson (2021) Loosemore et al. (2021) Loosemore et al. (2022)
Practice Theory	Troje & Gluch (2020) Troje (2021)
Social Value Theory	Denny-Smith et al. (2021)
Principal Agent Theory	Loosemore (2020)
Field Theory	Barraket (2020)
Social Exchange Theory	Loosemore, Bridgeman Keast (2020)
Organisation Theory	Loosemore et al. (2022)

This analysis reveals that research into social procurement policies in the construction literature would benefit from a theoretical framework that can offer insights into the implementation of employment requirements throughout the project lifecycle, particularly about policy implementation processes. Furthermore, the prevailing theoretical approaches often do not directly address the contractual dimensions of employment obligations inherent in social procurement frameworks. This indicates a critical need for the application of appropriate theories and further conceptual development to enhance understanding of social

procurement operations in practice, specifically concerning contractual mechanisms and their implementation across the initial policy frameworks, tender, and implementation phases of the project cycle.

2.6 Consideration of Possible Theoretical and Philosophical Approaches

Agency theory and systems theory are both essential theoretical frameworks for this research. The utilisation of these complementary theories is necessary because the key relationship examined is that between construction firms and government, which requires consideration of both the micro-level contractual relationship and the broader systemic context. Agency theory examines the contractual and incentive structures governing the relationship between government (as principal) and construction firms (as agents) (Chrisidu-Budnik & Przedańska, 2017). While certain concepts from agency theory, such as incentives and motivation, can overlap with systems thinking at a macro level, systems theory is crucial because social procurement policies do not operate in isolation but as part of the process of public procurement (Brun, 2018; Eisenhardt, 1989; Nguyen et al., 2023). Rather, social procurement mechanisms are embedded across all stages of the project lifecycle, enabling recognition of leverage points that identify how changes in one area might affect others throughout the system (Rees, 2024, p.24).

Public choice theory merits acknowledgment as it explains governments' tendency to prioritise lowest-cost options in procurement decisions (Buchanan & Tullock, 2003). While this theoretical perspective illuminates governmental behaviour, the primary focus of this research centres on policy implementation—specifically, how social procurement policies are enacted in practice. Therefore, although some participants referenced internal decision-making processes and cost pressures, this study does not extensively examine those governmental decision-making mechanisms. Therefore, the following section will consider agency theory and systems theory as applied in the broader public policy literature. Agency theory is also considered in the context of the nature of government contracts with for-profit entities (Seddon, 2023, p.5).

2.6.1 Agency Theory

The concept of agency in the corporate realm was applied as early as the 18th century by Adam Smith and, subsequently, many key concepts were developed in the corporate, incentives and information literature (Mitnick, 2006). Agency theory in management scholarship is often referred to as a theory of the firm and referenced to Jensen and Meckling (1976). However, agency theory was originally developed by Stephen A. Ross and Barry M. Mitnick, working separately and independently (Mitnick, 2006). The economic basis of agency theory is attributed to Ross (1973), and the institutional theory aspects to Mitnick (1974) (Mitnick, 2006). It is the theory developed by Ross and Mitnick that would be used in this research.

Agency theory has been used to explain public procurement and public/private contracts within the public law literature (McCue & Prier, 2008; Saunders, 2022). Broadly, the Agency relationship arises whenever one party must rely on the acts of another or where, for example, the Government (as the principal) engages another person (the agent) to perform a specific project on its behalf (Chrisidu-Budnik & Przedańska, 2017). Adopting a contractual framework, the Government (the principal) engages the construction firms or those employed by the firms (the agent) to build the infrastructure and implement these policies on their behalf through the contractual relationship. Agency theory may help explain some of the findings in this research.

Epstein (2013) suggests that due to the unique nature of government and private firm contracts, there is an underlying clash of agendas. Agency theory may assist in explaining the underlying tension between a government agenda and the aim of private for-profit firms, as previous studies have found that institutional logics and misaligned incentives clash as a result of the introduction of social procurement policies (Troje, 2020). Agency theory may assist in exploring solutions as it ‘focuses on ways in which principals can try to align incentives through contract’ (Epstein, 2013, p.21). For example, principles can ‘pay for good outcomes or issue sanctions for bad ones’ or implement reporting mechanisms (Epstein, 2013, p. 22).

These policies are implemented in the legal framework of a contractual relationship between a public entity and a private firm (Chrisidu-Budnik & Przedańska, 2017). The contract between a public entity—the government—and a private firm has a unique character

(Seddon, 2023 p.6), with the government being the ‘principal’ party and the private for-profit firms being charged with carrying out their requirements as their ‘agent’ (Saunders, 2022). The following section considers the nature of government contracts and the possible application of agency theory.

2.6.1.1 Nature of Government Contracts and Agency Theory

Traditional commercial contracts differ significantly from contemporary government contracts, particularly in the context of infrastructure projects where the government assumes a dual role as both principal and regulatory authority. This dual function creates distinct challenges and a unique contractual environment (McCrudden, 2004; Seddon, 2023, p.2).

Applying agency theory to government infrastructure projects positions the government as the principal, mandating social outcomes through contractual mechanisms while not necessarily appreciating the difficulties of implementing the policies in the construction industry (Loosemore, 2024). Construction firms, as agents, are responsible for translating these policy requirements into practical outcomes (Troje, 2021).

Seddon (2023, p. 5) examines the nature of government contracts and questions their suitability for public sector administration. The author notes that while there is extensive theoretical literature examining the 'merits and drawbacks' of government contracts through lenses such as agency theory and public choice theory, a significant gap remains within the non-legal literature—notably in public administration, management, and economics, where very little attention is paid to the pragmatic implementation of government contracts with for-profit entities in public sector contexts (Seddon, 2023, p.5). Further, the author observes that while New Public Management ‘advocates the use of contract as a tool for public administration’, much of the literature assumes that ‘once the choice of contract has been made as a policy tool’ then the ‘policy issue is resolved’ (Seddon, 2023, p. 6). The author then suggests that this means the inherent limitations of contracts are ‘commonly overlooked’ (Seddon, 2023, p. 6).

The utilisation of contractual levers, such as employment requirements embedded within project requirements and subsequently within contracts with for-profit firms, further complicates the already multifaceted public-private relationship (Arrowsmith, 2010; Seddon, 2023, p. 2). Agency theory posits that rather than attempting to eliminate all informational

asymmetries, effective contract design should prioritise the alignment of incentives to facilitate the achievement of desired outcomes (Chrisidu-Budnik & Przedańska, 2017).

2.6.1.2 Assumptions in Agency Theory

Agency theory makes a number of underlying assumptions, including ‘(a) the efficiency of the principal’s operations depends on the agent’s acts and decisions; (b) decisions are made by the parties to the relationship under conditions of uncertainty and risk; (c) the principal and agent have some conflicting objectives to some extent’ (Chrisidu-Budnik & Przedańska, 2017, p. 155). Another key assumption of agency theory is the asymmetry of information between the two parties in an agency relationship (Chrisidu-Budnik & Przedańska, 2017).

The asymmetry of information has three aspects that are potentially relevant to the findings in this study. The first is that prior to the contract taking place, the agent has an information advantage and can claim to have know-how that the principal cannot verify (Chrisidu-Budnik & Przedańska, 2017). The second is moral hazard, where the agent takes action that the principal cannot verify. The third is where the principal has ‘information about the agent engaging in inappropriate activities’ but is unable to verify them (Chrisidu-Budnik & Przedańska, 2017, p. 156).

Loosemore et al. (2023a) refer to the concepts of asymmetry of information and moral hazard in a case study of a collaborative effort with the not-for-profit sector to employ people from disadvantaged backgrounds. However, the study did not refer to or apply the broader principles or assumptions of agency theory or the nature of the contractual relationship between the government and the private firms in public law literature. The authors also note that some of their answers and potential answers indicate that actions that could be characterised as moral hazard may occur in the future, and suggest these concepts may be useful in future research.

Previous research to date has emphasised that governments that set social procurement requirements often lack insight into the practicalities involved in implementing the social procurement policies (M Loosemore et al., 2020). A key difference from other commercial contracts with government contracts is that one party is the body which creates or influences the relevant policy or regulatory environment (Seddon, 2023, p. 2). While it is not unique for a private firm to contract with a party that is unfamiliar with the practicalities

of meeting its aims, the considerable contractual power of the government adds to the complexity of implementing social procurement requirements.

Agency theory may assist in effectively illuminating the contractual relationship between government and construction firms, revealing the information asymmetries that may hinder policy design improvements. While this perspective is valuable for understanding the direct contractual dynamics, it tends to focus on the principal-agent relationship and may overlook the broader network involved in the implementation of the employment requirements in social procurement policies. In contrast, the application of systems theory principles may assist in identifying key leverage points and feedback loops in the implementation of employment-related social procurement requirements in government projects.

2.6.2 Systems Theory

Systems thinking is a holistic approach that analyses complex problems by attending to the relationships and interactions between components within a system, rather than examining those components in isolation (Meadows, 2008). A fundamental tenet is that a system must be understood as a whole, not merely as the sum of its parts: the behaviour of a system arises from the interactions between its components, not from the components themselves (Senge, 1990).

Systems thinking encompasses several core tenets: holism; interconnections and feedback, including reinforcing and balancing loops; non-linearity and delays, whereby causes and effects are separated in time and space; and emergence, being system-level properties that cannot be reduced to individual components (Meadows, 2008). These principles direct attention away from isolated events and toward the patterns, structures, and relationships that generate behaviour over time — an approach particularly relevant to the complex policy and contracting environment of government social procurement (Jackson, 2003; Meadows, 2008; Senge, 1990, 2003).

Two contrasting paradigms are commonly distinguished in the literature. Hard systems approaches assume that problems are well-defined and amenable to modelling and optimisation. Soft systems approaches, by contrast, treat many public-sector challenges as ill-structured and interpretive, emphasising multiple stakeholder worldviews and iterative learning (Checkland, 1999; Jackson, 2003). Meadows (2008) provides an accessible synthesis

of feedback structures, delays, and leverage points, while Seddon (2003) operationalises systems thinking within public services — both are particularly relevant to the procurement context examined in this thesis.

Within this theoretical orientation, a system is conceptualised as an entity—either naturally occurring or constructed—that comprises interconnected elements organised to fulfil specific functions and address complex problems (Meadows & Wright, 2008). The implementation of public policies, particularly those related to public procurement, occurs within the context of dynamic environments characterised by competitive tendering processes (Zheng et al., 2022). The application of systems thinking as an analytical lens offers significant potential for identifying recurrent implementation challenges, and may assist in identifying intervention points that may have system-wide implications (Nguyen et al., 2023).

2.6.2.1 Systems Theory and Public Policy

In the broader public policy literature, systems theory has emerged as an increasingly important framework to address the increasing complexity of modern public policies and government procurement processes (Nguyen et al., 2023; Williams et al., 2017). Scholars are increasingly recognising the importance of this theoretical approach to assist in solving intractable social issues (also referred to as wicked problems) in the context of public policy (Head, 2008; Head & Alford, 2015; Steinhall et al., 2024). Central to this approach, systems theory conceptualises policy implementation as an interconnected network and can be a tool to improve outcomes (Nguyen et al., 2023).

As Barraket et al. (2015) observe, social procurement policies are being implemented amidst a shifting landscape where for-profit firms are increasingly taking on roles historically fulfilled by government agencies. In the context of implementing social procurement policy, systems thinking may provide a valuable framework for analysing the complex interactions between government policies and cross-sectoral collaboration, and identifying strategic intervention points that can improve implementation efficacy and create sustainable, long-term outcomes (Walker et al., 2012). Specifically, systems theory may illuminate how the inclusion of employment requirements within procurement contracts can be optimised within existing industry structures and capabilities (Nguyen et al., 2023).

The integration of agency theory with systems theory offers a promising theoretical framework that would enable policymakers to simultaneously address the principal-agent

challenges inherent in government-contractor relationships while accounting for the broader systemic factors that influence successful employment outcomes across multiple interconnected policy domains.

2.6.3 Common Good and Social Procurement

This research considers the interaction of private entities, government, and the not-for-profit sector. Previous research has highlighted the clash of institutional logics to explain the ongoing tensions of the inclusion of social procurement policies (Loosemore & Barraket, 2018). Similarly, scholars have suggested that agency theory assists in explaining the tension created in the clash of purpose between the government and for-profit firms (Epstein, 2012).

The common good philosophical tradition maintains that society should be organised to benefit all members, with particular attention to the most vulnerable, rather than serving only individuals or select groups (Enrico et al., 2015). Scholars have also argued that the common good can serve as the foundational purpose of business enterprises (Knapp & Carter, 2007; Naughton et al., 1995)

Dunham, Freeman, and Liedtka (2001) acknowledge that stakeholder theory lacks a foundational philosophical approach, noting the absence of agreement in the literature. It has been suggested that the common good could be a possible philosophical basis for stakeholder theory (Knapp & Carter, 2007). Moore (1995, 2013) argues that public sector research should rest on a normative framework that articulates the public value or public purpose being pursued.

Scholars have argued that the common good philosophy can underpin public policy and public value creation (Douglass, 1980; Enrico et al., 2015; Spicker, 2019) and can assist in structuring relationships with not-for-profit organisations (Sagawa & Segal, 2000).

Given previous research has found there is often a clash of values between the three sectors, the common good philosophy could provide a compelling theoretical foundation for the consideration of social procurement policies in government procurement processes.

Table 2.3

Research Questions and Key Concepts

Questions	Key Concepts
What are construction managers' and relevant actors' responses to social procurement policies requiring the employment of people from disadvantaged backgrounds in government projects?	Social procurement, social value, social sustainability
What are construction managers' and relevant actors' responses to the requirement to create additional social value in government contracts?	Social value, public value, social sustainability
What is the current use or deployment of third-party intermediaries to assist managers and relevant actors in implementing the employment requirements?	Third-party intermediaries, cooperation, coordination
What are further enablers or strategies that may potentially assist their implementation?	Enablers, strategies, coordination
How might the social procurement policies be framed or refined to better accommodate the project-based and transitory nature of the construction industry?	Policy framing and design

2.7 Conclusion

As this literature review has highlighted, studies exploring the implementation of social procurement policies by large construction firms have found significant barriers. Studies have identified certain enablers but sometimes conflate the social procurement practices by firms generally and where they are imposed as a requirement in a government project. Previous studies have also examined requirements to include social enterprises in the supply chain alongside employment requirements, whereas this study focuses solely on employment requirements.

Much about policy implementation is still unknown (Lou et al., 2023; Troje & Gluch, 2020). In this under-conceptualised and under-theorised area (Troje, 2020), very few studies in Australia have examined the requirement to employ people from disadvantaged backgrounds, particularly from the perspective of a cross-sector of stakeholders.

This review identifies critical gaps in our understanding of social procurement implementation. While research has examined broad policy impacts and individual case studies, four key areas remain unexplored:

First, a detailed analysis of the policy documents has not been conducted in Australia. Despite different approaches in NSW and Victoria, no research has analysed the written policy variations in each state and whether such variations impact implementation outcomes.

Second, the tender process—a crucial stage where employment requirements are negotiated—has received little scholarly attention. Understanding how firms interpret and respond to these requirements during the tender phase could illuminate greater potential for alignment between policy intent and implementation.

Third, third-party intermediaries play vital yet understudied roles. These organisations and individuals bridge the gap between construction firms and disadvantaged workers, but their practices and impact remain largely unexamined (Lou et al., 2023).

Fourth, as outlined at 2.5, previous research on social procurement policies in construction has tended to employ theoretical approaches that do not analyse the entire lifecycle of the procurement process while also considering the contractual nature of the relationship between firms and government. The findings from this study highlighted the centrality of the contractual mechanism. The application of agency theory offers valuable insights and possible solutions to challenges arising from the contractual nature of the relationship between the government and the construction firms. However, because the overarching aim of this research is to identify solutions to the barriers to effective implementation and improve policy design, a broader systems perspective is required. Accordingly, this study applies both systems theory and agency theory.

Successful implementation depends on understanding the complex interplay between policy design, tender processes, and implementation at project level. The next chapter outlines the research design and the methodological, ontological, and epistemological approaches to the research questions.

Chapter 3: Research Methodology

3.1 Introduction

This chapter will outline my approach to the research design and methodology adopted to answer the research questions. To commence, an explanation and justification for the use of the pragmatist paradigm is offered, and the epistemological and ontological assumptions used in this research are then canvassed. The next section outlines my approach to research design, recruitment, data analysis and interpretation. Finally, I discuss validity and ethical considerations.

A qualitative methodology was selected to examine this emerging area of research and practice within the construction industry (Bryman, 2016, p. 393). A survey design incorporating semi-structured interviews with a diverse cross-section of stakeholders was employed (Miles et al., 2020, p. 31). Additionally, social procurement policies and publicly available government documents were examined. These included the published model social procurement clauses for government contracts and reporting documents.

Table 3.1

Overview of the Research Approach

Topic	Approach
Paradigm	Pragmatism
Ontology	Realism
Epistemology	Constructivism
Axiology	Action-focused and critically reflective
Research approach	Inductive
Research methodology	Qualitative research—survey design with inductive analysis
Data collection methods and analyses	Semi-structured interviews - data collection and analysis was conducted iteratively whereby insights gained at each stage informed and refined the focus of subsequent data collection

Analysis of government policies, government websites and publicly available documents

Data from construction firm websites

3.2 Ontological and Epistemological Approach

3.2.1 Pragmatism

This study adopts a pragmatist paradigm (Dewey & Rogers, 2016). The pragmatist paradigm is traditionally associated with mixed methods research; however, it is increasingly applied in qualitative inquiry (Morgan, 2014). Pragmatism challenges the conventional dichotomy that aligns qualitative research with constructivism and quantitative research with post-positivism (Berkovich, 2018; Emmel, 2013). Instead, it accommodates a range of epistemological and ontological perspectives (Creswell & Creswell, 2013, p. 10). Maxwell (2012, p. 22) argues that ‘ontological realism is shared by many versions of pragmatism’. Dewey and Rogers (2016) argue that a pragmatist approach adopts pluralistic methods to generate knowledge, emphasising that inquiry begins with a problem that must be clearly identified, understood, and explained.

Given this pragmatist emphasis on problem-centred inquiry, the challenges surrounding social procurement in construction represent a particularly relevant area of investigation. Research within the construction industry has revealed that broader social procurement requirements, particularly mandates to employ people from disadvantaged backgrounds, are frequently perceived as burdensome by contractors and present additional project-level challenges (Loosemore et al., 2019). These employment requirements impact all project levels, with studies identifying a significant gap between social procurement policy intentions and the practical realities of implementation (M Loosemore et al., 2020; Troje & Andersson, 2021). Consequently, social procurement requirements often constitute a substantial problem for firms seeking to secure government contracts, making this an ideal context for pragmatist inquiry that begins by clearly identifying and understanding real-world challenges (Loosemore, Alkilani, et al., 2021; Troje & Andersson, 2021). As such, a

qualitative methodology facilitates a deeper exploration of these challenges by capturing the experiences of those directly involved in policy implementation (Miles et al., 2020, p. 20).

Although pragmatism extends beyond mere problem-solving, it advocates for the use of methods that best address the research problem (Morgan, 2014). It also underscores the practical significance of knowledge and the contextual factors influencing its application (Dewey & Rogers, 2016). Adopting the pragmatist paradigm aligns with this research because existing research suggests that social procurement policies often fail to account for the practical realities of construction project (Loosemore et al., 2023b; Troje, 2021a). Consequently, understanding the practical implications of these policies within the context of the relevant project is essential for assessing their impact (Lou et al., 2023). Accordingly, this study's research questions and objectives build upon previously identified barriers and enablers of social procurement implementation in the construction industry.

3.2.2 Realism

Realism posits the existence of an 'underlying reality independent of our ability to see, measure, or know what is happening' (Emmel, 2013, p. 5). This perspective is also referred to as empirical realism (Bryman, 2016, p. 29). Maxwell (2012, p. 10) presents a nuanced interpretation of realism, allowing for a realist ontology while acknowledging an epistemological constructivist stance. In response to criticisms of this philosophical approach in qualitative research, Maxwell (2012, p. iv) argues that 'our knowledge is inevitably created from a specific vantage point'. He further asserts that while it is impossible to produce a completely 'objective' account independent of all perspectives, this does not undermine the 'validity of different perspectives and the existence of a real world' (Maxwell, 2012, p. 10).

Adopting this realist approach, it is assumed that participants' experiences are real while recognising that their accounts are shaped by subjective perspectives. The questions posed to participants were designed to align with a realist ontology (Manzano, 2016), aiming to bridge the gap between policy objectives and outcomes. The interview questions were structured to elicit participants' practical experiences in responding to and implementing policy requirements within their projects (Creswell & Creswell, 2023, p. 17).

Similarly, interviews with third-party organisations and intermediaries provided insight into their evolving role in facilitating connections between construction firms and the supply, training, and support of candidates (Manzano, 2016). This methodological approach

enables the reporting of participants' real experiences while acknowledging the subjective factors that may influence their perspectives (Hammersley, 1992; Porter, 2007). The overarching objective of this research is to find solutions to improve policy design and implementation. The realist approach has allowed practical solutions to emerge by applying agency theory focused on the contractual context in which these policies operate. The realist approach has also allowed for the application of systems theory, which offers a holistic approach to solving complex problems and seeks to recognise leverage points in the practical implementation of the policies throughout the policy, tender, and implementation stages.

The following section outlines the methodological design underpinning the research and research design. This is followed by a detailed explanation of the data collection, including participant selection criteria and data analysis procedure.

3.3 Methodological Approach and Research Design

A qualitative 'in depth' methodology was employed to gain insights into participants' practical experiences in policy implementation (Creswell & Creswell, 2013, p. 10). This approach is particularly suitable for this research, as an examination of the employment requirements in the construction sector remain relatively nascent, necessitating an exploration of the experiences of those directly engaged in policy implementation (Lou et al., 2023). Furthermore, this methodology aligns with the pragmatist research approach, which seeks to identify and clarify problems through empirical inquiry (Dewey & Rogers, 2016). Moreover, using an inductive approach is particularly well-suited to problematisation as an analytical strategy for investigating data (Timmermans & Tavory, 2012).

A key objective of this research is to address the disparity between written social procurement policies and their practical implementation, with a particular focus on how policy framing could be improved to reduce uncertainty and other operational challenges. To achieve this objective, the research design adopts a two-faceted approach that examines both policy documentation and practitioner experiences in NSW and Victoria. The research design encompasses two primary data collection strategies: first, an analysis of relevant policy and related documents to understand the official government position on social procurement; and second, semi-structured interviews with industry practitioners to capture operational-level insights into policy implementation. These two strategies were applied concurrently and

enabled a comprehensive examination of the gap between policy intention and practical reality. Additionally, the collection of data from both states allowed comparisons to be made between the two states.

The initial selection of NSW and Victoria was guided by both practical and analytical considerations. Residing in NSW provided convenient access to research sites and facilitated a deep contextual understanding of local practices. Previous studies have suggested that Victoria has led the way in the recent revival of social procurement in Australia, and several studies appear to be focussed on Victoria or include participants from Victoria for this reason (Loosemore et al., 2019; Loosemore et al., 2020; Loosemore et al., 2024). The decision to compare the findings between the two states for the first two research questions emerged after the initial choice of the states was made. The comparison enabled the isolation of the effects of formal policy frameworks versus the informal policy approach by NSW, which was interesting as similar themes were emerging between the states. Although a systematic cross-state comparison was not initially planned, the data revealed these differences, making the contrast between the states a productive lens for exploring policy implementation and its practical effects.

As detailed below in Section 3.4.3, I had no prior personal or professional connection to the construction industry and was initially unaware which participants from either New South Wales or Victoria I would be able to interview. I also had no previous professional engagement with social procurement policies. Consequently, my awareness of key issues and understanding of the policy complexities developed progressively over the course of the interviews.

Table 3.2

Overview of the Research Design and Rationale and Objectives

Data Source	Rationale/ objectives
Semi-structured interviews with a range of stakeholders in NSW and Victoria	Identify participant experiences implementing employment requirements in order to increase our understanding of their implementation. How firms formulate a response in the tender process, and how they are connecting with third-party intermediaries.
Government policy documents and publicly available information about the policies published by the NSW and Victoria governments.	Policy documents including documents that clarify the contest of the policies in NSW and Victoria.

3.4 Data Collection

This section outlines the data collection methods employed to investigate the implementation challenges and barriers associated with social procurement policies in Australia’s construction industry. The research utilised a qualitative approach, combining semi-structured interviews with document analysis to comprehensively capture stakeholder experiences and perspectives regarding social procurement implementation. The methodological choices were informed by the emerging nature of research in this field and the need to explore complex institutional and project-level dynamics that influence policy outcomes. The following subsections detail the rationale for the selected approach, the interview process, and the considerations that shaped the data collection strategy.

3.4.1 Semi-structured Interviews

Semi-structured interviews were employed as the primary data collection method. This approach is particularly effective given the emerging nature of research and practice in this field (Bryman, 2016, p. 393). The use of semi-structured interviews allowed participants

to elaborate on the impact of social procurement policies on both current and past government projects. Furthermore, the flexibility of this method facilitated the emergence of unanticipated issues throughout the interview process. This was particularly valuable given the dynamic and transient nature of construction projects (Bryman, 2016, p. 471).

Although an interview guide was utilised for every interview, the semi-structured format provided the flexibility to explore additional questions that were not predetermined (Bryman, 2016, p. 471). Given that research on third-party intermediaries in the implementation of social procurement policies remains a relatively new area, this approach enabled participants to articulate their evolving roles in greater detail (Lou et al., 2023).

Alternative qualitative methods, such as in-depth case studies, were considered. Case studies in Australia and internationally have demonstrated that social procurement policies are often perceived as an external burden imposed on firms and subcontractors (Troje & Andersson, 2021). The aim was to explore the implementation of the policies, particularly for firms and subcontractors that do not have existing resources or structures to implement the policy.

Several studies, particularly in Australia, have utilised case studies of collaborative initiatives led by tier-one or large construction firms to explore the implementation of social procurement (Loosemore, Denny-Smith, et al., 2021; Loosemore, Keast, Barraket, et al., 2022). Therefore, while the findings of these case studies offer valuable insights into the implementation of social procurement, they reflect this collaborative effort. For instance, one case study was on project-based intermediaries—training organisations physically present on project sites—as this approach has been shown to facilitate collaboration. In contrast, this research seeks to enhance the implementation of the employment requirements in circumstances where firms rely on third-party intermediaries to fulfil employment requirements and specifically where there is no pre-established collaborative framework.

A central issue underpinning this study is the presence of institutional and project-level barriers that hinder the successful implementation of social procurement policies (Loosemore & Reid, 2019; Troje & Gluch). Due to the transient and project-based nature of the industry, it is often unclear which firms are actively engaged in government projects at any given time. From a practical standpoint, identifying the individual responsible for policy implementation within an organisation is not always straightforward (Loosemore et al.,

2023a). Consequently, questionnaires, another qualitative method considered for this study, risk being misdirected or failing to reach the appropriate respondents.

A potential limitation of a qualitative methodology is the inherent subjectivity of qualitative research, where both participant and researcher bias may influence the findings (Creswell & Creswell, 2013, p. 10; Keeble et al., 2013). To mitigate this, reflective memo writing and detailed note-taking were employed throughout the research process, facilitating concurrent data analysis and minimising bias (Miles et al., 2020, p. 62). This practice is particularly important, as it allows the researcher to critically engage with their own biases and incorporate reflective insights both during and after each interview (Bryman, 2016, p. 393).

Following the completion of the qualitative interviews, a focus group was initially planned to refine participant views on potential facilitators and enhancements in policy design. However, the focus group was not conducted. The primary reason for this decision was that the interviews had already exhausted the solutions and the reluctance of participants to engage in a subsequent focus group. Therefore, the decision to forgo the focus group was deemed appropriate to maintain the integrity of the research process and respect the participants' time and contributions.

The core sequence of questions from the interview guide were administered consistently across all participants. When emergent themes or issues were identified in earlier interviews, these were incorporated into subsequent participant discussions, adhering to a qualitative methodology.

Interviews were initially scheduled to last one hour; however, most extended to approximately 90 minutes, with some lasting up to two hours. Participants provided both retrospective and prospective insights, as discussions not only examined past challenges but also explored potential solutions. Additionally, improvements to policy design were considered in depth with every participant.

The data collection process predominantly utilised virtual conferencing technology (Zoom), with only four interviews conducted in person. These face-to-face encounters provided limited additional contextual insights into the spatial organisation and operational structure of project offices. While the in-person methodology offered some observational advantages regarding office environments, it did not yield substantially richer data compared

to virtual interviews, as direct construction site observation remained outside the scope of the permitted access, restricting both methodological approaches to administrative contexts.

Interviews were recorded and transcribed using the recording app Otter.ai. In accordance with the ethics approval, interviews on Zoom were also recorded. Each interview was checked against the audio recording. Corrections were made and the data was de-identified before being stored in accordance with the approved Research Data Management Plan (RDMP).

As the interviews progressed, additional issues emerged and were subsequently explored with later participants, including experts. This study did not employ a formal Delphi methodology, which uses a structured communication technique that relies on expert panels to achieve consensus through iterative rounds of questionnaires and controlled feedback (Brown, 2019). An informal approach to exploring issues raised by expert participants was adopted that enabled the identification of emerging issues. As issues and possible solutions arose in the interviews these which were then raised with subsequent participants (without identifying the previous participant in any way). This process, which allowed subsequent participants to consider these issues, facilitated a deeper understanding of the challenges and an exploration of potential enablers and solutions.

3.4.2 Analysis of Policy Documents

To enhance the reliability of the findings, data was collected from multiple sources to minimise bias (Edwards & Holt, 2010; Jonsen & Jehn, 2009). At the commencement of this research, publicly available policy documents relating to government procurement in New South Wales and Victoria were examined using the respective government websites. This analysis encompassed the broader legislative procurement framework as well as key policy documents specific to government procurement. Additionally, relevant social procurement policies in both states were reviewed.

As the interviews progressed, the government documents and websites were continuously referenced and reassessed to contextualise participants' explanations of policy implementation in practice. As outlined below, findings gained from participants' views on the social procurement policies of NSW and Victoria are presented separately in the Findings Chapters 4 and 5. The selection of documents in each state was informed by issues and explanations raised by participants during interviews. As the interviews progressed, a clear

contrast emerged between the approaches of the NSW and Victorian Governments. This divergence was evident not only in the content of written policies but also in the weight each jurisdiction placed on their implementation. Nonetheless, participants in both states revealed similar themes and concerns. Accordingly, the findings are presented separately to facilitate a comparative analysis.

During this research, the New South Wales Government conducted an Inquiry into the procurement practices of government agencies and their impact on the social development of the people of New South Wales ('the Inquiry') (NSW Government, 2024). The Inquiry also examined several issues identified in this research. Its findings are incorporated into the discussion in Chapter 7, providing an additional layer of analysis. Furthermore, drawing on the preliminary findings from this research, submissions were made to the Inquiry based on insights generated through this research (see Appendix A6). To ensure confidentiality, all data was generalised in reporting.

Initially, Freedom of Information (FOI) requests were going to be issued to government departments before or concurrently with the interviews. However, as the interviews progressed, new insights emerged that helped refine the scope of information to potentially request. For example, an initial FOI request was intended to ascertain the number of candidates employed under social procurement policies and whether they remained employed upon project completion. However, participant responses suggested that such data was unlikely to be retained by government agencies.

To understand the formal policy framework governing social procurement in the construction sector, a comprehensive review of key policy documents from both New South Wales and Victoria was undertaken. These documents articulate the official government positions on social procurement requirements and form the basis for understanding policy intent and prescribed implementation processes. The analysis focused on policy objectives, implementation mechanisms, and the guidance provided to industry practitioners.

As interviews progressed, it became clear that the NSW and Victorian Governments adopt distinct approaches to social procurement. Although similar issues arose in both jurisdictions, the variation in policy design and implementation warranted a detailed comparative analysis. In NSW, participants referenced multiple policy documents, revealing a dispersed framework relating to social procurement and, in particular, to the employment of people from disadvantaged backgrounds. By contrast, Victoria has a standalone social

procurement policy supported by a suite of publicly available documents and implementation guidance, which participants frequently cited. In both states, the issue of how employment requirements are weighted in the tender assessment process emerged as a key concern.

3.4.3 Recruitment Strategy and Sampling

This section outlines the participant selection criteria and recruitment approach, followed by the methodology for selecting and analysing policy documents. To ensure internal validity and reliability, a purposeful sampling method was employed (Saunders et al., 2015). Adhering to strict inclusion criteria and systematically applying content analysis further strengthened the study's internal validity and reliability (Saunders et al., 2015). Participants were required to have direct involvement in implementing social procurement policies within government construction projects, particularly those related to the employment of disadvantaged groups. While a diverse range of stakeholders was interviewed, all participants were selected based on their professional involvement, either at a strategic, executive or managerial level in project implementation.

The social procurement requirements in government projects across both states are broadly framed and may encompass purchasing from social enterprises within the supply chain, as well as environmental considerations (M Loosemore et al., 2020). Given this broad scope, maintaining consistency in participant selection was essential for internal validity, ensuring that all interviewees had direct experience with policy implementation. The selection criteria for third-party intermediaries similarly required that they be involved directly with the employment requirements while operating outside the immediate project structure. Their role could involve training, supplying, or supporting candidates, as well as facilitating connections between firms and organisations that provide potential candidates at a practical or strategic level.

Recruitment Strategy

The construction sector represents a vast and multifaceted industry characterised by diverse operational processes and complex networks. However, the potential participant population for this investigation was constrained by specific delimitation criteria. These constraints were derived from the requirement for direct engagement in the implementation of social procurement, specifically the employment of disadvantaged groups in government

projects. Furthermore, this meant that to be eligible, participants had to maintain substantial involvement in public sector construction procurement. These methodological parameters necessarily reduced the available participant cohort while ensuring data collection from individuals with the requisite experience and knowledge pertinent to the research objectives.

It is also worth noting that recruiting participants was particularly challenging in a commercially competitive environment, where organisations were understandably cautious about sharing internal practices. This challenge was heightened by the fact that I was seeking to examine the tender process itself, which is a commercially sensitive area and one that organisations are often reluctant to discuss.

I maintained methodological independence, having no prior personal or professional affiliations with the construction sector or any study participants. Participant recruitment predominantly employed purposive sampling through industry-specific events, a strategy that proved methodologically appropriate given the nascent nature of the research domain, the limited candidate pool, and the investigative focus on individuals directly engaged in policy implementation processes. Specialised professional forums facilitated the identification of key emergent actors within this relatively small population of potential participants. Two exceptions to this primary recruitment strategy occurred: one participant was engaged directly through a professional social networking platform (LinkedIn), while another connection was established during a professional function. This combined approach to participant identification ensured access to individuals with specialised knowledge pertinent to the research questions.

Engaging with participants at industry events allowed me to clearly articulate the purpose and scope of the research when meeting potential participants while also assessing their suitability for the study. This approach ensured that all participants had direct experience with the requirement of employing disadvantaged groups within government projects. Given the lack of existing research on third-party intermediaries (Lou et al., 2023) meeting potential participants in person facilitated the identification of individuals and organisations actively operating in these emerging roles.

Following the initial meetings, participants were contacted via LinkedIn, and email addresses were exchanged. They were then sent the Participant Information Form (Appendix A2). Some participants returned the signed form, after which interview meetings were scheduled. For others, verbal consent was obtained using a script that was read aloud before

the interview began, in accordance with my Ethics Approval application (Appendix A1). Except for four interviews, all were conducted via Zoom.

A key advantage of this approach was its effectiveness in identifying individuals directly involved in implementing employment requirements within social procurement policies in government projects. This ensured that interviews remained focused on these specific policies rather than diverging into broader discussions on social procurement. Directly contacting firms and requesting to speak with the responsible individual would have been challenging, as it would have required relying on a third party's assessment of an individual's role in a highly specialised area. Moreover, this approach would have depended on pre-existing industry relationships, which I did not have at the outset.

Given the highly competitive nature of the construction industry and the sensitivity of commercial information involved, it was very difficult to meet and engage with potential participants. To highlight the difficulties in meeting and finding suitable participants, there were approximately 15 participants whom I met at construction industry events and who initially expressed interest in participating. When the Participants Consent Forms were sent by email, they subsequently declined to be interviewed, with some citing confidentiality concerns. The industry is highly competitive and non-collaborative (Loosemore et al., 2020).

3.4.4 Study Participants

The participants fall into three broad categories. The first are those from the industry directly involved in the project; the second are those operating outside the project who assist in implementing the policies; and the third are government employees and policy and construction experts.

The first group were from construction firms or directly involved in construction projects and were either construction managers, social value managers, bid managers, or employment leads with direct experience with the employment requirements in government projects.

The second group were participants who operate to implement the employment requirements from outside the project, assisting in implementing policies from third-party organisations. Previous research has established that third-party organisations may help supply, train, or support candidates (Barraket & Loosemore, 2018). As is explained in depth in Chapter 2, Subsection 2.4.3, these organisations are referred to as third-party organisations

because they are frequently tasked with facilitating the location, training, and support of candidates to construction firms to meet the employment requirements in government projects (Loosemore, Denny-Smith, et al., 2021). Loosemore (2024) notes there is a paucity of research on third-party organisations and individuals who may be referred to as intermediaries in the context of social procurement in construction.

Though several case studies have focused on the collaborative efforts of large firms (Loosemore, Denny-Smith, et al., 2021), our understanding of how firms find and connect to third-party organisations, particularly where no prior relationship exists, remains limited. This gap is especially pronounced when firms must identify and engage with local community organisations in unfamiliar project locations. This study seeks to explore these dynamics and the mechanisms through which third-party organisations engage with firms in new project areas.

I had no previous experience in the construction sector and did not know what project external roles existed that might assist with implementing the policies. I did not expect to be able to interview participants from outside the construction project who were assisting with policy implementation. Once I found out who performs these roles, it was critical to explore how they deal with individuals from disadvantaged backgrounds and with construction managers (their main connection) within the project or subcontractors. An examination of the themes that arose from these interviews is given at the end of each section, after which an integrated discussion of the results is offered.

The third category consisted of participants from government, policy, and the construction sector, including individuals who have directly advised the Governments of New South Wales and Victoria on policy matters. This group also included managers and policy advisors from relevant government departments. Each participant had been directly involved in implementing employment requirements within government projects, either at a strategic or operational level.

There appears to be participation bias in the pool of participants from within the construction sector (Keeble et al., 2013; Sherratt & Leicht, 2019). The study included a cross-section of stakeholders who provided differing views on the implementation of the employment requirements. The individuals who were willing to participate expressed genuine commitment to it and appeared to be actively attempting to implement the social procurement policies. Participants articulated the difficulties they encounter when implementing the

employment requirements and provided recommendations on how the policies could be improved. All participants identified less-than-ideal practices or 'tick-a-box' approaches adopted by some firms within the sector. These findings are specifically outlined in Chapter 5.

It may be inferred that the firms that are not genuinely trying to implement the policies are probably less likely to be willing to participate in this research. An obvious difficulty is finding participants who are willing to participate but are not trying to implement the policies successfully and who have engaged in less-than-ideal practices. It may be for this reason that previous research has referred to participants implementing social procurement practices as 'champions of social procurement', for instance, Loosemore, Alkilani et al. (2021). The following table shows the participants divided into those who were employed internally on projects and those who operated externally to the project.

Table 3.3

Overview of Participants

Participants – Construction	Number
Employment lead from tier-one construction firm – responsible for implementing employment requirements with subcontractors	1(NSW)
Construction Managers – medium and large projects	5(2VIC) (3NSW)
Advisor to Gov. Minister – direct experience with social procurement policy implementation and policy design	1(NSW)
Bid Manager medium-sized projects – responsible for putting together tenders and reporting to government	1(NSW)
Social Inclusion Managers – responsible for implementing policies (large projects)	2(VIC)
Construction executive from a construction firm seconded to government projects – role includes dealing with social procurement requirements	1(VIC)
Participants – Third-party Organisations and Intermediaries	
Manager at government-funded organisation – assisting the construction industry in implementing social procurement policies by connecting NFP to firms	1(VIC)

Manager at government-funded organisation – assisting firms with government tenders, including advice on social procurement requirements	1(NSW)
Training Organisation – participant strategically works with the construction industry to improve training, including people from disadvantaged backgrounds	1(NSW)
Training Organisation – participant is a manager responsible for seeking innovative solutions to improve training and employment of people from disadvantaged backgrounds in construction	1(NSW)
Training Organisation – responsible for the training and support of disadvantaged people employed through government contracts	2(NSW)
Former construction and procurement manager – advises small construction firms on tenders, including responding to social procurement requirements	1(VIC)
Manager of NFP established to assist firms in implementing all aspects of social procurement policies – including connecting firm to not for profit organisations that can supply candidates.	1(VIC)
Policy Manager – oversees the employment of disadvantaged cohorts for a government agency	1(NSW)
Manager for government agency – responsible for small construction projects	1(NSW)
Policy and Construction Experts	
Social Procurement Policy – consultant on social procurement for tenders. Prior advisor to government ministers on design of social procurement policies	1(NSW/VIC)
Executive on a Construction Umbrella Organisation – works with government/treasury/industry to improve government policies, including social procurement	1(NSW/VIC)

3.4.4.1 Subcontractors and Candidates – Not Interviewed

Subcontractors were not directly interviewed for this study. Previous research has examined the pressures placed on subcontractors as a result of the head contractor transferring employment requirements to subcontractors (Murphy & Eadie, 2019; Troje & Andersson, 2021; Troje & Gluch, 2020a). Research has also explored subcontractors’ perceptions of hiring individuals from disadvantaged backgrounds (Loosemore et al., 2020; M Loosemore et al., 2020). These studies highlight the difficulties faced by subcontractors in finding, training, and employing people from disadvantaged backgrounds. These studies are

discussed in further detail in the literature review in Chapter 2 at 2.6. Building on this body of work, this research investigates how participants engage with subcontractors in the implementation of social procurement policies and explores potential strategies to better support subcontractors in fulfilling these requirements.

Individuals from disadvantaged backgrounds who are employed because of these policies were not included in this study for two main reasons. First, there were practical difficulties in locating individuals who had been employed as a result of these policies. Secondly, there are significant ethical and privacy considerations associated with interviewing vulnerable groups. However, several participants worked directly with individuals from disadvantaged backgrounds in the context of policy implementation and were able to discuss insights they had gained from these interactions.

3.4.4.2 Number of Participants

The number of participants (N=23) appears small; however, it is similar to some of the other studies in this area of research. The length of the interviews ranged from one hour to two hours and allowed for in-depth discussions. The number of interviews has ensured an adequate cross-section of firms and actors involved in employment requirements. In a similar study to this research, Loosemore et al. (2023b) conducted interviews with 15 industry professionals involved in social procurement. The study is inspired by social procurement policies and explores drivers underpinning social procurement implementation. The criterion for inclusion is that the participants are involved in social procurement. Loosemore et al. (2023) note that the number of participants is small because of the limited number of professionals involved in this type of work. In another study, Loosemore and Reid (2019) use semi-structured interviews with eight senior managers to examine the types of social procurement practices in eight large construction firms. Loosemore et al. (2024), in a comparative study, explore the impact of social procurement policies on construction firms through interviews with 13 participants from Victoria and 14 participants from Scotland.

In a large study, Troje and Andersson (2021) interviewed 46 construction practitioners to explore the general social procurement practices of firms in Sweden. This study aimed to gain an institutional perspective on the impact of social procurement practices. However, the participants for this study were not required to be directly involved in the implementation of the policies but could be involved in social procurement generally. In

another study, Murphy and Eadie (2019) surveyed 50 contractors to investigate the use of socially responsible procurement in firms that have successfully tendered for contracts with the Northern Ireland Procurement Authority. The online survey examined perceptions of social procurement practices but did not use qualitative interviews. In Australia, several studies have interviewed a cross-section of stakeholders as part of large case studies of collaborative initiatives led by major construction firms (Loosemore, Denny-Smith, et al., 2021; Meltzer et al., 2024).

The following table outlines the individual participants. The tables are divided into NSW and Victoria; they are also divided into groups, industry, third-party intermediaries, government, and policy and construction experts. The names of the positions are generalised to maintain confidentiality.

Table 3.4
Participants from NSW

Details	Role	Firm
P1: April 2023 46 minutes Therese	Former Construction and Procurement Manager	Consultant (Third-Party Intermediary)
P2: May 2023 1 hour 40 minutes Olivia	Employment Lead	Tier-One Large Firm
P3: June 2023 1 hour 15 minutes Steve	Architect / Constructions Manager	Construction and Architectural Firms NSW
P4: July 2023 54 minutes Gary	Construction Manager (government projects)	Medium-sized Firm
P5: July 2023 54 Minutes Douglas	Advisor to a government minister and direct	Government
P6: July 2023 1 hour 20 minutes Bruce	Manager	Training Organisation
P7: July 2023 1 hour 20 minutes Doris	Executive on Construction Association	Industry Association
P8: July 2023 1 hour Richard	Bids & Marketing Manager	Medium Firm (\$100 million to \$500 million)

Details	Role	Firm
P9: July 2023 Lucy	Consultant to firms during tender and implementation of policy	Large Not-for-Profit Organisation
P10: July 2023 1 hour 7 minutes Bob	Manager	Large Training Organisation
P11: July 2023 1 hour Cynthia	Strategic Manager for Construction	Large Training Organisation
P12: August 2023 1 Hour 9 minutes Cathy	Manager	Large Training Organisation
P13: May 2023 1 hour Patrick	Manager within government	Government
P14: February 2024 1 hour 51 min Carlo	Government Policy Advisor	Government – Third-Party Policy Intermediary

Table 3.5

Participants from Victoria

Details	Role	Firm
P15: May 2023 Matthew 2 hours and 15 minutes	Manager Not-for-Profit	NFP- Third party policy Intermediary
P16: June 2023 1 hour 15 minutes Brian	Former advisor to government on SP.	Medium-sized Firm
P17: October 1 hour 19 minutes Joe	Construction Manager	Large Firm
P18: October 2023 1 hour Mark	Construction Manager (large government projects)	Medium to Large Firms
P19: October 1 hour 13 minutes Andrew	Consultant to firms on employment requirements	Large Government Funded NFP. Third Party Policy Intermediary
P20 - February 1 hour 14 minutes	Social Procurement Manager	Tier One Large Firms

Details	Role	Firm
Jackson		
P21- May 1 hour 24 minutes Nicholas	Social Procurement Consultant	Large Consultancy Firm
P22- June 50 minutes James	Social Procurement Manager	Large Construction Firm
P23 – August 1 hour 30 Minutes Therese	Construction executive	Construction Consultant

3.4.5 Instruments for Data Collection

Interview Guide

The semi-structured interview method provided the necessary flexibility to explore participants’ experiences while ensuring consistency across interviews. Although the topics outlined in the interview guide were referred to in every interview, the depth and focus of discussions varied depending on the participant’s expertise and experience. Table 3.6 below summarises the structure of the research guide and shows its alignment with the research questions, ensuring a systematic approach to data collection.

Interviews were continued until theoretical saturation occurred (Saunders et al., 2015; van Rijnsoever, 2017). Fusch and Ness (2015) describe data saturation as occurring when (1) there is enough data to replicate; (2) no new data is being obtained; and (3) no further coding is attained, and the coding is data-rich and thick. The interview guide appears in Appendix A4.

Table 3.6

Summary of the Structure of the Interview Guide

Questions and Prompts within the Interview Guide	Question

<i>What is your experience with of government social procurement policies requiring the employment of people from disadvantaged backgrounds when tendering for government contracts?</i>	1
<i>What is your experience with the general requirement to show how you might create social value in government projects?</i>	2
<i>Generally, how has your firm and you in your role as responded to employment requirements when tendering for a government contract?</i>	1,2
<i>What is the impact of these requirements on the tender process?</i>	1,2
<i>What barriers have you encountered to their implementation?</i>	1,2,3
<i>What has helped you implement these policies?</i>	1,2
<i>Given the known difficulties subcontractors (briefly outlined the difficulties here) experience what would assist to enable better implementation of these policies?</i>	4
<i>Apart from financial support what would assist subcontractors to overcome these barriers?</i>	4
<i>How could the framing of these policies be improved?</i>	4

Questions focused on participants dealing with third-party intermediaries

Questions and Prompts within the Interview Guide	Question
<i>In your role as ...have you used third-party intermediaries to assist implementation of social procurement or social value policies?</i>	1
<i>What role function/role did they play in assisting you in your role as ... ?</i>	3
<i>How was this coordinated? How could this be coordinated better?</i>	1,2,3
<i>Considering their role/function how effective were they in their assistance?</i>	2,3
<i>What would assist in enabling managers (employment leads, subcontractors) to comply with social procurement policies?</i>	1,2,3

The following questions for third-party intermediaries mirror the questions above

Questions and Prompts within the Interview Guide	Question
<i>In your role ashow have you, as a third-party intermediary, assisted with the implementation of social procurement or social value policies?</i>	2,3

<i>What role/function/role did you play in assisting firms or individuals to implement the policies?</i>	2,3
<i>How was this coordinated? How could this be coordinated better?</i>	2,3
<i>Considering your role/function, what would assist in better coordinating with construction firms?</i>	2,3
<i>What would help enable managers (employment leads, subcontractors) to comply with social procurement policies?</i>	2,3
<i>How could the framing of the policies be improved?</i>	1,2,3

3.5 Data Analysis

The following section sets out the approach to the data analysis of the written policy and government documents and the qualitative interviews that were conducted. This is followed by a table setting out the timeline of the research. A detailed explanation of the data analysis of the interviews is then presented, with an explanation of how each research question was analysed and how the findings were presented. This section then outlines the approach taken to analyse the social procurement policies and relevant government documents in both states. Overall, the data analysis offered practical insights into the implementation of the policies across the three stages of policy implementation: writing of policy documents, tender phase, and practical implementation.

A systematic approach was adopted for the data analysis. Referring to organisational studies, Gioia (2021) emphasises that a systematic analysis must incorporate both practical insights and also ensure contributions to theory. NVivo software was used to facilitate the systematic approach, using Braun and Clarke's (2006) established approach to thematic analysis, which allowed for a flexible yet methodically rigorous structure for identifying patterns within the qualitative data. The approach aligns with the realist and pragmatist frameworks established in Sections 3.2.1 and 3.3.2.

The data collection process extended over a significant timeframe, during which the interviews progressively revealed additional barriers and enablers to the successful implementation of employment policies. The analysis of the written policies and the interviews occurred concurrently.

After each interview, notes and memos were made to record concurrent analysis and reduce bias (Miles et al., 2020, p. 26). Notes made during the interviews were then transferred to NVivo. After the first round of six interviews, data emerged that subsequent participants were asked questions about. Social procurement is an under-theorised and under-conceptualised area of research (Troje & Gluch, 2020a), and I acknowledge there may be a case for using grounded theory in this research. However, given the substantial link to the past research and the use of previous findings to formulate the research questions, grounded theory may not have been the most appropriate approach.

As the interviews progressed, they revealed to the researcher a progressively more nuanced tacit understanding of the barriers and enablers to successful employment policy implementation. This emergent understanding proved invaluable, as each interview built upon insights generated from previous conversations, creating a cumulative knowledge base. The methodological approach intentionally supported the research's overarching objective of bridging the well-documented gap between policy formulation and implementation, while simultaneously developing evidence-based solutions to identified barriers.

In addition to recording and transcribing the interviews, notes were made during and after each interview, capturing both explicit statements and contextual observations. These were subsequently enriched through detailed reflective notes completed after each interview session, documenting emergent analytical insights, methodological reflections, and potential theoretical connections. This reflective practice enhanced the researcher's theoretical sensitivity and facilitated the early identification of conceptual patterns.

As new themes, contradictions, and implementation challenges emerged following each interview, these insights were thoughtfully integrated into subsequent interviews in a manner that maintained strict confidentiality. This progressive focusing technique allowed for the systematic exploration of emerging problems with later participants, while avoiding attribution to specific individuals or organisations. This iterative process enabled the research to achieve both breadth of coverage across the policy implementation landscape and depth of understanding regarding specific implementation challenges.

Throughout the data collection phase, relevant policy documents and government publications were continuously consulted and re-examined as the researcher's understanding of policy mechanisms evolved. The policy documents in NSW, in particular, were unclear and scattered throughout a number of sources. This constant comparative approach between

interview data and documentary evidence strengthened the analytical foundation by contextualising participant experiences within the formal policy framework. Following the completion of the final interview, the formal analysis and coding procedures described below were systematically implemented.

The following figure is a timeline of the research data collection and analysis.

Figure 3.1

Overview of Research Timeline



3.5.1 Data Analysis – Interviews

Once data collection was completed, analysis involved an immersive re-reading of all interview transcripts to establish a deeper familiarity with all the data, as recommended by Miles et al. (2020, p. 64). This engagement with the raw data allowed for a holistic understanding before moving into more detailed analytical procedures. A first cycle of manual coding was conducted using hard copies of the interview transcripts, allowing for direct engagement with the text and facilitating the identification of broad thematic patterns without technological mediation.

From this initial round of coding, several substantive themes began to emerge organically from the data. These preliminary themes provided the foundation for a more structured coding framework that would later be refined through subsequent analytical iterations. After establishing these preliminary coding categories, I systematically transferred the coded data into NVivo, a qualitative data analysis software. This migration to a digital platform enhanced the organisational capabilities of the analysis and facilitated more complex cross-referencing of themes.

The migration to NVivo involved a critical reassessment of the initial coding categories while also incorporating predetermined analytical concepts derived from the research questions, particularly focusing on barriers and enablers for improved policy implementation. The methodological framework followed Braun and Clarke's (2006) established approach to thematic analysis, which was selected for this study because of its flexible yet methodologically rigorous structure for identifying and interpreting patterns within qualitative data. Braun and Clarke's (2006) approach to data analysis also allowed for inductive coding (emerging directly from participant responses) to be integrated within the analysis.

This preliminary analytical stage established the foundation for the more detailed coding procedures that would follow, ensuring that the subsequent analysis remained grounded in participant experiences while maintaining alignment with the research objectives. Attached in Appendix A5 is a full table of the data coding for all three research questions, with instructions to future coders on how to approach the coding.

3.5.2 Thematic Analysis

The digital platform significantly enhanced the systematic nature of the analysis, allowing for more sophisticated organisation, retrieval, and cross-referencing of thematic elements across interviews. This analytical approach aligned harmoniously with the study's realist and pragmatist epistemological position, which sought to explore the complex ways in which employment requirements and policies are understood, interpreted, implemented, and experienced by various stakeholders within government project contexts.

Thematic analysis enabled a nuanced engagement with participants' perspectives and experiences, while remaining grounded in the practical realities of policy formulation and contractual implementation contexts. The utilisation of NVivo for coding enhanced reflexivity and analytical transparency throughout the process, while simultaneously supporting a systematic and credible analysis of the policy-oriented data. This technological support was particularly valuable given the complexity and volume of the interview data collected across multiple jurisdictions and stakeholder groups.

The coding and data analysis explanation aims to provide transparency in the analytical process and the interpretation of the findings. To support the replicability of the analysis, I have included in Appendix A5 key instructions that researchers can follow to repeat the coding activities (Noble & Smith, 2015). Additionally, selected extracts from the data have been included in the document to support the findings discussed in this research (Noble & Smith, 2015). This approach enhances the transparency of how the findings were constructed through the NVivo analysis. The following sections outline the relationship between the data analysis and the structure of Chapters 5, 6, and 7.

Although the study was designed as an exploratory inquiry using an inductive approach, Systems Thinking was introduced at the conclusion of the analysis stage rather than during data collection. After the interviews were completed, Systems Thinking operated as a sensitising concept to support higher-level interpretation — drawing attention to relationships between actors, processes, and previously unidentified leverage points. These are set out in detail in the discussion chapter (Chapter 7). The empirical analysis, therefore, remains grounded in the interview data, with Systems Thinking deployed to support the problem-solving objectives of the study.

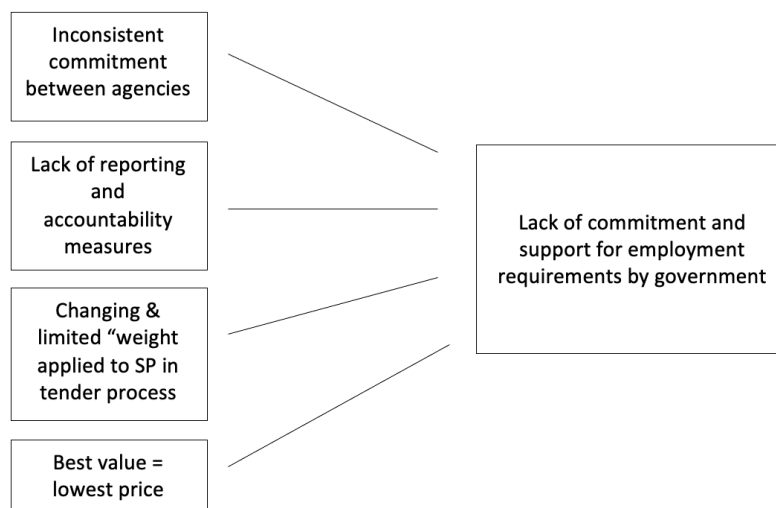
3.5.2.1 Data Analysis for Research Question 1 and 2 (Chapters 4 & 5)

The parent nodes in the coding structure were derived inductively from the interviews and reflected the key themes that emerged across the dataset. During both the data collection and analysis phases, it became increasingly evident that significant differences existed between policy approaches in NSW and Victoria. These jurisdictional distinctions were sufficiently pronounced to warrant separate analytical treatment. Consequently, the findings for Research Question 1 and 2 (Chapters 4 and 5) are presented with clear differentiation between Victorian and NSW participants, allowing for comparative insights between these two policy contexts.

The following is an example of some preliminary nodes leading to a parent node.

Figure 3.2

Examples of Preliminary Nodes and Parent Node



Chapter 4 focuses on the first research question, exploring the written policies and participant views of the written policies in Victoria and NSW. The themes that arose from the interviews were very similar for participants in both states; therefore, it did not initially appear necessary to separate the findings from NSW and Victorian participants. Once the themes were established, the differences between the NSW and Victorian participants became obvious. It was then clear that it would be beneficial to present the findings concerning the policy documents and participants' views separately and compare these results according to NSW and Victoria.

Chapter 5 addresses Research Question 2, which focuses on how the policies are implemented in the tender process and how firms respond to the employment requirements during tendering. As with Chapter 4, similar themes emerged from participants in both NSW and Victoria regarding the tender process. The chapter is structured around these key themes, with the views of NSW and Victorian participants presented separately within each theme to allow for comparison of findings between the states.

3.5.2.2 Data Analysis Research Question 3 (Chapter 6)

Chapter 6 explores the practical implementation of the employment requirements at a project level. The focus of this chapter is the interaction between those operating within the project and third-party organisations from the not-for-profit sector and intermediaries that might assist in implementing the policies. The findings are presented to clearly distinguish the views of those participants who worked in roles internal to the construction projects (such as project and bid managers, social value managers, and employment leads) and those operating in external roles (such as policy and construction experts, educational and employment providers, and government employees).

The findings are separated and presented as those participants operating internally and those operating externally to the project for the following reasons. This structural decision emerged directly from the data analysis. The data analysis revealed substantive differences in perspectives on implementation challenges between participants employed internally to the construction projects and those operating externally to the project.

Unlike Chapters 4 and 5, the findings in Chapter 6 are not separated into NSW and Victoria. While participants from both Victoria and NSW are represented and identified in Chapter 3, the thematic findings for both states demonstrated sufficient commonality to warrant an integrated presentation. Nevertheless, where meaningful jurisdictional differences emerged within these themes, they are explicitly noted and analysed to maintain analytical precision.

3.5.3 Analysis of Government Documents

The participant sample consisted exclusively of professionals with direct involvement in employment requirements targeting disadvantaged populations within government

infrastructure projects. This focused sampling approach, while providing rich insider perspectives, inherently shaped the selection of policy documents analysed, as document identification was primarily guided by participants' references to relevant policies and their practical interactions with employment mandates in their professional contexts.

A significant limitation was the restricted access to contractual documentation. Despite successfully interviewing three government officials directly responsible for employment requirements implementation, the research was unable to secure access to specific tender documents, contractual terms, or formal evaluation processes. This limitation necessitated substantial reliance on participants' accounts and interpretations of relevant contractual provisions and implementation mechanisms.

To address this documentary limitation and strengthen the empirical foundation, the research incorporated analysis of publicly accessible standard social procurement contract terms from Victoria and standardised reporting instruments from NSW. These publicly available documents provided important contextual information and assisted in validating participant accounts regarding contractual obligations and compliance mechanisms.

Policy documents from both jurisdictions were referenced throughout the interviews to establish their significance and trace policy origins.

Policy Documents: New South Wales

The interaction between documents in NSW proved particularly complex, as divergent sources for employment and social value requirements emerged during the interview process, requiring additional clarification. The following policy documents were analysed for NSW, and key extracts are included in Appendix B:

1. NSW Procurement Policy Framework (Appendix B1)
2. Industry Skills Legacy Program (ISLP) (Appendix B2)
3. Small and Medium Enterprises and Regional Procurement Policy – Guidance to Weight in Government tenders (Appendix B3)
4. ISLP Reporting Template (Appendix B4)

Policy Documents: Victoria

Victoria's policy framework proved more accessible, with the state government website consolidating information in a single location—an approach that NSW participants would like to see adopted. The Victorian documents provide agencies with comprehensive guidance on strategy formulation, evaluation processes, tender requirements, weighting protocols, suggested contract clauses, and expectation management. The following policy documents were analysed for Victoria, and key extracts are included in Appendix C:

1. Victorian Procurement Framework 2023 (Appendix C1)
2. Victoria's Social Procurement Reporting Framework (Appendix C2)
3. Victoria's Social Procurement – Buyers Guide – Individual Procurement Activities (Appendix C3)
4. Victoria's Social Procurement – Buyers Guide – Guide to Evaluation (Appendix C4)
5. Victoria's Social Procurement – Buyers Guide – contract management, reporting (Appendix C5)
6. Social Procurement Model Clauses (C6)

The analysis revealed that the distinct policy frameworks operating in NSW and Victoria required a separate presentation of findings for Research Question 1 (policy explanation) and Research Question 2 (tender process operations). The thematic analysis of interview data identified recurring themes, including inadequate reporting and accountability mechanisms, inconsistent policy guidance, and uncertainty regarding reward structures within the tender process. These emergent themes informed the selection and analysis of corresponding jurisdictional documents, ensuring alignment between interview findings and documentary evidence.

3.6 Ethical Considerations in Reporting Findings

Several ethical considerations were addressed during the process of obtaining ethical approval. Ethical approval was granted by the Human Research Ethics Committee (HREC) of UTS in February 2023 (Appendix A1) in compliance with the National Statement on Ethical Conduct in Human Research 2023 (NHMRC n.d.). Given that the construction industry is highly competitive and fragmented (Tamvada, 2020), careful consideration was given to

participant deidentification. Participants were deidentified by only indicating their job titles and firm size.

While the construction industry appears large, the participants in this study undertake government work, which significantly narrows the pool of potential participants. Although some studies identify study participants by reference to firm turnover (Loosemore et al., 2023a), the narrow inclusion criteria in this research made it critical that firms be identified only broadly as large or medium-sized enterprises (Miles et al., 2020, p. 56). This study categorised firms as large or medium-sized, distinguishing them by projects valued under or over \$500 million. Findings and themes were aggregated, and potentially identifiable features such as specific turnover figures and geographical locations of projects were not disclosed.

3.7 Conclusion

This research design offers several strengths. The use of semi-structured interviews facilitates an in-depth exploration of participants' experiences while remaining simple, cost-effective, and replicable (Creswell & Creswell, 2023). The application of strict inclusion criteria and adherence to content analysis methods enhances internal validity and reliability. However, the study's findings will be limited to generalisable claims rather than broad statistical conclusions (Miles et al., 2020, p. 59).

Despite these strengths, the research also has notable limitations. The sample size is reasonable for studies exploring social procurement in construction; however, the number of participants in each category is small. There is a potential for bias in participant selection. A key challenge is identifying participants who are not actively engaged in the successful implementation of these policies, although those interviewed were forthcoming about difficulties encountered.

Individuals from disadvantaged backgrounds who are employed because of these policies were not included due to practical difficulties in locating policy beneficiaries and ethical considerations around interviewing vulnerable groups. However, several participants who worked directly with disadvantaged individuals were able to provide insights from these interactions.

Another potential limitation is the decision not to focus on a single professional category within the project. This decision was taken because studies focussed on

subcontractors (Loosemore et al., 2019) and professionals involved in social procurement in construction within the projects (Loosemore, Keast, et al., 2022a; Loosemore & Reid, 2019; Troje & Gluch, 2020b) already exist. However, the approach taken introduces variability and allows for a broader understanding by capturing insights from a cross-section of stakeholders from outside the project, government, and experts. The study also does not aim to establish detailed causal claims regarding the effectiveness of policies (Creswell & Creswell, 2023). While participants' perceptions of causal relationships may provide valuable insights, the research may not fully identify firm-level factors that contribute to improved policy implementation outcomes.

A strength of this study is that the participants not only had a connection to social procurement policies in government infrastructure projects but a direct connection to the employment requirements in government projects. This facilitated a focus on the implementation of the employment requirements in the context of government contracts.

Previous research in this field includes several case studies, such as an in-depth examination of a large project-based intermediary (Loosemore, Denny-Smith, et al., 2021) and a government initiative employing ex-offenders in the United Kingdom (M. Loosemore et al., 2020). These studies have provided significant insights into the barriers faced by large, well-resourced firms and the conditions necessary to foster collaboration in implementing social procurement policies. However, by engaging a diverse group of stakeholders, this approach seeks to offer a more comprehensive understanding of policy interactions within construction projects.

Chapter 4: Findings – Social Procurement Policies in NSW and Victoria

4.1 Introduction

This chapter presents the findings for Research Question 1: What are the relevant social procurement policies that identify any employment and ‘social value’ requirements within the jurisdictions of New South Wales (NSW) and Victoria?

Previous research has consistently demonstrated a significant disparity between social procurement policy provisions and their practical implementation, characterised by widespread uncertainty and confusion regarding project requirements and policy execution (Loosemore et al., 2020). Troje (2020) draws on broader policy-in-practice literature to highlight the importance of adhering to general principles of good policy implementation. Research in Australia and internationally has consistently identified significant misalignment between social procurement policy provisions and their practical implementation (Loosemore et al., 2024; Troje & Andersson, 2021).

Despite these valuable contributions to the literature, a notable paucity of studies remains that conduct in-depth analyses of policy documents to contextualise implementation challenges and identify potential improvements in policy framing and articulation. This analysis could be particularly beneficial when considering the implementation of the issues raised by social procurement policies in construction (Harland et al., 2023). While research has explored the implementation of social procurement in Victoria, there has been limited comparative analysis of social procurement policies—and, specifically, employment requirements—across different states (Loosemore et al., 2024).

A key objective of this research is to address how this disparity may be remedied, including consideration of how policy framing could be improved to reduce uncertainty and other identified issues. Consequently, this chapter explores the policy documents in both NSW and Victoria, together with participant insights on interpretation and practical application in the context of the broader social procurement requirements in government projects. The analysis of these jurisdictions reveals how different approaches by governments influence the implementation of the employment requirements and may highlight potential

opportunities for framework improvement. The proposed solutions to the policy framework are also presented in this chapter.

The findings presented here in relation to both states draw from publicly accessible policy documents (which show each government's official requirements) as well as data from semi-structured interviews with the participants. In NSW, there is no separate social procurement policy and no policy mandating the requirement to employ people from disadvantaged backgrounds. The policy documents suggest the requirement is predominantly for the purpose of filling a skills gap for infrastructure projects, with a subsidiary purpose of creating additional social value. In Victoria, the *primary* purpose is to create additional social value in the projects through procurement requirements.

Victoria demonstrates a stronger commitment to social procurement through comprehensively written policies, implementation protocols and reporting, and accountability mechanisms. Nevertheless, both states show evidence of inconsistent interpretation and application, often in an ad hoc manner and with varying degrees of agency commitment. This inconsistency creates an ambiguity that affects construction firms participating in government tenders in both jurisdictions.

Analysis of the written policy documents in NSW reveals multiple, often overlapping sources within the procurement framework that support the employment of individuals from disadvantaged backgrounds in government construction projects. However, none of these policy documents mandates the incorporation of employment opportunities for disadvantaged groups as a requisite component of government projects.

This research employs an inductive approach to analyse social procurement policies and their implementation, allowing themes and patterns to emerge organically from policy documents and participant interviews rather than testing predetermined theoretical propositions. As detailed in the methodology section at 3.4, selection and analysis of policy documents were guided by participants' insights regarding implementation practices, providing a grounded understanding of policy application in real-world contexts. This methodological approach aligns with the pragmatist philosophical stance articulated in Chapter 3 at 3.2, which emphasises practical inquiry and context-specific knowledge generation (Creswell & Creswell, 2013, p. 10; Miles et al., 2020, p. 20).

This chapter contributes to the existing body of literature by identifying and examining the factors that generate confusion and uncertainty within the construction

industry regarding the integration of social procurement requirements in government contracts, with particular emphasis on mandates for employing individuals from disadvantaged backgrounds. The analysis also reveals that while clear, concise written social procurement frameworks may contribute to reducing some industry uncertainty, a fundamental issue persists in both states: government agencies continue to apply and interpret the employment requirements inconsistently, often establishing project targets disconnected from local socioeconomic contexts. The reporting and accountability mechanisms across agencies in both states are inconsistent, and participants advocate for increased consistency between agencies.

These findings highlight the need for enhanced training for procurement officers and more nuanced consideration of employment targets that better reflect the employment conditions and the social needs of the local community.

This chapter is structured as follows: first, for NSW and then subsequently for Victoria, I will outline the policy frameworks and key documents, and then present insights from participants regarding employment and social value requirements. Next, I will present an integrative analysis of the findings, followed by a comparative table highlighting the differences between NSW and Victorian policies. The chapter will conclude with a summary of key findings. The comparative analysis of these jurisdictions’ distinct approaches offers insights into the differing frameworks while establishing the context for the subsequent chapters and examination of the tender process.

The following table provides a broad overview of the key findings discussed in this chapter, with a more detailed comparative analysis presented in Table 4.5 at the conclusion of the chapter (Section 4.7).

Table 4.1

Broad Overview of Findings in This Chapter

	NSW	VICTORIA
Policy	<ul style="list-style-type: none"> requirement to employ people from disadvantaged backgrounds is not formally part of any framework or policy. The employment requirements appear 	<ul style="list-style-type: none"> dedicated procurement policy outlining the disadvantaged groups that are considered priority job seekers and whom agencies may choose to include in
Documents		

	as a suggestion in the Government’s Ten-Point Plan Commitment to the Construction Industry. Requirements linked to the Industry Skills Legacy Program (ISLP).	their requirements in government projects. These groups include ex-offenders, long-term unemployed, disengaged youth, refugees, and homeless
Social Value Requirement	<ul style="list-style-type: none"> • arises from a general requirement to consider the social priorities of the NSW Government 	<ul style="list-style-type: none"> • the stated purpose of the dedicated Social Procurement Policy is to create additional social value
Practical Application	<ul style="list-style-type: none"> • at least 3% of the workforce population on large projects are required to be people from disadvantaged backgrounds for the last 5 years 	<ul style="list-style-type: none"> • at least 3% of workforce population on large projects required to be people from disadvantaged backgrounds
Reporting	<ul style="list-style-type: none"> • no uniform reporting regime • firms should report to Department of Education, contracting agencies, and Training Services NSW • reporting requirements between agencies are inconsistent 	<ul style="list-style-type: none"> • firms should report to contracting agencies and the government-funded body Industry Capability Network (ICN) • reporting requirements between agencies are inconsistent
Accountability	<ul style="list-style-type: none"> • evidence of some financial consequences for not complying with employment requirements • inconsistently applied 	<ul style="list-style-type: none"> • evidence of increased financial consequences for not complying with employment requirements • inconsistently applied

4.2 NSW Policy Overview

The choice and explanation of government documents in this section, which show the official position of the NSW Government, align with key themes that arise from the data from participant interviews in NSW. NSW does not have a dedicated social procurement policy or separate construction policy. None of the policy documents mandates the incorporation of employment opportunities for disadvantaged groups as a requisite component of government projects.

Procurement governance is established through the NSW Procurement Policy Framework ('the Procurement Framework'), which serves as the principal document regulating all government procurement activities, including construction (NSW Government, 2024). The Procurement Framework establishes overarching procurement principles aligned with legislative requirements to establish a coordinated whole-of-government approach to achieving best value outcomes. Additionally, the framework references supplementary policies, particularly those addressing workforce participation objectives (NSW Government, 2024, p. 33).

The Procurement Framework outlines five key principles that guide the awarding of government contracts, which are further detailed in Section 4.2.2. Of particular significance to this research are two principles: the objective of achieving value for money ('best value') (NSW Government, 2024, p. 9) and the requirement for tendering firms to demonstrate how they might incorporate economic, social, and sustainable outcomes for the citizens of NSW ('social value requirements') (NSW Government, 2024, p. 30). The Industry Skills Legacy Program (ISLP) (NSW Government, n.d.-a) is referenced in the Procurement Framework and sets out various employment targets, including the percentage of apprentices and training targets.

The NSW Government introduced the NSW Government Action Plan – A 10-Point Commitment to the Construction Sector ('the Plan') in 2018, to foster a more collaborative approach to infrastructure projects. Three principles within the Plan hold particular relevance for this research: improving skills development, enhancing training provision, and increasing workforce diversity (NSW Government, 2018).

It is noteworthy that the Plan constitutes the only NSW government document that explicitly references the employment of individuals from disadvantaged backgrounds in government projects. The Plan provides an indicative list of target demographic groups that *both* agencies and subcontractors might consider employing in government projects (NSW Government, 2018). These designated groups encompass individuals with disabilities, the long-term unemployed, refugees and asylum seekers, and returned service personnel (NSW Government, 2018). An analysis of the Plan will be presented in Section 4.2.3. The following documents were examined to inform this analysis, and key extracts from these documents are included in the Appendix:

1. NSW Procurement Policy Framework (Appendix B1)

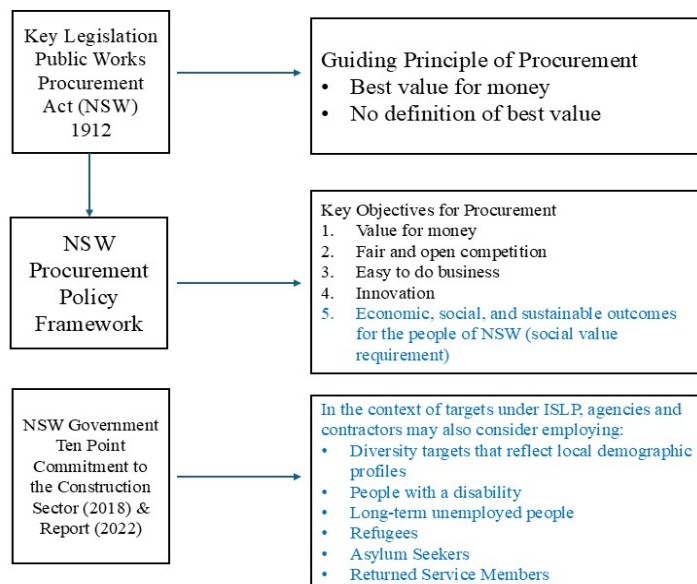
2. Industry Skills Legacy Program (ISLP) (Appendix B2)
3. Small and Medium Enterprises and Regional Procurement Policy – Guidance to Weight in Government tenders (Appendix B3)
4. Reporting template for employment requirements under the ISLP requirements (Appendix B4)

The following diagram illustrates the hierarchical relationship between relevant legislation and policy frameworks in NSW. It demonstrates how specific policies relate to the broader procurement frameworks, providing context for the subsequent examination of key legislative and policy documents. The highlighted sections identify the possible sources of employment and social value requirements within the broader NSW policy documents.

The subsequent sections will then examine the legislative and policy frameworks in further detail. This will commence with a brief consideration of the key legislation that governs the whole of government approach to procurement and the application of ‘best value’ in NSW.

Figure 4.1

Overview of NSW Procurement Policies



4.2.1 Legislative Framework

Government procurement is governed by a myriad of legislation (Seddon, 2023, p.46). The Procurement Policy Framework references enabling legislation, policies, and guidelines that govern procurement activities in NSW (NSW Government, 2024).

The *Public Works and Procurement Act 1912 (NSW)* ('the Act') constitutes the principal legislative framework governing procurement activities in NSW and is, therefore, central to this research. The Act provides general guidance for public sector agencies on the conduct of procurement and public works, outlining foundational principles to be observed throughout the procurement process. As noted earlier, one of the key principles in awarding contracts is the determination of best value. Notably, while the Act emphasises prudent, efficient, and transparent procurement, it does not contain a statutory definition of 'best value'.

Section 171(b) of the Act stipulates that a primary objective of the NSW Procurement Board is to 'ensure best value for money in the procurement of goods and services by and for government agencies'. While the Act does not define best value, it requires procurement processes to uphold probity and fairness (s 171(e)). As outlined in further detail below, the NSW Government Procurement Policy Framework provides broad guidance on how agencies may assess best value (NSW Government, n.d.).

The NSW Procurement Board is established under Section 164 of the Act. The Act grants the board responsibility to 'develop and implement a government-wide strategic approach to procurement' (s 171(a)). While the Board is tasked with overseeing a unified procurement strategy for the whole of government, both legislative and policy frameworks affirm that individual agencies remain responsible for their respective procurement decisions (NSW Government, n.d.).

4.2.2 NSW Procurement Framework

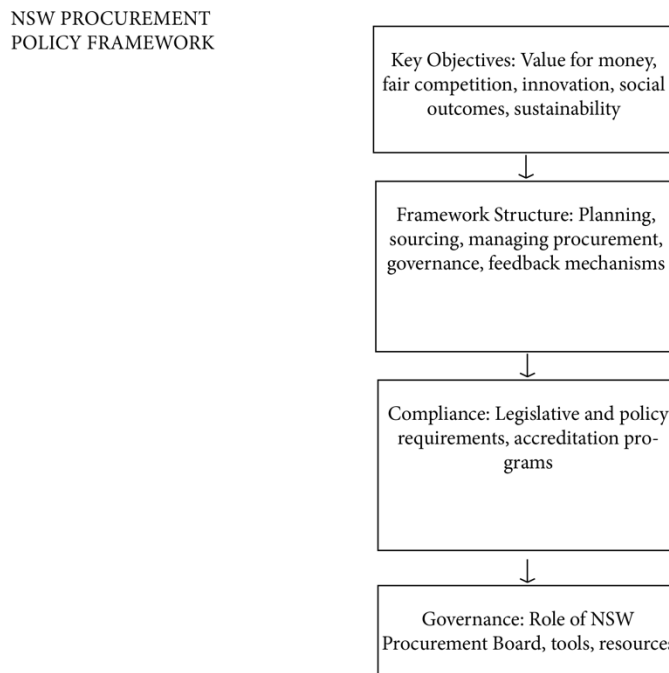
The NSW Government Procurement Policy Framework establishes the objectives, processes, and governance structures for procurement activities across government agencies (NSW Government, 2024). Structured around planning, sourcing, and procurement management, the framework includes governance and feedback mechanisms (NSW Government, 2024). The document states that procurement can serve as a mechanism for

promoting economic participation, social outcomes, skill development, and job creation (NSW Government, 2024, p. 5).

The following diagram provides a visual summary of the Framework, illustrating its key components, structure, compliance requirements, and governance mechanisms, with key extracts included in Appendix B1. The following section presents an overview of the Framework’s key components and the Industry Skills Legacy Program referenced in the Framework.

Figure 4.2

Visual Overview of NSW Procurement Policy Framework



Visual summary of 150-page NSW Procurement Policy Framework (2024)

The following is an outline of the five key principles that govern the award of procurement in NSW:

1. **Value for money** – while the enabling legislation does not explicitly define ‘best value for money’, it is the overarching consideration in procurement. Importantly, the policy emphasis that value for money *‘is not necessarily the lowest price, nor the*

highest quality goods or service. It requires a balanced assessment of a range of financial and non-financial factors'. According to the associated guide, this principle *'means looking at the total benefit to the community and ensure transparency in measuring and costing social and economic impacts'* (NSW Government, 2024, p. 9).

2. **Fair and open competition** – the policies aim to enhance accessibility for small and medium-sized enterprises (SMEs) by ensuring transparency and fostering competitive procurement processes. The framework emphasises the importance of equitable opportunities for all suppliers to engage with government procurement (NSW Government, 2024, p. 9)
3. **Easy to do business** – the policy states the NSW Government is committed to streamlining procurement processes, making them simpler, more efficient, and accessible. This principle is designed to reduce administrative burdens and improve engagement between government agencies and suppliers (NSW Government, 2024, p. 15).
4. **Innovation** – agencies are encouraged to integrate innovation and collaboration at various stages of procurement. At the sourcing level, agencies should promote innovative solutions, while at the contract management stage, they should seek to deliver additional value beyond the contract's basic terms. The policy also endorses interactive tendering processes to provide suppliers with feedback and guidance throughout the procurement process (NSW Government, 2024, p. 24).
5. **Economic development, social outcomes and sustainability** – procurement should actively contribute to economic growth, social inclusion, and sustainability and *'create jobs for the citizens of NSW'* (NSW Government, 2024, p. 30). Government agencies must align with the NSW Government's social priorities (referred to in this research as 'social value requirements'), encouraging the integration of social benefits into procurement decisions (NSW Government, 2024, p. 28). Agencies are also encouraged to include additional employment and training requirements in procurement that align with the local demographic needs of the community (NSW Government, 2024, p. 29). Agencies are encouraged to buy from social enterprises that support disadvantaged groups (NSW Government, 2024, p. 29).

This principle also links to several employment policies, including the Indigenous Procurement Policy, the Small and Medium Business Policy, and the Industry Skills Legacy Program (ISLP).

The Procurement Framework states these five principles provide the foundation for procurement decision-making in NSW. The document emphasises that the principles support the aim of ensuring that government procurement delivers not only economic efficiency but also meaningful social and environmental outcomes (NSW Government, 2024). The ISLP provides important context to the requirements to employ people from disadvantaged backgrounds.

Reflecting the broad guidance outlined in the framework, the ISLP reinforces the expectation that procurement should support the employment of diverse groups (NSW Government n.d.). Under this policy, firms are required to consider skills development and diversity targets that align with local demographic profiles, mirroring the overarching objectives of the Procurement Framework (NSW Government, 2024, p. 30). The following table outlines the Infrastructure Skills, Training, and Diversity targets established under the ISLP for major construction projects:

Table 4.2
Infrastructure Skills, Training, and Diversity Targets for Major Construction Projects

Target	Contract Value: \$7.5–\$10m	Contract Value: \$10–100m	Contract Value: over \$100m
Aboriginal Procurement Policy	Applicable	Applicable	Applicable
20% of Trades Workforce to be Apprentices	N/A	Applicable	Applicable
20% of Project Workforce to be Learning Workers	N/A	N/A	Applicable
2 % of Trades Workforce to be Women	N/A	N/A	Applicable
8% of Project Workforce to be Young People	N/A	N/A	Applicable
Report on Local Employment Outcomes	N/A	N/A	Applicable

Source: Infrastructure Skills Legacy Program (ISLP) (NSW Government, n.d.)

The Procurement Framework, particularly the ISLP requirements, was commonly referred to as a ‘policy’ by NSW participants, with obligations to employ individuals from disadvantaged backgrounds viewed as additional and separate to the ISLP Policy (rather than a core requirement). The government also provides a guide for the ISLP and a suggested document for reporting under the ISLP. The guide sets out how the employment targets under the ISLP are calculated for a project. This allows for a calculation of ‘local participation’ (NSW Government, 2023-d). It appears the requirement to employ people from disadvantaged backgrounds is in addition to this target.

While the ISLP provides a standardised reporting template for firms to document their commitments (see Appendix B2), the template notably lacks specific reporting requirements regarding the employment of disadvantaged groups (NSW Government, n.d.-e). This omission illustrates the secondary nature of the requirement to employ people from disadvantaged backgrounds in NSW and the lack of a standard reporting framework to ensure accountability for social procurement and workforce diversity goals.

4.2.3 NSW Government’s Ten-Point Commitment to the Construction Sector and Report

In 2018, the NSW Government introduced the NSW Government Action Plan – A 10-Point Commitment to the Construction Sector (‘the Plan’), which sets out 10 principles aimed at managing government construction procurement in a more collaborative manner (NSW Government, 2018). A report on the Plan, published in 2022, stands as the only government document that specifically identifies disadvantaged groups for potential employment in government projects. It highlights that agencies or contractors ‘*may also adopt additional targets*’ to support the employment of disadvantaged and underrepresented groups, including people with disabilities, long-term unemployed individuals, refugees, asylum seekers, and returned service personnel (NSW Government, 2018, p.17). Similar to the ISLP Policy, the Plan suggests that agencies and contractors can set additional targets for supporting these groups, as well as establish diversity and skills targets that reflect local demographic profiles.

Regarding reporting, both the Plan and the ISLP Policy require firms to report on their projects, including employment outcomes, on a quarterly basis. The Plan states reporting should be submitted to contracting agencies, Training Services NSW, and the Department of

Education (NSW Government, 2018, p.18). There does not appear to be any references to suggested consequences for not meeting the required employment targets under the Policy.

The next section outlines the information from the government website that sets out the suggested ‘weight’ agencies should assign to social value policies (which include any employment requirements) when issuing an expression of interest for government projects. To assist in explaining this process, it is first necessary to distinguish between cost and non-cost factors in government tenders and their relationship to the assignment of weight in procurement decisions.

Cost and Non-Cost Considerations in Government Expressions of Interest

In both NSW and Victoria, the procurement process typically begins with the government issuing an Expression of Interest (EOI) for projects, which outlines broad specifications (NSW Government, 2024, p. 64). Government tender specifications categorise requirements into distinct financial and non-financial factors, also referred to as cost and non-cost components (NSW Government, 2024, p. 8). Cost components encompass direct project expenses, including building materials, management, labour, and supply chain expenditures. Non-cost components incorporate social procurement requirements, social value creation initiatives, and location-specific considerations deemed significant by the commissioning agency. This binary categorisation and the weight placed on various requirements in the EOI form the fundamental framework for tender evaluation by agencies (NSW Government, 2024, p. 8).

The guide on the government website indicates the evaluation of the weight placed on financial and non-financial factors in the EOI will help bidders ‘*determine and prepare their best responses*’ (NSW Government, n.d.-d).

Determining Best Value—Weighting in Cost and Non-Cost Considerations

When awarding government contracts, the ‘weight’ is a percentage value that agencies assign to factors in accordance with the cost and non-cost requirements. The weight represents the importance of a factor to the government (NSW Government, 2024, p. 8). Contract specifications first establish a broad division between ‘cost’ and ‘non-cost’ aspects (for example, 60% cost and 40% non-cost) (NSW Government, 2024, p. 8). Percentages will then be assigned to specific aspects within the broad cost and non-cost factors (NSW

Government, n.d.–e). This weighting system provides firms with guidance on the relative importance of different factors in the tender process, helping them understand agency priorities and tailor their responses accordingly (NSW Government, n.d.-d). The website provides some guidance for agencies to assign a weight percentage to the social value aspect of the criteria. The following section outlines this guidance.

4.2.4 NSW Guide to ‘Weight’ to Be Assigned to Non-Cost Considerations

The NSW Government articulates relatively broad methodological directives regarding the weighting allocation for social value considerations within tender evaluation frameworks. In the absence of a separate social procurement policy, these directives function as generalised parameters governing how tender submissions should demonstrate alignment with governmental ‘economic, ethical, environmental, and social priorities’ (NSW Government, n.d.–e). This requirement, characterised as the ‘social value’ criterion and outlined in section 4.2.2, effectively operates as a comprehensive framework encompassing various social procurement policy elements. Analysis suggests that any stipulation regarding the employment of individuals from disadvantaged backgrounds within government procurement proposals could potentially be included within the general directive allocating 10% weighting to ‘social value’ considerations in tender evaluations.

For procurement activities falling below the \$3 million threshold, the government website indicates that evaluative frameworks may incorporate a ‘non-price’ assessment criterion designed to measure suppliers’ potential contributions to the government’s quadripartite priorities: economic, ethical, environmental, and social (NSW Government, n.d.–e). This stipulation potentially imposes disproportionate administrative and resource burdens on small-scale enterprises, which, despite constrained organisational capacities, may be required to formulate and articulate comprehensive social value creation strategies within their tender submissions. This requirement extends across the entirety of goods and services procurement activities beneath the specified monetary threshold (NSW Government, n.d.–e).

Conversely, for procurement activities exceeding the \$3 million threshold, governmental guidance explicitly mandates the allocation of a minimum 10% weighting within non-price evaluation criteria to assess bidders’ support for governmental economic priorities (including local content provisions), ethical considerations, environmental sustainability, and social outcomes (NSW Government, n.d.–e). The policy framework

further stipulates that prospective contractors must incorporate an SME and Local Participation Plan within their tender documentation, with successful tenderers obligated to implement said plan. Procurement agencies bear responsibility for ensuring contractor compliance through quarterly reporting mechanisms focused on plan implementation (NSW Government, n.d.–e). The official guidance for contracts exceeding \$3 million explicitly states:

A minimum 10% of the non-price evaluation criteria to assess how suppliers will support the government’s economic (including local content), ethical, environmental and social priorities. You must require prospective suppliers to submit an SME and Local Participation Plan in their tender response and make sure the successful supplier implements their plan. This includes making sure suppliers report quarterly on implementing their plan. (NSW Government, n.d –e)

Furthermore, the SME policy framework promotes SME integration within governmental procurement activities. For contracts surpassing the \$3 million threshold, agencies must allocate ‘a minimum of 10% of the non-price evaluation criteria to assess how suppliers support SME participation’ (NSW Government, n.d.-e).

The policy directives mandate that ‘social value’ considerations receive a minimum 10% weighting in evaluation methodologies, with administrative discretion allowing agencies to assign higher weightings to emphasise these governmental priorities (NSW Government, n.d.-e). However, the policy framework lacks specific guidance on how to structure this 10% allocation or detailed instructions for agencies to apply during evaluation. Similarly, SME inclusion is assigned a 10% weighting in tender responses but, again, without implementation guidance for the evaluation process. This absence of detailed guidance leaves agencies without clear direction on how to effectively assess and score these important policy objectives.

4.2.5 Summary of Policies in NSW

The examination of pertinent NSW policy documentation reveals a notable absence of a dedicated social procurement policy framework, particularly regarding the employment of individuals from disadvantaged backgrounds in government-funded construction initiatives. Rather than existing as a cohesive policy structure, what might be conceptualised as social

procurement imperatives—including the integration of social enterprises, employment stipulations, and generation of broader social value—are instead dispersed across multiple policy instruments.

The NSW Procurement Framework articulates a fundamental procurement objective centred on fostering social, economic, environmental, and sustainable outcomes—effectively constituting a ‘social value’ mandate. This directive becomes operationalised as a contractual requirement for procurements exceeding the \$3 million threshold, with evaluation methodologies suggesting a minimum weighting of 10% within government tender assessment metrics. Nevertheless, there appears to be a significant lack of explicit guidance for construction sector entities regarding methodologies for determining and aligning with the NSW Government’s social priority areas.

Despite the absence of explicit mandates regarding the employment of disadvantaged groups within NSW governmental policy frameworks, critical document analysis indicates that the administration promotes local workforce participation within public infrastructure projects. Both the ISLP and the overarching Procurement Framework emphasise obligations to consider localised demographic characteristics and employment requirements during early project phases. Government agencies are instructed to incorporate demographic considerations into procurement specifications; however, this obligation appears to be conceptually distinct from targeted employment initiatives for disadvantaged cohorts.

The 10-Point Construction Plan identifies specific disadvantaged demographic cohorts that agencies may, at their discretion, require prospective contractors to employ. The document highlights the responsibility of both construction organisations and government agencies to consider employment pathways for these populations. Significantly, however, the Plan demonstrates considerable definitional ambiguity, lacking a comprehensive characterisation of these disadvantaged groups or establishing standardised identification frameworks, thereby potentially compromising implementation consistency. The subsequent section of this chapter elaborates on participants’ interpretations of these policies and their proposed interventions for addressing perceived implementation challenges within the NSW context.

4.3 Participant Explanation of the Policies in NSW

This analysis synthesises interview findings on NSW government requirements to employ people from disadvantaged backgrounds and considers how ‘social value’ priorities are interpreted and operationalised. Suggested solutions to perceived challenges are also outlined. The findings prioritise participants’ direct quotations to maintain authenticity in representing their perspectives.

The methodological design of this research stipulated that all participants must possess direct professional engagement with employment and social value requirements in government procurement. Consequently, all interview subjects demonstrated substantial familiarity and expertise with the employment requirements operational in their respective jurisdictions. Their diverse professional roles enabled them to provide informed analytical and critical perspectives regarding the mandates for employing individuals from disadvantaged backgrounds in the NSW context. Throughout the analysis, participants’ roles relative to the construction projects are clearly identified to provide the necessary context for their insights.

4.3.1 Introduction

Given that the requirement to employ people from disadvantaged backgrounds in government contracts is not embedded in any formal policy in NSW, it is unsurprising that the findings reveal substantial inconsistencies in policy implementation across government agencies. These inconsistencies are characterised by ad hoc application and variable interpretation across projects. The data indicate that the non-prescriptive nature of the policies affords agencies considerable discretion in both their implementation approaches and the degree of prioritisation assigned to social outcomes. This analysis confirms a notable absence of standardised reporting mechanisms and accountability structures across implementing bodies. Furthermore, the findings indicate a prevalent practice wherein agencies encourage construction firms to exceed minimum compliance requirements.

The analysis identifies three key areas of inconsistency in policy implementation that significantly affect firms’ capacity to meet employment-related requirements across NSW. These inconsistencies are evident in the following domains:

1. Variable employment requirements across agencies and projects—this includes any general obligation to create social value.
2. Divergent levels of commitment to the employment of disadvantaged groups and social value requirements among government agencies.
3. Inconsistent reporting and accountability mechanisms display marked variation between implementing agencies.

While prior research has noted that employment requirements can vary from project to project and between departments (Loosemore, Alkilani, et al., 2020), a prominent theme emerging from all NSW participants was the operational uncertainty this variability creates for firms attempting to fulfil employment requirements—an impact not comprehensively examined in the literature so far. Another underexplored dimension in existing scholarship is the implications of different commitment levels across government agencies. These inconsistencies create systematic challenges for policy implementation and evaluation. Participants’ suggestions to address these difficulties are outlined and summarised at the end of the chapter.

4.3.2 Varying Employment Requirements for Projects

A dominant theme emerging from the interviews was the challenge of navigating divergent requirements across projects and agencies. This includes inconsistent expectations regarding the creation of social value, which are often ambiguously defined or unevenly applied. Such inconsistency leads to confusion among contractors and limits the development of standardised, scalable responses across the sector.

Evidence from an employment lead from a tier-one construction firm confirmed that, despite the absence of formalised policy stipulations, for the last five years, major projects have typically incorporated a requirement that 3% of the workforce comprise individuals from ‘*underrepresented groups*’ or disadvantaged backgrounds. The employment lead who works on government projects indicated that sometimes agencies impose 15–20 distinct employment criteria beyond the ‘*compulsory employment policies*’, such as Indigenous participation policies and the ISLP (see Section 4.2.2).

All participants described the Indigenous employment policies as straightforward, establishing a direct contrast with the unpredictable and fluctuating requirements regarding

other disadvantaged groups. Interviewees explained that while Indigenous policy requirements and ISLP objectives (outlined in Table 4.1) allowed for strategic planning, the specified disadvantaged cohorts varied considerably depending on the project parameters and the implementing government agency. Additionally, agencies demonstrated variability in whether they established minimum compulsory requirements or mandated employment across multiple disadvantaged cohorts within a single project. While some agencies focused on specific cohorts, all participants reported that projects typically incorporated multiple disadvantaged groups simultaneously.

The operational implications of these variable requirements during the tender process are examined in greater detail in the subsequent chapter. As encapsulated by a construction manager responsible for government projects: *'They can ask anything they want'* (Gary, Construction Manager, Sydney). Participants indicated that certain agencies aspiring to *'make a difference'* imposed significantly higher numerical targets for disadvantaged groups. As explained by an employment manager, while not formalised in government policy, this is *'client driven'*, with client being a reference to different government agencies. This means each agency on infrastructure projects in NSW will have its own approach to the employment requirements, including the level of commitment to their implementation.

An employment manager, who worked on large government projects, explained that despite there being no formal written policy and generally inconsistent approaches by agencies in her experience, a minimum requirement of 3% of the workforce participation for individuals from disadvantaged backgrounds had been consistently required on large projects for the last five years in NSW:

So under the policy, it doesn't talk about disadvantaged groups, however, the last five years on every government tender, ...on infrastructure projects.... I think 3% of our workforce needs to be from underrepresented groups. And that can be, so it's not policy-related. It's client-related [each government agency], but it may become policy. (Olivia, employment manager, large construction firm, NSW)

So, the client [government department] can ask for anything they want, and we say yes or no. So, this policy is quite minimal. They'll ask for maybe 15 or 20 more things on top of the policy. So, we will have requirements around graduates, undergraduates. What else? Underrepresented groups include, like, your cultural linguistic backgrounds, homeless

refugees, asylum seekers, ex-offenders, so they can put all those other requirements around that right. So, which is on top of your government policy. (Olivia, employment manager, large construction firm, NSW)

This finding illustrates how employment requirements can be substantially expanded—and the range of target groups broadened—through additional agency specifications, creating further uncertainty for firms. While participants recognised the need to tailor requirements to different locations, several suggested that agencies could improve clarity and focus by selecting a single disadvantaged group for each project, rather than adopting an ad hoc list of multiple groups. Moreover, although enabling policies are intended to support place-based decision-making that is responsive to local needs, participants reported that, in practice, the designated lists of disadvantaged groups often failed to align with local demographic contexts.

Participants conveyed a sense of missed opportunity and suggested that if the employment requirements could be framed to allow firms to focus on one cohort of disadvantaged people, there might be greater opportunity to create long-term social value. Participants explained that the project nature of the industry accentuates these challenges and indicated that there were often too many different groups required to be employed to achieve anything meaningful. As one employment manager explained, it is *‘quite a challenge trying to find ways to tick all the different boxes, as opposed to just encouraging industry to tick one box really well’*. This may also assist firms with engaging in forward planning and lead to opportunities for firms to build expertise in assisting one group well. As one employment manager explained:

Think it’s like pick three, three groups from this list and create an impact, as opposed to you must have youth, you must have Aboriginal, you must have underrepresented, you must have refugee, you must have asylum seekers. That is more ‘tick a box’ rather than focusing on one group and having an impact. (Olivia, employment manager, large construction firm, NSW)

One participant suggested that the policies could be better framed in a way that creates value for the firm and the government. The participant suggested that firms allocate a percentage of project spend on social procurement, with some discretion on how to spend this

money to create value for society and for their firm. They would then have to demonstrate how this is occurring on an ongoing basis.

Participants explained that the employment targets set by the government that the head contractor has agreed to are usually passed on to subcontractors. Participants

also explained that the employment requirements, mandating the recruitment of workers from specified disadvantaged backgrounds, are included in the subcontractor evaluation frameworks. A participant suggested that if the projects focussed on one cohort of people from a disadvantaged background, this could also assist the subcontractors in more effectively meeting the employment requirements by allowing the subcontractors to focus on employing people from one cohort:

And then as a small subcontractor, you can have a look at your workforce and say the target is 8% female. Well, we're already at 6% we could probably get another 2% We're going to work towards that. As opposed to, you must have 8% Aboriginal, and they have no Aboriginal workers whatsoever [on the next project]. Help them get a little bit success on the board, build that capability, and then they could potentially look at a different target in the future. (Olivia, employment manager, large construction firm, NSW)

All participants, both from inside the project and external to the project, questioned whether the policies created long-term social sustainability. Participants suggested that the employment requirements needed to focus on long-term skill development and long-term employment:

I would like the quotas to remain the same level, but I think the quotas have to look at long-term skills development for those people employed. Looking at those contractors who are receiving multiple government contracts, they need to have an understanding of what they leave in the community, because if we're constantly delivering skills, and then employment at a base level, we don't grow, the community doesn't [develop their] skills. The community stays at that entry-level skill point. (Cathy, third-party policy intermediary, large training organisation, NSW)

The research identified an additional layer of complexity in the form of 'stretch targets'—enhanced employment requirements that exceed the specifications in the policy or in the expression of interest issued by the government. These targets emerge during the tender

process when agencies encourage firms to surpass baseline employment requirements. In these cases, agencies may invite firms to commit to higher percentages for the targets under the ISLP or a higher percentage of people from disadvantaged backgrounds than initially stipulated in the EOI documents. As noted in Section 4.3, while the policy guidelines permit such targets subject to transparency and probity requirements, their implementation introduces additional challenges for firms. The practice described below by an employment manager is probably linked to the need to increase the capacity of the construction workforce:

So, [the government department] might say the policy for apprentices is 20%. That's your requirement, but we're gonna see if you can get to 25%. ... But let's say learning workers, you know, your target is 20% of the workforce to be learning workers. But we would like you to stretch to see if you can get 25% of your workforce to be learning workers and what we then what that then does that helps decrease the current skill shortage and increase skills and capacity within our current workforce. So, then the economic benefit for that is we've got more people to do those jobs that currently are in the pipeline. (Olivia, employment manager, large construction firm, NSW)

... then they'll say ... select three additional things you could do, or bid back a higher percentage because you want to win the work right? So, you want to try and go above and beyond the bare minimum, which can be hard because some of the targets are hard. (Olivia, employment manager, large construction firm, NSW)

Participants noted that the negotiations of these requirements add further uncertainty and competition to the process of fulfilling employment requirements. Agencies are essentially encouraging firms to voluntarily increase their targets of people from disadvantaged backgrounds. As outlined in Chapter 5, Section 5.3, firms may also voluntarily propose a higher number of new hires from disadvantaged groups than required.

The requirement to engage diverse demographic groups within a single project introduces additional complexity, as subcontractors usually shoulder the responsibility for fulfilling these employment obligations. Participants' observations corroborate existing research findings that subcontractors disproportionately bear the burden of employing individuals from disadvantaged backgrounds. This finding further suggests that social procurement requirements may influence subcontractor selection patterns on government

projects while highlighting the practical challenges associated with implementing employment mandates by relying on subcontractors to find and employ people from disadvantaged backgrounds.

4.3.3 Agencies Differ in Their Commitment to Policy Implementation

All participants reported that some government agencies demonstrate a stronger commitment to implementing social procurement policies than others. On a practical level, this manifested in a number of ways. Firstly, government agencies can ask for an increased number of people from disadvantaged groups within the requirements. Secondly, some agencies put key performance indicators around these requirements, and therefore, there will be financial consequences if people from disadvantaged backgrounds are not employed and do not continue to be employed.

While the various employment requirements already present challenges for firms, government agencies' inconsistent levels of commitment increase the difficulty and create uncertainty and confusion for firms. Participants explained that certain agencies require extensive employment requirements and actively monitor their implementation. However, there was no clear explanation from participants as to why some agencies are more committed to social procurement than others. As mentioned above, some agencies also impose a higher number of employment requirements, and the consequences for non-compliance vary across departments. This inconsistency creates additional ambiguity and uncertainty for firms seeking to navigate and comply with the employment requirements.

An NSW construction manager illustrated this issue, explaining how the level of commitment varies significantly across departments:

So, there isn't enough care factor in some departments ... if I say what departments do it well, I say [...] infrastructure do it well and everyone else to a lesser degree lags. ... I think there is more [of] a care factor at [...] infrastructure, there is more onus, they push it harder and keep people more accountable. I find this group [the current project] all projects are dollar-driven. (Gary, construction manager, medium-sized firm, NSW)

Similarly, an NSW policy advisor described a dismissive attitude towards social procurement within their department, highlighting that compliance with these policies was often treated as a mere formality rather than a meaningful requirement:

I was on the tendering board, right for this subcontractor ... and we'll just be kind of dismissed as like tick the box ... we were in the room ... (Carlo, government policy advisor, third-party policy intermediary, NSW)

NSW participants reported significant inconsistencies among government departments regarding reporting and accountability mechanisms for social procurement initiatives. This finding suggests a direct correlation between policy commitment and the robustness of oversight measures. The data indicate that enhanced enforcement and systematic monitoring may be essential prerequisites for effective policy implementation across projects. The subsequent section examines participants' perspectives on the application of non-cost factor weightings within the NSW procurement framework.

4.3.4 Weight Given to Non-Cost Factors in the Tender Process in NSW

As established in Section 4.3, agencies specify the relative weighting between cost and non-cost factors when issuing expressions of interest. Policy documents stipulate a minimum 10% weighting for supporting the government's economic, ethical, environmental, and social priorities. This 10% weighting encompasses both compulsory employment requirements under the ISLP (NSW Government, n.d.) and any additional employment provisions for disadvantaged groups. While the key NSW Procurement Policy document (NSW Government, 2024, p. 30) and the ISLP (NSW Government n.d.) lack clarity regarding how this weighting is allocated, a government participant confirmed the specific requirements for larger contracts. For goods and services contracts (including construction contracts) valued at \$3 million or more, government procurement mandates a minimum 10% allocation to SMEs and a separate 10% weighting allocated to supporting the government's broader economic, ethical, environmental, and social priorities.

Participants in NSW, however, indicated that the frequent fluctuation in weighting and perceived importance of employment policies and broader social value requirements generates significant uncertainty. This reduces the incentive for investing resources in these areas that remain unpredictable from project to project. This variability is exemplified by a construction manager's observation:

The weight given to the non-cost criteria can vary with every project. [...] Our project (the current project) was 40% price 60% non-price, and that non-price can be anything

from program methodology, ... it could be 5% for this 10% for that; they can do whatever they like really, they can change their mind [...] within that 60% portfolio, they can weight accordingly as they see as they deem appropriate. (Gary, construction manager, medium-sized firm, NSW)

Despite baseline requirements, participants reported that the inconsistent allocation of significant weightings across projects creates uncertainty about the value of investing in social procurement initiatives. The variable emphasis placed on these criteria directly influences the level of attention firms devote to policy compliance, thereby affecting their organisational commitment to fulfilling social procurement requirements. While participants acknowledged that some variability in criteria is inevitable, they observed that the differing weight assigned to non-cost factors often reflected the commissioning agencies' varying levels of commitment to employment and broader social value outcomes.

4.3.5 Lack of Accountability and Inconsistent Contract Enforcement in NSW

Findings regarding the enforceability of contractual requirements to employ people from disadvantaged backgrounds in NSW were inconsistent across participants. Two NSW participants indicated that key performance indicators (KPIs) could be attached to employment requirements, including provisions for hiring people from disadvantaged backgrounds. Both a construction manager and an employment manager in NSW highlighted that performance indicators were occasionally linked to employment targets and Indigenous expenditure requirements.

However, the employment manager explained that government agencies typically adopted a punitive approach to non-compliance with these requirements. According to this participant, government agencies might impose KPIs on employment requirements that exceeded standard policy mandates. As the employment manager explained:

We're going to ask you as our principal contractor, here's the policy, but we also want you to deliver on these things which are above and beyond the policy, and then they manage us to those; they might put some Key Requirements around it. (Olivia, employment manager, large construction firm, NSW)

Several participants indicated that fines were imposed for unmet Indigenous employment and expenditure targets. The following explanation from a construction manager in NSW with direct experience of government projects indicated:

They do have a fine. [...] Some cases do have a fine... like some. If you don't fulfil this, then you've got to pay the fine at the end if you don't employ these people. (Gary, construction manager, medium-sized firm, NSW)

In contrast, other participants—both within government and external to project delivery—raised concerns about the limited enforcement of employment requirements under social procurement policies. A policy officer from a government agency highlighted the broader issue of inadequate enforcement mechanisms and limited financial consequences for failing to meet social procurement obligations—a stark contrast to the significant financial penalties imposed for other contractual breaches, such as project delays.

The policy officer explained that firms frequently exploit contractual loopholes and capitalise on the relatively low priority assigned to employment and social value requirements in project oversight frameworks. This enforcement disparity signals to contractors the comparative importance of various contractual elements and may undermine the intended outcomes of social procurement initiatives. Specifically, they reported an absence of financial or contractual consequences for non-compliance with employment targets:

It needs to have a clear like level of importance placed on it. So, people are finding ways to just like get around it. There're too many loopholes. There's not enough enforcement; other policies in the construction industry have, like, real harsh consequences if you don't finish on time ... harsh penalties. And they don't have the same enforcement on social policy because there's not an importance placed on it like there is for other things. (Carlo, government policy advisor, third-party policy intermediary, NSW)

If they go over budget or things like that, they get fined, and they have to pay fees back to us. Everything they do wrong, or they don't proceed on time; ... the way the social procurement policy sits in the contract is there's no actual punishment for not doing it to target. (Carlo, government policy advisor, third-party policy intermediary, NSW)

The way the social procurement sits in the contract there's no actual consequence for not doing the target. It's not actually upheld in any real way. (Doris, SP policy and construction expert, NSW)

Participants also emphasised the critical role that incentives and penalties play in shaping contractor behaviour. While employment targets may be formally included in project KPIs, their influence is often limited unless backed by meaningful financial or reputational consequences. One construction manager noted that although similar incentive structures exist for Indigenous employment in NSW, the financial weighting behind these targets is often insufficient to drive substantial change. He emphasised the broader behavioural impact of attaching real rewards or penalties to performance, particularly when compared across other project domains, such as safety and delivery timelines:

They have the same incentives in New South Wales (for Indigenous) but probably not the same, necessarily the same dollars behind them. Right, if you incentivise or penalise enough, it's going to change behaviour. Our commercial people, when they're looking at a project and then and look at those Key Performance Indicators, relate to a whole range of areas. So there's safety, there's community, there's social procurement, you know, there's programs, project delivery, all of that. So by incentivising or penalising, it just gets people to change the way they think. (Gary, construction manager, medium-sized firm, NSW)

One participant, drawing from her experience with social procurement policies in the UK, highlighted what she perceived as the stronger enforcement mechanisms there, citing the *Social Value Act (UK) 2012*, which mandates that social procurement must be considered in the awarding of contracts. The participant noted that failure to implement the social procurement requirements embedded in a government contract could result in exclusion from future tenders or failure to be awarded government jobs:

I would say in the UK, and particularly the company I used to work for was a tier-one contractor. And we did start to see a bit of a shift in terms of who we are as a tier-one contractor. ... So it's, we have to start doing it if we didn't do it, we run the risk of being taken off the framework. So we could stop procuring projects through that framework. So you know, that's a huge incentive. (Nicholas, social procurement consultant, NSW & Victoria)

Participants also highlighted a critical issue concerning employment targets for disadvantaged groups within the ISLP policy: despite their formal policy status, these targets lack effective enforcement and accountability mechanisms. A government procurement officer emphasised that although these policies are technically mandatory, they operate without meaningful consequences for non-compliance. Consequently, as a government manager explained, across numerous projects, compliance with such targets remains largely unachieved, underscoring systemic issues in policy implementation. The same government policy officer also elaborated on the lack of accountability for unmet social procurement targets, observing:

There are policies in place that are ‘mandatory’. But they’re not enforced. And there’s no accountability. If they don’t have it.... nothing actually happens ...

I have never seen a project actually hit its target except for one of mine, and I’ve only ever in my entire career I’ve only hit it onceevery other project... my colleagues and I, no one’s ever hit it [the employment targets]. And you think how is that? How do we continue? ... So, it’s currently an active policy. Just details, you know, targets and the word is ‘target’. So, target means you can get it wrong. You don’t have to do it. (Patrick, government manager, NSW)

In conclusion, participants suggest that there are insufficient and inconsistent consequences for breaching the contractual requirements to employ people from disadvantaged backgrounds, and limited accountability structures. Participants consistently highlighted these deficiencies, which appear to compromise the potential impact of employment requirements significantly. This also reinforces the importance of aligning social procurement goals with tangible performance incentives. Without sufficient financial or strategic weighting in the tender process, the requirement to employ people from disadvantaged backgrounds risks being continually deprioritised in contrast to other heavily enforced project outcomes. The findings demonstrate a clear need for strengthened contract management, regulatory oversight, and more robust compliance measures to ensure the framework achieves its intended social outcomes.

4.3.6 Reporting Mechanisms

The NSW Government's Action Plan: A Ten-Point Commitment to the Construction Sector ('the Plan') and Industry Skills Legacy Program (ISLP) establishes an expectation that firms submit quarterly reports to contracting agencies regarding project and employment requirements (NSW Government, 2018). However, the Plan and the ISLP do not clearly specify the consequences, if any, of non-compliance. The ISLP mandates that government agencies report employment outcomes under the ISLP to Training Services NSW and the Department of Education (NSW Government, 2018). Construction and employment managers confirmed that reporting is primarily directed towards government agencies; however, there was considerable variability in the reporting requirements from agencies. Participants further explained that the information reported by the head contractor is typically obtained from subcontractors.

Participants in NSW indicated that this responsibility for data collection frequently included collecting the data from subcontractors to ensure accurate reporting to agencies. Participants indicated that the responsibility for verifying this information lies with the employment manager or head contractor, who is often not physically present on site. Participants also explained that subcontractors are required to submit statutory declarations to head contractors to support their reporting. One participant elaborated:

But then there's some data that I have to get from the supply chain. So I asked them to report to me every month as well. And they submit that report as part of their claim there when they get paid. (Olivia, employment manager, large construction firm, NSW)

All participants indicated that reporting requirements and verification of candidates' backgrounds exhibited significant variability among agencies. As the system often depends on the diligence of employment managers to meet these contractual obligations and ensure accurate collection of candidate information. However, participants raised concerns regarding the privacy of the data collected and the practical challenges associated with verifying backgrounds, particularly when candidates are on site and employed by subcontractors. One employment manager highlighted the inconsistency among agencies in requiring proof of employment compliance. Despite reporting obligations, existing participants raised concerns about the lack of enforcement and audit mechanisms. As one NSW construction manager explained:

Because even though we're reporting through the system on a quarterly basis, we're relying on the subcontractor to actually give us, let's say, honest responses, because at the end of the day, there is no audit regime against that specific contractor. No one is able to go on [and] ask him, 'How do you actually calculate this?' ... there is no audit regime here. (Gary, construction manager, medium-sized firm, NSW)

The other thing is, it's self-identification most of the time, right? And this [government] client is a different [government] client to the [one] I've been working for the last five years and when I came over here, I was outraged ... And so basically, my client wants me to ring Aboriginal people and say, 'Are you actually Aboriginal? ... and what's your disability? Prove it to me. Show me the documentation that you've got a disability'. (Olivia, employment manager, large construction firm, NSW)

In contrast, some agencies adopted a less demanding approach to reporting, allowing self-identification for verification purposes. As another participant noted:

There's another client who was happy to accept that if that person self-identifies and you can prove that they've self-identified it through whatever means, that's okay. (Olivia, employment manager, large construction firm, NSW)

A bid and marketing manager from a medium-sized firm (handling projects valued between \$100–\$200 million) explained that reporting requirements lack uniformity, prompting the firm to create its own standardised reporting format. The participant also described the challenges associated with collecting data from subcontractors and the difficulties in using government templates:

So, there are templates as well. And the problem with when you download the templates from the government website for reporting and there's so many formulas and it's a bit discretionary. And I think another problem is that it's, it becomes onerous, and because a lot of companies don't have someone on the project that's doing the reporting, they're just relying on, you know, it's the day, you know, the week before and after, submit it so they're going back and trying to count everything and put it all in because it's, you know, while we collect this data, it's probably not something that we report on it in that way. So we are having to try and standardise how we report as a company. (Richard, bids and marketing manager, NSW)

The findings revealed a significant gap in current reporting practices. While organisations are tracking employment numbers, a critical need for qualitative data that captures the actual experiences of candidates and evaluates the creation of long-term social value remains. A third-party policy intermediary from NSW articulated this concern:

I think reporting is occurring ... but when we circle back around to reporting have those same people been asked the questions, do you feel your Aboriginal community was supported through the process? Do you feel like Aboriginal people as individuals were employed for the right reasons for these things? ... reporting is purely number-driven as opposed to looking at them as an organisation. Do they really support Aboriginal employment or the cohort coming through? And do they support the employment of multicultural aspects? (Cathy, manager, large training organisation, third-party policy intermediary, NSW)

These findings highlight the need to move beyond quantitative metrics in employment reporting. While numerical data provides valuable benchmarks, it fails to capture the reality of the experiences of people from disadvantaged backgrounds being employed in these projects or evaluate whether sustainable social value is created. Participants suggested that governments must implement more comprehensive reporting frameworks that incorporate qualitative feedback from candidates and employees to assess the true impact of their employment programs. This holistic approach might help better reflect organisational commitment to authentic employment of people from disadvantaged backgrounds and inclusion rather than just numerical targets. Future policy development should prioritise these qualitative dimensions to ensure employment initiatives deliver genuine benefits to communities and lasting social outcomes for the people employed.

In conclusion, the reporting and verification of employment outcomes within government procurement contracts exhibit inconsistencies, with considerable variations in expectations and practices across agencies. While some clients require stringent proof of candidate eligibility, others deem self-identification sufficient. The absence of standardised reporting processes further complicates compliance, imposing additional burdens on contractors to develop independent frameworks for data collection and submission. These challenges highlight the necessity of addressing these issues within contractual arrangements

and emphasise the need for a more unified approach to reporting and verification in government procurement policies

4.3.7 The Social Priorities of the NSW Government or ‘Social Value’ Requirements

As outlined in the Methodology Chapter (Section 3.10), participants referred to this general requirement as the ‘social value’ requirement when questioned about it. In NSW, participants confirmed that the social value requirement derives from the principle within the NSW Procurement Framework (NSW Government, 2024), whereby procurement should support the social priorities of the NSW Government. This principle was explained in further detail in Section 4.2.2.

Participants reported that each department can frame specific requirements under this broad principle to address the NSW Government’s social priorities. However, the Procurement Framework does not appear to mandate that a social procurement implementation plan be submitted with every project. Some agencies may request a plan detailing how the firm will implement and manage the creation of social value or social benefit to the community, while others may ask specifically how social enterprises will be included in the supply chain. Many agencies, however, make no such requests.

Participants indicated significant variation in how different departments refer to the ‘social priorities’ objective within the Procurement Framework, with terminology ranging widely across agencies. This variation extends to how firms respond to these requirements. Participants also noted that social value represents a subjective concept, making it difficult for agencies to assess consistently when awarding contracts:

Different departments call it different things ... So, some call it value add. Others call it different social value add. (Lucy, policy advisor, third-party policy intermediary, NSW)
And then sometimes they might ask you, and this is not a policy in New South Wales yet around social enterprises ... But then yes, they might ask for a plan of how you’re going to, you know, implement and manage economic benefit to social enterprises, community groups, environmental, etc. (Olivia, employment manager, large construction firm, NSW)

This inconsistency in terminology and approach creates challenges for both contractors seeking to respond appropriately and agencies attempting to evaluate submissions fairly. The uncertainty regarding the requirement for what is effectively a social procurement

plan also presents additional challenges for firms. While some agencies may mandate the integration of social enterprises into the supply chain for certain projects, this expectation is not consistently applied. A further consequence is the difficulty this creates for future planning, as firms considering bidding are often unaware of these requirements until the negotiation process is already well underway.

4.3.8 Lack of Government Support and Guidance for Firms

Participant accounts indicated that while government digital platforms ostensibly provide information regarding available grants for subcontractors, this critical information is fragmented across multiple disconnected platforms rather than consolidated within a single, accessible repository. This fragmentation of resources creates additional barriers to effective policy implementation and impedes stakeholder engagement with social procurement initiatives.

Previous research has found there is confusion about the policies' requests and how to implement them. An employment manager within the project spoke about the need for a centralised website where all the information is contained in one location:

There's so many grants and initiatives out there at the moment around apprentices and free training, but there's not one site where you can go to and get all the information.
(Olivia, employment manager, large construction firm, NSW)

The information and services to assist subcontractors are not always available and not always specific to the challenges of the construction industry or the project nature of the industry. Several participants emphasised the advantages of such a site and its potential for centralisation of material. A further advantage is that a free service where a person directly assists the subcontractors will help increase their knowledge of social procurement and their skills in implementing it. The participants also indicated that the service may be able to put contractors in touch with social enterprises or with suitable applicants directly. As a participant explained, the problem is that '*revenue is quite slim compared to the margin that is charged*', so these services that support the business would have to be free.

Participants also supported a more organic provision of materials, such as in a seminar or similar format, and with information about grants and discussion of a broad range of topics. These could include information about grants and initiatives or training for

subcontractors, mentoring programs, and many other matters. Without such a proactive approach, participants indicated that they would not likely know about relevant government grants or other financial support or assistance available. Participants indicated that as employment managers, who work with the employment requirements on a daily basis have difficulty keeping up with available support. One participant indicated the government needed to supply a service or at least a one-day workshop that could assist subcontractors and offer a central information point with staff who understand the needs of the construction industry:

... I think there needs to be a free service, but it needs to be services that are specifically to construction. So you have all these ... apprenticeship support networks, you've got mentoring programs, and you know the API's website, but yet [they] don't fully understand the environment that we were working. So there needs to be a specialised cohort or organisation that understands that industry, understands the challenges, understands the barriers that these people might be having. And they need to be visible. They can't just sit behind a phone. But they need to actually come out and engage. Then the government needs to provide a central organisation separate to coordinate these and to coordinate the support for them. There needs to be a one-day workshop that people can go to, where people are getting the same consistent messaging support, or even just like a website where there's resources and things available. (Olivia, employment manager, large construction firm, NSW)

Participants consistently identified several deficiencies in the digital platforms intended to facilitate compliance with employment-related social procurement requirements. These resources include Social Traders, a platform designed to connect firms with social enterprises and not-for-profit organisations, and Supply Nation, which facilitates adherence to Indigenous procurement policies. Multiple participants viewed these platforms as inadequate to address the specific demands inherent in construction-related projects. These critiques were substantiated by the manager of a not-for-profit organisation established to support firms when implementing social procurement policies, commenting on websites used in NSW and Victoria: *'They don't work because they are not fit for purpose. None of those current websites are fit for purpose at all'* (Matthew, manager, not-for-profit, Victoria).

In conclusion, platforms designed to facilitate the identification of suitable candidates for social procurement requirements must accommodate the project-based nature of

construction, where new candidates are typically required for each discrete project. Furthermore, the fragmentation of critical information across multiple digital repositories complicates policy implementation for both firms and subcontractors and may contribute to the inconsistent implementation and confusion. Participants' practical recommendations to assist the subcontractors with information accessibility include centralisation of information, a free advice service and workshops.

4.3.9 Summary and Analysis of the Policies in NSW

The analysis of the publicly available government policy documents (as outlined in Section 4.2. above) and participants' explanations reveal that the requirement to employ people from disadvantaged backgrounds in government projects is not part of any formal written policy. Despite this, the findings indicate that for the last 5 years, large-scale projects have consistently included requirements to employ people from disadvantaged backgrounds. References to the employment of disadvantaged groups in the government's 10-Point Commitment Plan and the associated ISLP suggest that these initiatives primarily aim to address workforce shortages in infrastructure projects, rather than to advance broader social procurement objectives.

As outlined at 4.2.2 above, one of the guiding principles in the NSW Procurement Framework is to consider the social priorities of the NSW Government. The policies linked to this principle demonstrate the importance of achieving social value outcomes through public procurement. However, the requirement to create additional social value in a project—commonly referred to as 'the social value requirement'—as well as firms' responses and their evaluations by agencies appear to be inconsistently addressed across departments. This inconsistency is reflected in the finding that while some agencies require tenderers to include a plan to deliver social value for the local community, others do not. Although local demographic factors appear to sometimes influence the employment obligations set by agencies, these factors do not fully explain the variations observed by participants across government entities.

Moreover, although policy documentation emphasises collaborative engagement between industry stakeholders, in practice participants reported minimal evidence of such government consultation or collaboration prior to or at the commencement of the project. Instead, firms are often required to pursue ambitious employment targets on a project-specific

basis. Construction managers, employment managers, and bid managers unanimously reported that construction firms frequently strive to meet these stretch targets in order to secure government contracts.

There appears to be a lack of commitment to social procurement policies by the NSW Government. The lack of a separate dedicated social procurement policy, the suggested weighting of 10% for social value priorities in tender assessments, and inconsistent reporting and accountability mechanisms indicate that social priorities are not a high priority for the NSW Government.

In practice, the broad and flexible nature of the guidelines in the NSW Procurement Framework enables agencies to delegate much of the responsibility for the employment of people from disadvantaged backgrounds and developing social value plans to construction firms. This, in turn, creates uncertainty regarding how these plans are assessed during the tender evaluation process. (This issue is explored further in the next chapter).

4.4 Victoria Policy Overview

The Victorian Government has established a comprehensive Social Procurement Framework that exists separately from other procurement policies. This framework applies to all government procurement activities, including goods and services, with targets that vary based on project size. The framework's stated purpose is to generate social value beyond the public or social value already created by the project itself. A detailed outline of the Social Procurement Framework is provided below in Section 4.9.

As with NSW, the selection and analysis of documents were guided by participants' insights regarding implementation practices, providing an understanding of policy application. The analysis of Victoria's written policies focuses primarily on the Social Procurement Framework and the supplementary information available on the Victorian government website. The Social Procurement Framework provides a list with brief descriptions of the disadvantaged cohorts that government agencies may require firms to employ on government projects. These are detailed in Section 4.9.

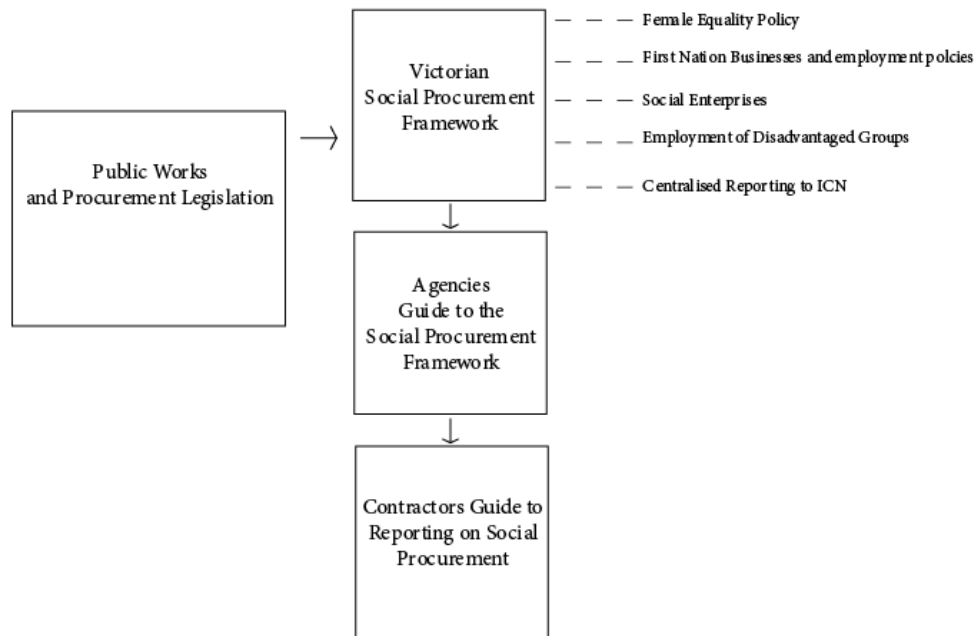
The Victorian Government has also established a separate policy framework for public construction, overseen by the Public Construction Procurement Committee (PCPC)(Victorian Government, n.d.-d). The PCPC's principal function is to provide

guidance on construction sector procurement practices and ensure their consistent implementation across all government departments and agencies, as part of a whole-of-government strategy. Relevantly, the PCPC's mandate aligns closely with the government's social procurement agenda, encompassing employment opportunities for disadvantaged populations and broader social benefits. While pursuing these social objectives, the committee must simultaneously adhere to the fundamental principle of value for money (Victorian Government Department of Treasury and Finance, 2018).

The Victorian Government has developed checklists for both agencies and firms to promote CSR among companies bidding for government contracts (Victorian Government, n.d-a). The Social Procurement Framework encourages agencies to prioritise purposeful for-profit enterprises when awarding contracts (Victorian Government, n.d-a). A centralised reporting system for social procurement requirements is managed through the government-funded Industry Capability Network (Victorian Government, n.d.-c). To facilitate the integration of these requirements into government contracts, the government has also published model social procurement clauses. Below is a visual representation of Victoria's Social Procurement Framework, followed by an overview of the relevant policies and publicly available documents.

Figure 4.3

Overview of Victoria’s Framework of Policy



→ Source of policy/policy incorporated within

- - Policy content or social priorities

4.4.1 Legislative Framework

The regulatory framework governing construction procurement in Victoria is established through the *Public Works and Procurement Act 1912 (Vic)*, which creates a Purchasing Board with the mandate to develop policies for agency procurement. However, it is important to note that this Board’s jurisdiction is specifically limited to goods and services acquisition, explicitly excluding construction procurement activities.

Construction procurement is instead governed by separate legislative provisions. Section 12 of the *Public Works and Procurement Act 1912 (Vic)* grants the responsible Minister substantial authority to issue directives pertaining to both general procurement and public construction activities. This appears to establish a clear chain of executive oversight within Victoria’s construction procurement framework. These ministerial directives constitute mandatory principles that Victorian government agencies must adhere to when

undertaking any public construction procurement activities (Victorian Government Department of Treasury and Finance, 2018).

The financial governance aspects of construction procurement are further reinforced by the Standing Directions issued in 2018 under the *Financial Management Act 1994 (Vic)*. The Act establishes the framework for financial management and accountability in the Victorian public sector; the concept of ‘best value’ is elaborated on in the subordinate instruments issued under the Act, such as the Standing Directions and accompanying guidance materials.

Building upon this foundation, the Treasury has issued Construction Direction and Instruction 3.7. This general directive gives broad guidance relevant to tender preparation and evaluation processes (Victorian Government Department of Treasury and Finance, 2018). The directive indicates that best value must be the primary determinant of any procurement outcome, ‘after taking into account all of the individual evaluation criteria including price’ (Victorian Government Department of Treasury and Finance, 2018).

Public Construction Procurement Policy

The Victorian Government has also created a separate policy framework for public construction (Victorian Government, n.d.-d). This is guided by the PCPC, which oversees the public construction policy. Its stated primary function is to advise on procurement practices within the construction sector and ensure those practices are consistently disseminated across all government departments and agencies (Victorian Government, n.d.-d)

The procurement principles guiding construction mirror those applied across all procurement categories: value for money, accountability, probity, and scalability (Victorian Government, 2025). These principles appear to be designed to align with the government’s Social Procurement Framework including the employment of people from disadvantaged backgrounds and the creation of broader social benefits from construction procurement (Victorian Government, n.d.-d). The PCPC must ensure that these social objectives align with the core principle of value for money (Victorian Government, n.d.-d).

4.4.2 Social Procurement Framework—Victoria

The Victorian Government has attempted to provide a comprehensive approach to social procurement through the establishment of the Social Procurement Framework, which

aims to integrate social and environmental outcomes into government purchasing decisions (Victorian Government, 2025, p.1). The policy framework explicitly outlines methodologies for agencies to integrate social value considerations into tender requirements, ensuring that entities participating in government procurement contribute to broader social objectives. Furthermore, the framework provides guidance to firms on incorporating ‘*social value when competing for government procurement opportunities*’ (Victorian Government, 2025, p.1).

Social value can be generated through indirect mechanisms, such as the inclusion of social procurement requirements in construction contracts (Victorian Government, 2025, p.3). Specifically, the framework stipulates that indirect social value creation in construction procurement may be achieved through contractual provisions mandating the employment of individuals from socioeconomically disadvantaged groups (Victorian Government, 2025, p.3).

The Victorian Social Procurement Framework emphasises that ‘value for money’ is a fundamental principle guiding all government procurement. It asserts that value-for-money considerations should extend beyond price to incorporate social and sustainability outcomes, as well as broader community benefits (Victorian Government, 2025, p.1). The policy encourages government agencies to move beyond conventional price-based evaluations, integrating social and environmental considerations into procurement decisions (Victorian Government, 2025, p.2).

The Framework incorporates other mandatory employment requirements, including Indigenous procurement policies, the Building Equality Policy—which establishes female employment quotas—and provisions for integrating social enterprises within supply chains (Victorian Government, 2025, p.4). It also provides for incorporating environmental objectives. These compulsory measures appear to be designed to translate social objectives into enforceable procurement criteria.

The following table is drawn from the Social Procurement Framework—Buyers Guide Evaluation (Victorian Government, n.d.-a) to provide an overview. It illustrates that for projects exceeding \$20 million, firms bidding for government contracts are required to submit a Social Procurement Plan. Additionally, it highlights that social and sustainable procurement objectives must be embedded as contractual obligations.

Table 4.3

Individual Procurement Activity Requirements for Government Buyers

	Below threshold Regional under \$1 million Metro or State-wide under \$3 million	Lower band Regional \$1 to \$20 million Metro or State-wide \$3 to \$20 million	Middle band \$20 to \$50 million	Upper band Over \$50 million
Planning requirements for government buyers	Incorporate SPF objectives and outcomes into regular procurement planning		Complete a Social Procurement Plan during procurement planning	
Described approach	Encouraged Seek opportunities where available to directly or indirectly procure from social enterprises, Australian Disability Enterprise or Aboriginal businesses	Proportionate Use evaluation criteria (5 to 10% weighting) to favour businesses whose practices support social and sustainable procurement objectives	Targeted Include performance standards and contract requirements that pursue social and sustainable procurement objectives	Strategic Include targets and contract requirements that pursue social and sustainable procurement objectives
Recommended actions for government buyers				
Social Enterprises, ADE (Australian Disability Enterprises), and Aboriginal businesses	Seek opportunities	Consider including this as part of the procurement requirements	Set targets for supplier expenditure with social enterprises, ADEs, or Aboriginal businesses. Ask suppliers to demonstrate how they will meet targets	
Disadvantaged communities			Set supplier targets for employment and training for disadvantaged Victorians	

Gender		Ask suppliers to demonstrate gender equitable employment		Include industry-appropriate targets for labour hours to be performed by women
Disability				Include targets for labour hours to be performed by Victorians with disability

Opportunities for Victorian Priority Jobseekers

A key objective of the Social Procurement Framework is to facilitate ‘job readiness and employment’ opportunities for disadvantaged groups. The Framework identifies two primary mechanisms to achieve this goal: first, through procurement from social enterprises, and second, by directly employing Priority Jobseekers. This category includes ex-offenders, long-term unemployed individuals, disengaged youth, single parents, migrants and refugees, veterans and their families, workers in transition, people fleeing domestic violence, and those experiencing homelessness (Victorian Government, 2025, p.7).

Reporting Requirements

The Victorian Government has established a centralised reporting system for firms to report social procurement requirements in a project (Victorian Government, n.d.-c). Firms are mandated to report on their social and sustainable procurement commitments through the Victorian Management Centre (VMC), an electronic platform overseen by the Industry Capability Network (ICN). The ICN, a not-for-profit organisation funded by the Victorian Government, operates nationally, although each state branch functions independently. ICN Victoria assists firms in bidding for government projects (Victorian Government, n.d.-c).

Under the framework, firms report to the ICN regarding their fulfilment of social procurement obligations within government construction contracts (Victorian Government, n.d.-c). However, guidance issued by Treasury specifies that each agency is responsible for determining and enforcing reporting requirements, including the frequency and method of reporting, in proportion to the social procurement commitments made (Victorian

Government, 2025, p.15). Additionally, agencies must report separately to Treasury on the social outcomes achieved through their procurement activities. This includes monitoring the employment of disadvantaged groups and assessing progress against specified targets. The framework also references mechanisms for monitoring and evaluating its effectiveness and ensuring transparency, though it does not specify these mechanisms in detail (Victorian Government, 2025, p.15).

Consequences for Failing to Fulfil the Contractual Obligations:

The framework states that government agencies must '*translate any social procurement commitments*' into contractual obligations (Victorian Government, 2025, p.14). However, it acknowledges that the Social Procurement Framework itself does not prescribe specific consequences for failing to meet agreed social procurement commitments. The government has published suggested model clauses to assist agencies in incorporating the social procurement terms into government contracts (Victorian Government, n.d-b). The model clause states that each department and agency is responsible for determining and contractually negotiating the consequences of a supplier's failure to meet agreed social and sustainable procurement obligations. The model clauses suggest potential consequences may include financial disincentives if the Social Procurement Framework commitments are not fulfilled (Victorian Government, n.d-b).

The following model terms are suggested: '*2. The supplier will... comply with the Agreed Social Procurement Commitment Proposal*'. The suggested terms also include '*The Supplier's failure to comply with clause 2 may constitute a breach of this Agreement*'. These suggested terms are not mandatory; however, they clearly state that the consequences for non-compliance are at the agency's discretion. It is suggested that agencies can '*contractually negotiate*' what consequences should apply if a supplier fails to perform the obligations under the Social Procurement Commitment. Agencies are also tasked with assessing whether non-compliance is justified due to valid reasons, such as an unavoidable change of supplier (Victorian Government, n.d.-b).

The model clause document states that in cases where no valid justification is identified, non-compliance may be deemed a contractual breach, warranting appropriate enforcement measures. Each department will need to '*determine (and contractually negotiate) what consequences will apply if a supplier*' fails to meet the agreed commitment

under the policy. Additionally, a supplier's failure to adhere to the Social Procurement Compliance Plan, as reported, may influence its eligibility to participate in future Victorian Government procurement processes (Victorian Government, n.d-b).

In the Frequently Asked Questions section of the government website, the question emerges whether social procurement may increase the cost of procurement. While the guide does not explicitly state that social procurement should not increase bid costs, it suggests that all government contracts, including those with social benefit requirements, must be evaluated based on value-for-money principles. When establishing selection criteria and assessing value for money, agencies must consider both financial and non-financial factors. Additionally, all suppliers bidding for government contracts are expected to submit competitive proposals that align with these principles (Victorian Government, n.d.-b).

As observed in NSW (see Section 4.2.3 above), government contract bids in Victoria are typically divided into cost and non-cost assessment criteria, with a weight assigned to non-cost considerations, including social procurement requirements. The following section outlines the detailed policy guidance published on the Victorian Government website, which serves as a resource for agencies when assigning weight to social procurement requirements.

4.4.3 Guidance Weight Given to Non-Cost Factors

In contrast to NSW, the Victorian Government has published detailed guidance 'the Guide' regarding suggested weightings assigned to various social procurement aspects and supplier attributes (Victorian Government, n.d.-a). As illustrated in Table 4.3, the Victorian Treasury establishes that agencies may evaluate social procurement criteria with specific weightings: 10% for contracts exceeding \$20 million and 5% for contracts below this threshold (Victorian Government, n.d.-a). Table 4.4 below provides a detailed framework for how these weightings may be applied to specific social procurement requirements. It is important to note that these are characterised as suggested weightings rather than mandatory directives.

The Victorian policy framework maintains flexibility for project-specific adaptation while recommending a minimum weighting of 10% for social procurement requirements. The Guide explicitly states that the approach is '*not prescriptive*', allowing agencies to '*adopt the most appropriate approach based on the circumstances of the individual activities*' (Victorian Government, n.d.-a).

This detailed guidance provided to both government agencies and private firms demonstrates the Victorian Government’s whole-of-government commitment to preferring businesses that integrate corporate social responsibility into their core operations and maintain purpose-driven organisational structures (Victorian Government, n.d.-a).

Table 4.4
Suggested Weighting for Social Procurement

Project Value	Recommended Minimum Weighting
Up to \$20 million	Minimum 5% supplier attribute or ‘social sustainable business practices’
Over \$20 million	Minimum total weighting of 10% in respect of social and sustainable outputs

Table 4.5
Suggested Weighting for Agencies

	Below threshold	Lower band	Middle band	Upper band
Total Social Procurement Framework – related criteria weighting	5%	5%	10%	10%
Application of weighting	Social Procurement Framework – related evaluation criteria included in evaluation matrix	Social Procurement Framework – related evaluation criteria included in evaluation matrix	Social Procurement Framework – related evaluation criteria included in evaluation matrix	Social Procurement Framework – related evaluation criteria included in evaluation matrix
Key focus area – agencies may choose to focus on the policy	Supplier attributes (5%)	Supplier attributes / social or sustainable business practices (5%)	Supplier attributes / social or sustainable business practices (5%) PLUS	Supplier attributes / social or sustainable business practices (5%) PLUS

	Below threshold	Lower band	Middle band	Upper band
			Social or sustainable outputs (5%)	Social or sustainable outputs (5%)
Achieving full weight score (proposed guide to a bid achieving full weighting)	Purchasing from a social supplier (5%) OR Purchasing from a mainstream supplier that involves benefit supplier through the supply chain (5%)	Purchasing from a social supplier (5%) OR Purchasing from a mainstream supplier that involves benefit supplier through the supply chain (2.5%) + social or sustainable business practice x 1 (2.5%)	Purchasing from a social supplier (5%) OR Purchasing from a mainstream supplier that involves benefit supplier through the supply chain (2.5%) + social or sustainable business practice x 1 (2.5%) OR Social or sustainable business practice x 2 (2.5% x 2) AND Social or sustainable outputs x 2 (2.5% x 2)	Purchasing from a social supplier (5%) OR Purchasing from a mainstream supplier that involves benefit supplier through the supply chain (2.5%) + social or sustainable business practice x 1 (2.5%) OR Social or sustainable business practice x 2 (2.5% x 2) AND Social or sustainable outputs x 2 (2.5% x 2)
Risk discount – agencies may adopt ‘a risk discount adjustment’ – meaning that if there is something that may impact the firm’s ability to meet the social procurements, this	Government buyer may apply a risk discount adjustment based on any risk(s) identified in the evaluation process which is expected to impact the supplier’s ability to	Government buyer may apply a risk discount adjustment based on any risk(s) identified in the evaluation process which is expected to impact the supplier’s ability to	Government buyer may apply a risk discount adjustment based on any risk(s) identified in the evaluation process which is expected to impact the supplier’s ability to	Government buyer may apply a risk discount adjustment based on any risk(s) identified in the evaluation process which is expected to impact the supplier’s ability to

	Below threshold	Lower band	Middle band	Upper band
should be taken into consideration.	meet its social procurement commitment(s)	meet its social procurement commitment(s)	meet its social procurement commitment(s)	meet its social procurement commitment(s)

4.4.4 Government Guidance on Corporate Social Responsibility

The government provides a comprehensive checklist designed to assist firms intending to bid for government work, including strategies to enhance their social procurement activities, thereby improving bidders' chances of securing government contracts (Victorian Government Department of Treasury and Finance, 2018). This guide also offers recommendations for for-profit firms on how to strengthen their CSR initiatives (Victorian Government Department of Treasury and Finance, 2018). Notably, the self-assessment questions within the guide encourage organisations to integrate social procurement into their governance structures and core operations.

The guide highlights that organisations driven by a purpose-oriented mission are preferred suppliers (Victorian Government Department of Treasury and Finance, 2018). Additionally, the Framework and the Guide recommend potential partnerships with various entities, including Social Traders, Social Enterprise, Finder GROW, Buy Ability, Kinaway, Supply Nation, Jobs Victoria, and Jobs Bank (Victorian Government Department of Treasury and Finance, 2018).

Furthermore, the Victorian Government offers an assessment framework for agencies to evaluate potential bidders, focusing on whether the firm has embedded social procurement practices into its business model. This includes a detailed checklist for agencies to assess the CSR practices of bidding firms, ensuring they adopt a purposeful approach to business (Victorian Government, n.d-a). The template also identifies the firm's level of commitment to social procurement, assessing whether the integration of such practices is substantial. For further guidance, the Social Procurement Team is available to assist with the Social Procurement Framework, and a dedicated hotline offers support for both agencies and firms in implementing these policies (Victorian Government Department of Treasury and Finance, 2018).

4.4.5 Analysis of Policies in Victoria

The requirements to create employment for people from disadvantaged backgrounds and generate additional social value in government procurement are contained in a comprehensive Social Procurement Framework. This Framework establishes a minimum set of requirements, providing flexibility while creating a benchmark that encourages consistent social procurement practices. The Victorian Government's stated purpose for this approach is to demonstrate how social value can be integrated into all government projects, including construction. Therefore, unlike NSW, Victoria does not rely on a separate 'social value' creation principle—social value creation is embedded as the core purpose of the Social Procurement Framework itself.

The Victorian Government's policies appear designed to prioritise social procurement requirements in government contracting, as evidenced by detailed guidance and the encouragement of financial consequences for non-compliance. Both the Social Procurement Framework and its accompanying guide suggest that social procurement requirements should be embedded directly into contracts. They also recommend that financial penalties be imposed for non-compliance and that failure to implement social procurement commitments be considered when awarding future contracts to suppliers.

Victorian government policy documents demonstrate a clear preference for firms that integrate CSR and social procurement practices into their core business operations. These policies incentivise firms to increase employment of people from disadvantaged backgrounds through tender requirements, with the ICN serving as the central reporting mechanism. The Framework indicates that government procurement is being strategically leveraged to achieve dual objectives: driving broader CSR adoption across the private sector and preferencing contractors who demonstrate purposeful social practices. This approach appears to be an attempt by the Victorian Government to use public procurement as a mechanism for encouraging for-profit construction firms to embed CSR principles and social value creation into their fundamental business models.

4.5 Participants' Explanations of the Policies in Victoria

The following analysis examines how Victorian procurement policies are interpreted and applied in government projects, as explained by participants from Victoria. Interview data collected from participants in Victoria reveal government agencies implement these policies with significant variability despite their derivation from a detailed written framework.

This inconsistent implementation manifests in three primary domains. First, various aspects of social procurement policies receive differing emphasis across agencies and projects, with inconsistent interpretations of the definitions of disadvantaged cohorts. Second, agencies demonstrate notable differences in their commitment to employment requirements. Third, despite the existence of a standard reporting mechanism—to the Industry Skills Network overseen by the ICN—and suggested inclusion of accountability mechanisms in contracts, participants reported a lack of standardisation in reporting and accountability mechanisms between projects and agencies.

Notwithstanding these inconsistencies, evidence suggests increased implementation of employment requirements in Victoria compared to NSW. Victorian policy demonstrates consistent requirements for large projects to articulate social value creation within tender submissions. The Victorian approach is further distinguished by structured enforcement mechanisms, including recommended financial penalties for non-compliance with employment requirements. This whole-of-government strategy, while variable in application, represents a more systematic approach to ensuring policy adherence than observed in NSW.

4.5.1 Varying Employment Requirements for Projects

Similar to NSW, participants indicated that across projects, generally 3% of the workforce must come from disadvantaged backgrounds. Participants reported that agencies frequently adapt and apply aspects of the policy in ways that reflect the operational priorities and objectives of the agency. These variations in interpretation and implementation highlight the flexibility—and potential inconsistencies—of the policy framework, shaping the outcomes of procurement practices across different agencies and their projects. As a construction manager of nearly 40 years explained:

We have a 3% social procurement umbrella that covers off disadvantaged cohorts, so it could be Aboriginal, could be new entrants. Could be any of those definitions of disadvantaged individuals, including asylum seekers, refugees, new entrants to Australia. (James, social inclusion manager, Victoria)

It tends to vary between projects. So, what we have is requirements generally for about 2.5% of Indigenous hours on our projects. So that one is reasonably straightforward. We then get asked about [trying] to comply with and provide other opportunities for socially disadvantaged, and then that becomes a question as to exactly who that is. If you're working for Homeless Victoria, they will talk about it being people who are long-term public tenancy occupants. If you're talking to other [government] organisations, it may be to do with disability as a mental, physical, and other realms. Or it might be just in social infrastructure about purchasing from other businesses that will probably register with social traders and ... other not-for-profits. (Joe, construction manager, Victoria)

As noted, participants observed that the employment policies are variously prioritised depending on the agency. Participants explained that, in addition to the Social Procurement Framework, the Government established a set of guiding principles for social procurement. Each agency applies the framework and principles according to its own priorities and operational context. Participants explained that, for example, some agencies emphasise local requirements in projects, while others prioritise the Building Equality Policy. Alternatively, certain departments may emphasise employment policies related to their specific portfolio—for instance, housing departments might include housing tenants as a designated cohort. Additionally, agencies may define workforce requirements as a percentage of the total workforce rather than specifying fixed numerical targets, allowing flexibility in meeting workforce goals, particularly on larger projects. This variability in policy implementation was consistently highlighted by participants:

Each department can use the framework however they want. (James, social inclusion manager, Victoria)

What happens here a lot with social procurement, and I talk about it quite broadly, because there's the [guiding] principles in Victoria and each agency will apply different principles to different projects. So, there's normally an employment element, but it might just be for Aboriginal Victorians, or it could just be for disadvantaged cohorts, or priority

job seekers, we're now calling them. So, it changes from contract to contract which is also the complication. (Andrew, policy advisor, third-party policy intermediary, Victoria) ... and they've all got different arrangements in place as to what they're focusing on. They all employ a full-time person that continually rewrites policies and changes them to the whims of the different bureaucrats that are in there ... a department asked us to commit to within three years having 40% women on our board member. (Joe, construction manager, Victoria)

I asked a third-party policy intermediary who advises firms on the employment requirements whether the employment requirements are chosen by an agency or whether the firm can choose the cohort of disadvantaged groups. The participant explained that it depends on the agency and the project:

It really just depends ... So it could just be say X percent of hours to be with priority job seekers, and then the company could pick however that fits with whatever that means. However, that works [differently] from region to region ... and then sometimes it can link into the project. So if you've got a project with high security, you probably can't have an ex-offender. If you've got social housing or a project that, say an Aboriginal, they'll have more Aboriginal people working on that or social housing, like what people who are engaged with social housing. (Andrew, policy advisor, third-party policy intermediary, Victoria)

Similar to NSW, tension arises partly due to the project-based nature of the construction industry, where individual projects must address varying local social needs across different geographical locations. As a social inclusion manager explained, this creates inherent policy implementation challenges:

That's part of the problem with the policy, like, I'm having to say it has to be a bit more streamlined across the projects, but then we have different needs in different geographical location. (James, social inclusion manager, Victoria)

This tension between the need for standardised policy frameworks and localised social requirements reflects a fundamental challenge in implementing consistent social procurement outcomes across diverse project contexts.

I think it's all about is okay as long as there's consistency. And so, I think projects should have the or authority should have the ability to make place-based decisions. So, they might say it's more important in Western Sydney, for example, to employ refugees or women or whatever it might be than it is in another suburb or another area. And so, we're going to leverage this project to make an outcome for that community. I think that is fine. But I think sometimes we see is that it's not always consistent with it. Even the interpretation of the policy is sometimes different across different authorities. (Andrew, consultant social procurement, Victoria)

Although it may seem contradictory, a social inclusion manager explained that requirements often fail to reflect local demographics. In some cases, identical requirements are applied to different projects, even when the local demographic profiles vary significantly. This disconnection and misalignment create operational challenges for firms attempting to plan employment and social procurement strategies across multiple projects. The resulting uncertainty inhibits systematic approaches to policy compliance and implementation. As a social inclusion manager in Victoria observed:

There's some of the frustrations are like the government will put a set of requirements on Project A, which is in this geographical location. They'll put the same requirements on Project B, which is in a completely different geographical requirement. Different client base different people different issues, different socio issues, different economic issues, different suppliers different, so like, the let's say, the rail crossing removal, this is a great example. [T]he same requirement in a metro region is also given to a regional region. (James, social inclusion manager, Victoria)

Some participants noted that government agencies (and some firms in their response to requirements in the tender process) often apply generic social procurement requirements, including standard employment targets, to project tenders rather than developing tailored plans. These standardised approaches lack specificity for local projects and community needs:

If tier ones or clients are just taking something off the shelf because they think that's a good thing to do, so they can write it in their marketing and their CSR strategy. That's not good enough. (James, social inclusion manager, Victoria)

Similar to NSW participants, Victorian respondents emphasised the difficulties these inconsistencies create for subcontractors. These smaller firms typically lack the resources to identify and recruit individuals from disadvantaged backgrounds, and the variability in requirements across projects compounds these challenges. As one construction manager explained:

The different requirements of every department make this tough for the supply chain in large projects, lack of consistency for supply chain For example, the proportion of women might be low for one project then suddenly increased to 20%. (Joe, construction manager, Victoria)

All participants noted that employment requirements are generally predefined and communicated by the government at the tender stage. As outlined in Section 4.5, contractors, at least in NSW, are often encouraged to ‘bid back’ with proposals that increase employment targets. In Victoria, the social procurement plan was part of the competitive tender, and participants spoke of putting forward competitive social procurement plans.

Instead of a purely competitive approach, several participants emphasised the need for more consistent and meaningful engagement early in the procurement process to better align employment requirements with project realities and community needs. A social value manager from Victoria suggested that, ideally, firms would collaborate with the government to agree on local community priorities. Both the NSW and Victorian policy frameworks promote collaboration between government and contractors. While it was unclear how this might occur during the tender phase, such collaboration may be more feasible after contract award. As the participant explained:

I think in an ideal world; it would be like a collaborative approach with the contractor delivering the work, working with the client to come up with whatever, and it could even happen during the tender phase. It could be that you’re working with the client and saying, what do you determine has been the most needs of the community. Let’s kind of figure this out together. (Mark, social value manager, Victoria)

Other participants emphasised the need for governments to adopt a more structured and supportive approach to social procurement, particularly through the development of standardised guidelines and a prequalification system. One participant advocated for a prequalification system with a rating-based framework. The participants advocated a system

where construction firms could receive a certification reflecting their capacity to engage in social procurement, where *'they could give us a set of questions where they ask us about what we do'* (Joe, construction manager, Victoria). For instance, a five-star rating could qualify a firm to tender for projects valued up to \$100 million, while a three-star rating might limit eligibility to \$20 million projects.

This system would not only simplify the procurement process but also incentivise firms to invest in improving their practices, as demonstrated by one participant's remark: *'We're Bloggs Builders, and we've got a three-star rating out of five at the moment, but these are the things that are lacking, and this is what I'm doing to try and improve'* (Joe, construction manager, Victoria). However, participants noted that the current approach often prioritises compliance monitoring over meaningful support, with one participant commenting that governments tend to focus on establishing task forces to measure performance rather than fostering and rewarding positive efforts by firms.

Perhaps reflecting the bias in the sample of participants (those genuinely trying to implement the policies), participants emphasised the need for clarity and rewards for firms that successfully implement employment requirements and try to create additional social value, as a construction manager explained:

I've been talking to government and saying can you please change the way that you do this? Give us the guidelines. Give us a checklist [of what the government aims to achieve on the project].....And what we would love to do is rather than submitting a proposal for every single job, let us submit it to you once and then we get a pass mark. So I'm saying give us a five-star rating. If we're brilliant. Let us price jobs up to what I'm making it up to 100 million, give us a four-star rating and let us price jobs up to 40 million. Give us a three-star rating and that's up to 20 million ... So that becomes a fundamental for me. So you know, I might say my name is Joe Bloggs ... here's my certificate, but these are the things that are lacking in ... and this is what I'm doing to try and improve. (Joe, construction manager, Victoria)

This suggestion was supported by another participant from NSW, who proposed that firms should develop their own social procurement initiatives and use these to qualify for tendering opportunities, rather than having the government impose ad hoc requirements on each project with firms developing responses each time:

Organisations are prequalified to tender for government work by having their own social procurement initiatives as a % of their revenue. ... firms should qualify to tender rather than [taking a] piecemeal approach. (Steve, architect/construction manager, NSW)

These findings indicate that while Victoria maintains a comprehensive policy framework with detailed guidance, its application remains inconsistent across government agencies. This variability manifests in different interpretations of disadvantaged cohorts, fluctuating percentage requirements, and incongruent reporting mechanisms. The data suggests that despite the Victorian Government's significant investment in implementation structures like the ICN, the lack of standardisation compromises effective implementation.

These findings highlight the need for a more practical approach to setting employment requirements in government projects that balances the benefits of a consistent whole-of-government framework with the flexibility to adapt to local contexts. A particularly significant finding concerns the disconnect between policy requirements and local demographic realities. The evidence indicates that template-based approaches to policy implementation fail to account for regional variations in socio-economic conditions, workforce availability, and community needs. This one-size-fits-all approach undermines the effectiveness of social procurement initiatives and creates compliance challenges for construction firms operating across multiple projects and regions.

The evidence suggests this tension could be mitigated when employment requirements are being formulated at the expression of interest stage, through closer consideration of local community needs and project-specific requirements. Increased collaboration with construction firms at this stage was also suggested, though realistically, this may occur as part of negotiations after the contract has been awarded. Some participants also supported a certificate or pre-qualification scheme for construction firms that confirms their past successful implementation of the social procurement policies.

4.5.2 Lack of Consistent Definition of Cohorts

The Social Procurement Framework contains a brief explanation of the different cohorts that agencies may request to be employed in the project. However, all participants in Victoria reported that Victorian government agencies establish their own definitions for various cohorts of disadvantaged groups. For example, the definition of 'a long-term

unemployed' person can vary significantly depending on the project. While the need for flexibility is recognised, the absence of standardised definitions for specific groups within the priority job seeker category results in agencies formulating project-specific interpretations.

Participants report that this definitional inconsistency across agencies creates implementation challenges and adversely affects subcontractors who receive different directives 'across multiple projects'. It may also diminish the value of accumulated knowledge and experience in sourcing appropriate applicants for new projects. While definitions of priority job seekers differ between agencies, some departments—albeit unevenly—attempt to align requirements with local demographic profiles and social needs of the community:

And so, it could, and again, I'm probably talking less about New South Wales than other parts of the country, the definition of what a, say for example, a long-term unemployed person is, we see that that is not always consistent. Certainly not across the country, but even within the same policy even within the state. One department might say, long-term unemployed is someone who hasn't had a job for six months, someone else, you know, five kilometres down the road on a different project with a different government client, will say, long-term unemployed person is someone who hasn't worked for 12 months. And then someone else another five kilometres down the road might say, no it's someone who is just registered with Centrelink... so it's those kinds of inconsistencies. (Jackson, Victorian social inclusion manager, Victoria)

That is hard for us as tier ones, but then also difficult for our subcontractors who might be working across multiple projects, and they're getting told different things, you know. So they're saying over here, you know, this is the way it's interpreted, but over here, it's different. So it just makes it hard for the industry, I think. (Jackson, social procurement manager, Victoria)

There needs to be consistency with Agencies interpreting the definitions under the policy differently. (Andrew, policy advisor to firms, Victoria)

Participants suggested that redressing inconsistency will require a review of all aspects of the Social Procurement Framework, including mitigating the impact of differing approaches to the various aspects of implementation by agencies. Participants also emphasised the need to address the inconsistent definitions of disadvantaged cohorts adopted by government agencies. These considerations do not diminish the need for flexibility, as

readily acknowledged by participants. Instead, they distinguished between flexibility on the one hand and being adhoc on the other:

Got to be some flexibility, but it needs to also be quite the policy if the policy is clear around what everything is, you can apply it flexibly because the policy meaning, and definition is not going to change from project to project. But if you know if it's priority job seekers ... that's what it is. So, it needs to be broad enough, but if it's clear, it's not going to matter what project you're working on. It's all going to translate. (Andrew, policy advisor to firms, Victoria)

The definitional variations across Victorian agencies reveal a critical weakness in the state's Social Procurement Framework. The absence of standardised definitions for disadvantaged groups creates unnecessary complexity in implementation, particularly affecting subcontractors who operate across multiple projects simultaneously. These findings suggest the Victorian Government needs to develop standardised definitions for disadvantaged cohorts as part of its whole-of-government approach to social procurement. Such standardisation would help reduce uncertainty and the administrative burden from one project to the next. Standardised definitions may also benefit subcontractors who are currently caught between inconsistent interpretations across multiple projects and agencies.

4.5.3 Weight Attributed to Social Procurement

It is anticipated that government agencies assign varying levels of importance to social procurement criteria based on the specific requirements of each project. However, participants observed notable inconsistencies in the emphasis placed on these criteria across different agencies. According to policy documents, Victoria's Social Procurement Framework mandates a weighting of 10% to 15% for social procurement requirements. While social procurement is recognised as a factor in contract awards, its inconsistent application across agencies raises questions about its influence. According to one participant, a policy intermediary advising firms on social procurement and employment requirements, several construction managers reported having lost contracts due to their inability to meet the competitive demands of social procurement practices.

Social procurement weighting is 10% to 15% in Victoria, so it is having an impact at tender. (Andrew, policy advisor to firms, third-party policy intermediary, Victoria)

Social procurement has a 10% to 15% weighting in Victoria. So, it does have an impact because of the weighting.... I have heard people say that they've lost out on work because they haven't got the social procurement, right, and that can be at tender or either further down the supply chain. So anecdotally, that's what I'm hearing is if they're not doing enough on the supply on social procurement, they're missing out on work. (Andrew, policy advisor to firms, Victoria)

The findings underscore the variable application of social procurement criteria in Victoria, despite its mandated weighting of 10% to 15% in tender evaluations. While participants expressed the view that this weighting has a discernible impact on contract outcomes, inconsistencies in implementation suggest a need for greater standardisation to ensure equitable and effective policy enforcement. The impact of these policies on the tendering process is explored in greater detail in the subsequent chapter.

4.5.4 Inconsistent Contract Enforcement and Accountability

There was consensus among participants in Victoria that there were increased instances of financial consequences for not meeting the required outcomes. However, participants all agreed that financial penalties for not implementing social procurement requirements, specifically not meeting employment requirements, were not consistently applied. A social value manager explained the consequences and rewards of correctly implementing the policies in Victoria:

They have key performance indicator. And, and they put dollars next to them. And so, they say, overall, just to give you an example, just say you okay, we're going to set a target that [...] 5% of your workforce are going to be aboriginal people, right? So, we know that at the start. And then they say, if you say 5% is the base, if you do under five, it's going to cost you a million dollars. If you do over 5%, if you do between 5% and 7%, you're gonna get a million dollars or and if you do over 7%, you're gonna get \$2 million. So, it's a really good mechanism. (James, social inclusion manager)

The abatements are getting bigger and better. (Andrew, policy advisor to firms, Victoria)

A manager from a not-for-profit organisation set up to support the implementation of social procurement policies emphasised the lack of accountability and reporting regarding policy outcomes. The participant also noted there was no pre-audit of the plans submitted by

firms before projects commenced, and that the current reporting does not allow for any indication of the long-term outcomes for candidates employed on the project:

The tenders are not written in such a way to hold the contractors accountable for the deliverables of the policy and they are too broad and not definitive in what they need to. So given that there isn't ... there is pre-auditing to a limited capacity of each of the suppliers of what they intend to do. But there is no real auditing on the capability of the contractors and their comprehension of how they should be delivering social procurement. And then, of course, if they win the tender, it's likely that they will not be able to implement anything that they've included in the agenda, and they're not held to account or audited on that anyway. (Matthew, manager, not-for-profit, third-party intermediary, Victoria)

In Victoria, as in NSW, participants noted varying levels of commitment by government agencies to the implementation of social procurement policies. Importantly while it is apparent that some agencies place great importance on the policies or are more vigorous with substantiation or compliance, it was less clear why that is so. While some agencies actively enforce compliance and hold firms accountable, others demonstrate less rigorous oversight. Despite these inconsistencies, participants from both states agreed that social procurement policies, particularly those concerning the employment of disadvantaged groups, constitute a significant criterion in tender evaluations in Victoria:

Victoria is pushing this to the maximum extent. (Mark, construction manager, Victoria)
There is a centre being built in regional Victoria ... they are really using the policies to absolute extent, by the way they are putting in massive fines against the contractors ... they have gone, 'you know, what we are going to push these guys really hard'. So, you get different departments giving different targets and also giving different pressure. (Jackson, social inclusion manager, Victoria)

These observations from Victoria highlight the disparity in how different government agencies enforce construction firms' contractual obligations to implement employment requirements in government projects. There is some evidence that social procurement requirements, particularly employment requirements, are an increasingly important factor in the awarding of certain government contracts in Victoria. However, there is also evidence

that the degree of enforcement and oversight of firms' contractual obligations varies significantly between agencies and departments. The findings suggest that greater consistency between agencies and projects in both the inclusion and enforcement of contractual consequences could enhance the effectiveness and accountability of social procurement initiatives across all agency levels.

4.5.5 Reporting Mechanisms

Despite the existence of a centralised reporting system, all participants in Victoria indicated that reporting practices remain inconsistent, with significant variations in how reporting is conducted both internally and across agencies. A social value manager with experience in multiple jurisdictions noted that this inconsistency is not unique to Victoria but is prevalent across all Australian states and third-party intermediaries. They highlighted that a tick-a-box approach is commonly used, failing to capture meaningful outcomes.

The challenges associated with reporting were further emphasised by a social inclusion manager in Victoria, who explained that:

Reporting is challenging across the country. There's no consistent way of doing it; projects are just, you know, often we make up our own reporting tool, and clients want it in different formats in different ways. So reporting is, even internally for us, is really challenging. It's hard for us to get a consistent baseline on any of this data. Because it's so different. So, with that as we have, that's a challenge for the industry. (Doug, social inclusion manager, Victoria)

The problem was highlighted by a participant employed by a not-for-profit organisation established to support the implementation of social procurement policies in Victoria. The participant expressed the view that the broad and vague language of reporting requirements exacerbated the issue, thus contributing to a compliance-driven approach, rather than prioritising actual outcomes:

Reporting the correct information is not what's happening ... and the reporting in the way its worded is again, so broad that it catches the tick a box approach; it does not capture the outcomes. (Matthew, third-party policy intermediary, Victoria)

These insights highlight the ongoing challenges in achieving consistent and meaningful accountability for employing individuals from disadvantaged backgrounds within contractual obligations. Despite detailed policies and a reporting system through the ICN—a separate entity from government agencies overseeing contracts—inconsistent approaches across different Victorian agencies remain a significant issue.

4.5.6 Government Support and Guidance for Firms

In Victoria, construction managers and social value managers appear to have developed established networks that facilitate the effective implementation of social procurement policies. As outlined in Section 4.4.4 above, the Victorian government website provides extensive resources and guidance for agencies and firms to assist in understanding the social procurement policies and the practical implementation of these policies, including a dedicated hotline (Victorian Government, n.d.-d). Participants did not specifically reference these resources during the interviews. However, it is important to note that participants from Victoria engage with social procurement policies in a professional capacity on a daily basis. As discussed in detail in Chapter 5 (Section 5.2) and Chapter 6 (Section 6.5), Victorian participants indicated they rely on various third-party organisations to support the implementation of these policies. The nature of their interactions with these organisations is examined further in Chapter 6.

Despite the above-mentioned resources, participants from Victoria agreed that the government should offer more support and infrastructure to assist the implementation of these policies, particularly through fostering relationships between firms and third-party organisations. As a policy expert explained, governmental support is required to cultivate supportive internal organisational cultures within construction firms that promote employment initiatives and foster productive relationships with third-party intermediary organisations.

... and to my mind, it is Treasury is a big part of the problem, but also how these sorts of policies get translated down from an executive level to the people that actually have to deliver them. And whether they've got the right tools, whether they've got appropriate support. (Brian, social procurement policy expert, NSW & Victoria)

A policy expert suggested a more proactive approach for governments, whereby they ensure an enabling environment for the implementation of the policies. This includes accountability measures and attributing appropriate responsibility to the actors, ensuring overarching outcomes are achieved:

... The policy should create an enabling environment, and it should do it in a way that attributes responsibility and accountability. And it's part of good governance. So, all of good governance, framing needs to sit in the policy environment. And what we're really talking about here is trying to create that, and then from an implementation perspective, we need to make sure it's spatially and temporally relevant and it has context in terms of those overarching outcomes. So, governance needs to do its job at a corporate level, and then project governance needs to do its job as well. And organisational culture needs to be enabling. And, you know, we need to think about these long-term outcomes. (Brian, social procurement policy expert and construction expert, NSW and Victoria)

In summary, the findings underscore the need for stronger government support and infrastructure to enable more effective implementation of social procurement policies within the construction sector. The contractual framework governing firm-government relationships presents unique challenges in meeting this need. The evidence suggests that successful policy implementation requires clear frameworks at both policy and project levels, along with adequate tools, training, and ongoing support for firms and subcontractors responsible for delivering contractual obligations. Furthermore, enabling organisational cultures that prioritise long-term social outcomes are essential for translating policy intentions into meaningful practice. Without these foundational elements, social procurement policies risk remaining aspirational rather than achieving their intended impact on employment opportunities and community outcomes.

4.5.7 Summary and Analysis of Participant Explanation of Victorian Policies

Social procurement implementation in Victoria appears to be entrenched in construction procurement. Despite detailed written policies and stated objectives for each cohort of disadvantaged groups, along with guidance for uniform implementation, the findings reveal a lack of consistency among government agencies tasked with implementing

and overseeing employment requirements. This inconsistency, particularly regarding the application of definitions for specific cohorts and varying agency focus on aspects of the social procurement policy, poses challenges for firms that must plan to meet requirements by identifying suitable candidates.

Similar to NSW, reporting and accountability mechanisms for contractual non-compliance vary between agencies. Participants in Victoria indicated that for certain projects, financial penalties could be imposed for non-compliance with the social procurement policies, although such penalties are not consistently applied.

The participants' desire for consistency does not suggest a disregard for project-specific circumstances. Due to the project-based nature of the industry, variations in employment requirements are unavoidable. One participant, in particular, noted that two projects were subject to identical employment requirements despite significant differences in local demographics and social needs. This highlights that employment requirements not only vary by necessity but may also fail to align with the specific demographic context of a given project. This creates additional challenges for firms in meeting these employment obligations.

4.6 Summary or Integrative Analysis of Findings of the Policies in NSW and Victoria

The comparative analysis of the broader social procurement frameworks in NSW and Victoria reveals a complex landscape shaped by distinct legislative and policy approaches. Each state adopts a different strategy to leverage government purchasing power for social benefit, reflecting unique priorities and frameworks.

In NSW, the drive to incorporate the employment requirements appears primarily to address skills shortages within the construction sector. Notably, the NSW policy does not mandate the employment of individuals from disadvantaged backgrounds in government projects. In contrast, Victoria's dedicated social procurement framework represents a more explicit commitment by the government to incorporate social procurement into procurement contracts. Victoria's approach to social procurement intends to reward firms that can demonstrate a commitment to CSR practices. This is highlighted in the criteria guide for agencies in awarding contracts to firms and the guidance given to firms (see 4.4.4 above). Despite these policy differences, participants report that over the past five years, both states

have required that at least 3% of the workforce on major projects be drawn from disadvantaged backgrounds. This commonality coexists with significant differences in the breadth of target groups referred to in policy documents.

The stated reporting mechanisms and accountability measures in terms of implementing the requirement to employ people from disadvantaged backgrounds vary between the two states. Victoria's more comprehensive framework, supported by a centralised reporting system, offers greater potential for consistency and transparency. However, both states struggle with ensuring uniform policy implementation across agencies.

These findings suggest that a consistent approach to social procurement across agencies would help construction firms implement the policies. While acknowledging that different projects require a different 'weighting' of factors, further guidance in NSW as to how 'weight' should be approached may mitigate some uncertainty for firms. It is also important to note that all participants reported that employment requirements and the broader social procurement requirements carry greater 'weight' in relation to the policies in Victoria. The written policies reflect this finding.

The Victorian Social Procurement Framework recommends assigning a weighting of between 10% and 15% to social procurement objectives at the Expression of Interest stage. Participants confirmed that this weighting is commonly applied in practice. By comparison, NSW's primary procurement policy stipulates a minimum weighting of 10% for the 'social priorities' of the NSW Government, which may include the employment of disadvantaged individuals. However, despite these differing approaches, both jurisdictions continue to experience considerable variation in tender requirements and face significant implementation barriers, indicating that detailed guidance alone, at least in the manner used to date, does not resolve practical challenges in achieving consistent social procurement outcomes.

A key issue in both states is the inconsistent interpretation and application of policies by agencies. This inconsistency is not solely attributable to geographical differences; evidence suggests that some agencies in both states regularly neglect to adequately consider local community needs. Participants noted that some agencies prioritising the implementation of social procurement policies also tend to demonstrate a higher standard of accountability and effectiveness, a trend observed in both NSW and Victoria.

The level of practical assistance, information, and guidance provided by the NSW Government appears limited. For instance, there is no central repository for information for

firms or subcontractors to assist with implementing the employment requirements in NSW. By contrast, the Victorian Government's website offers checklists, a detailed question-and-answer document, and a dedicated hotline to help firms integrate social procurement practices into their core business strategies. Possibly applicable to both states is the suggestion by one participant from NSW that a central website be established to provide all the information about grants. The participant also suggested a free service to help firms and subcontractors improve social procurement practices.

The policy requirement for firms to demonstrate how they might create 'social value' in addition to project value arises from a vague and inconsistently applied principle in the procurement frameworks. In NSW, the findings show that the requirement to create 'social value' stems from a vague requirement to consider 'the social priorities of the government of NSW'. This appears to allow firms to determine what the government's social priorities are. Participants reported that they may be asked to show how additional social value is created, but its importance varied across projects. In Victoria, the written policies show that social procurement policy is the guide to creating social value. The requirement for a social procurement plan, and therefore social value creation, was consistent between agencies, even if not consistently implemented across agencies.

Furthermore, there is evidence of greater adverse financial repercussions for companies in Victoria if social procurement targets are not met. Nevertheless, participants in both states expressed uncertainty about whether non-compliance during the implementation phase would have lasting implications for future commercial negotiations or contract awards.

These findings suggest that changes to written policies could reduce confusion and uncertainty around social procurement policies and employment requirements. The evidence indicates that consistent policy application, beginning with detailed written policies, could significantly reduce confusion and assist firms and subcontractors in implementing employment requirements. Clear definitions of disadvantaged group cohorts and reduced variation in application across agencies would further assist implementation. As a policy expert suggested, if policies are clear and consistently applied, social procurement policies can be implemented successfully. However, this desire for consistency must ensure that agencies retain the ability to make place-based decisions. These findings highlight the need to balance prescriptive frameworks with flexible, context-sensitive implementation.

In comparing the Victorian and NSW models, despite both states facing similar implementation barriers, the evidence suggests that Victoria has made notable progress in the broader adoption and execution of its social procurement policies. This progress highlights the potential benefits of a comprehensive and clearly articulated policy framework. Consequently, NSW should consider introducing a detailed and explicit social procurement policy to ensure consistency across agencies. The current approach in NSW, which lacks a formalised framework, appears to foster greater inconsistency between agencies, with participants reporting that a plan to create social value in the supply chain may or may not be required. This appears to lead to increased confusion and uncertainty for firms in the tender process and during implementation.

Suggestions for Improvement to Policy Design

The NSW Procurement Framework and associated documentation articulate the government's commitment to collaborative infrastructure delivery while recognising the significance of social outcomes and value creation within procurement processes. However, participant findings reveal substantive implementation challenges attributable to the absence of a dedicated social procurement policy framework. The research indicates that establishing a standalone social procurement policy would help address current deficiencies.

Such policy development should encompass clear consequences for non-compliance and standardised terms within government procurement arrangements. These identified gaps constitute critical areas requiring policy intervention to strengthen social procurement efficacy and enhance the implementation of employment requirements within NSW's procurement system.

In Victoria, the suggestions for improvement focused on the need to apply the Social Procurement Framework consistently across agencies. Participants called for a more streamlined approach to framework application, citing how different agencies emphasise different parts of the policy. Concerns included ensuring requirements matched individual projects and the need for standard definitions for cohorts of disadvantaged groups.

Participants proposed several strategies to address the challenges posed by the varying employment requirements across projects. First, agencies could enhance implementation effectiveness by concentrating on a single target cohort rather than dispersing efforts across multiple disadvantaged groups within individual projects. This focused approach may enable

firms to develop specialised expertise and more effective support mechanisms for specific populations, at least for a particular project.

Second, the inconsistent application of evaluation weightings across agencies creates uncertainty for industry participants. Standardising the weighting applied to employment requirements and social value criteria across all government agencies would provide firms with greater predictability, enabling more strategic planning and resource allocation for compliance with these mandates.

Third, participants identified the need for standardised reporting requirements across agencies. While the NSW Government has published a reporting template for the ISLP, no equivalent standardised reporting mechanisms exist for additional employment requirements targeting disadvantaged groups. This absence of uniform reporting protocols creates an administrative burden and inconsistencies in data collection and compliance monitoring.

Furthermore, participants noted inconsistent accountability across agencies and projects, such as penalties for failing to meet contractual requirements. Participants external to the projects recommended the implementation of standardised financial consequences within contracts for failure to meet agreed employment targets for disadvantaged groups. They suggested this would establish clear accountability mechanisms and provide consistent incentives for compliance across all government procurement activities.

The findings suggest that establishing uniform reporting protocols and penalty structures would enhance both transparency and effectiveness in achieving social procurement objectives while providing industry participants with clearer expectations regarding compliance requirements and consequences.

These recommendations address the fundamental tension between policy objectives and implementation practicalities, suggesting that consistency in both target populations and evaluation methodologies could improve outcomes for both government agencies and industry participants.

This chapter has analysed the written policies in both states; the following chapter turns to their practical implications, with particular attention to their impact on the tendering process and contract award mechanisms. Where appropriate, the findings differentiate between the experiences and outcomes in NSW and Victoria, offering a comparative analysis of their procurement practices in the tender process.

The key findings of this chapter are summarised in the table below, with general recommendations highlighted in bold.

Table 4.6

Summary of the Comparison Between Victoria and NSW Policies as Outlined in This Chapter

Aspect	NSW	Victoria
Location of policy in key documents	<p>Key procurement policy document does not include a requirement to employ people from disadvantaged backgrounds. General requirement to consider the government’s ‘social priorities’. Agencies use various terms for this requirement, including ‘social value considerations’.</p> <p>A suggestion to include employment requirements is set out in the 10-Point Plan (B4).</p> <p>Recommendations:</p> <ul style="list-style-type: none"> • Central information centre for employment requirements (this exists in Vic). • Consider dedicated separate social procurement framework. • Agencies indicate in tenders what social value should be created. 	<p>A separate social procurement policy sets out how social value might be created in a project, including the requirements to employ people from disadvantaged backgrounds. A definition of groups is not provided (Appendix C1).</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Consistent definitions of cohorts.
Context and link to ‘social value’ requirements	<p>The employment requirements appear in the context of addressing skills shortages in NSW.</p> <p>The requirement to consider the ‘social priorities in NSW’</p>	<p>Primary purpose of social procurement policies is to leverage government spending to create social value. The government also has a strong ‘Buying for Victoria’ policy. The policies also appear to be encouraging CSR in</p>

Aspect	NSW	Victoria
Weight given in tender process	<p>provides an umbrella objective for employment requirements in NSW. ISLP, Indigenous, and women employment targets are linked.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Allowing for flexibility in projects – agencies should have a consistent approach to the requirement to create social value. <p>Varies from project to project – policy guide states 10% of non-cost criteria given to ISLP/employment/social value.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Consistent and increased approach to weighting of non-cost factors. 	<p>firms. Guide for agencies awarding contracts suggests preference be given to firms with a ‘strong CSR and purposeful approach to business’ (Victoria Government, n.d.-f).</p> <p>Varies between projects – policy guide states 10–15% for social procurement policies. Weight given to firms with CSR.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Consistent approach to weighting of non-cost factors.
Stretch targets	<p>Applied in tender process. (Firms are encouraged to bid with higher targets and negotiation of targets).</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Reduce or eliminate the practice. 	<p>Unclear if it applies in Victoria.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Set clear employment requirements in Expression of Interest.
Implementation by government agencies	<p>Inconsistent implementation between agencies.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Increased commitment to social procurement by government – demonstrated by increased weighting, 	<p>Inconsistent implementation between agencies.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> • Increased commitment to social procurement by government, demonstrated by increased

Aspect	NSW	Victoria
	<p>reporting, and accountability mechanisms.</p>	<p>weighting, reporting and accountability mechanisms.</p> <ul style="list-style-type: none"> Consider introducing a certificate or preapproval scheme for firms (recognising firms that have previously successfully implemented employment requirements & social procurement).
Reporting/Accountability	<p>No uniform reporting regime. Participants indicated they report to agencies. Policy documents note reporting should be to the Department of Education.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> Allowing for flexibility. Uniform approach by agencies. Incorporate requirements in all government contracts. Standardise reporting tool. Uniform approach to financial consequences for non-compliance. 	<p>Reporting is centralised through ICN. Reporting to individual agencies is also required.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> Allowing for flexibility. Uniform approach by agencies. Incorporate requirements in all government contracts. Standardised reporting tools. Uniform approach to financial consequences for non-compliance.
Best value	<p>Guideline – no definition provided.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> Clarify working definition of ‘best value’. 	<p>Guideline – no definition provided.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> Clarify working definition of ‘best value’.

Chapter 5: Findings – Tender Process

We do what we're asked to do. If a client says to us, 'Go and build a pink elephant in the middle of the field', that is exactly what we would do as long as we're gonna get paid for it. (Doris, policy and construction expert, Sydney & Victoria)

5.1 Introduction

This chapter presents the findings of the second research question: How do the relevant actors respond in the tender process to governments' requirements to employ people from disadvantaged backgrounds and include 'social value'?

Analysis of participant responses revealed three primary themes that contribute to creating uncertainty of reward and lack of incentives to implement the employment requirements and create additional social value: (a) a focus on compliance, or exceeding compliance, with the employment requirements are a point of competition and may affect the likelihood of winning a government contract; (b) participants expressed uncertainty as to how their responses to the social procurement requirements in the tender process are assessed by agencies awarding government contracts; and (c) participants also perceived ultimate decision making to turn predominately on pricing of contracts, albeit with some variance in Victoria. Evidence also emerged of strategic non-compliance where some firms might show formal agreement in the tender process but lack genuine intent. Additionally, the evidence revealed unintended policy consequences, particularly regarding adverse candidate impacts and policy interactions across both NSW and Victoria.

The chapter will proceed as follows. The first section outlines participants' perspectives on how employment and social value requirements operate in the tender process. It presents the findings on how firms respond to these requirements when included in an expression of interest for government projects. Participants frequently expressed uncertainty about whether effective implementation of the employment targets and social value initiatives would be meaningfully rewarded in the tender process. This is particularly so when they perceive that their competitors make representations they do not intend to honour or provide a superficial response to requirements without a genuine commitment to implementation.

The second section examines how participants identified challenges arising from policy intersections. In New South Wales (NSW), the concurrent requirements for head contractors to engage small and medium-sized enterprises (SMEs) while also employing individuals from disadvantaged backgrounds create unintended burdens for SMEs. In practice, these employment obligations are typically transferred to subcontractors, many of whom are SMEs, thereby exacerbating the pressures they face. Similarly, participants from Victoria highlighted the complexities resulting from the intersection of employment requirements for disadvantaged groups with other mandated employment policies. To provide a clearer analysis and comparison, the findings in each section are presented separately for NSW and Victoria.

5.2 Overview of the Tender Process

This section provides participants' views on having the employment and social value requirements included in the tender process. Although tender processes and procedures maintain general consistency across government departments, they exhibit variations based on project size, nature, and contracting initiation methods.

This analysis does not seek to provide a detailed account of the commercial dimensions of tendering for government contracts. Rather, it highlights key jurisdictional differences between NSW and Victoria, particularly regarding the priority each government assigns to social procurement and employment-related requirements. The diagram below offers a brief overview of the procurement process, followed by participants' explanations of how employment requirements are integrated within that process.

Figure 5.1

Broad Overview of the Tender Process



5.2.1 Government Issues Expression of Interest

The following are participants’ explanations from both NSW and Victoria of how the tender process unfolds. In both jurisdictions, the procurement process typically commences with an Expression of Interest (EOI), establishing broad project specifications. Government agencies may conduct pre-industry consultations, communicating critical project parameters, including size, location, and mandatory requirements. These consultations specifically address employment conditions, women’s employment quotas, and broader disadvantaged group employment objectives.

In both states, participants reported that the timeline for releasing an EOI can vary, and once made public, the response window is often relatively short. Participants in both states raised concerns regarding the challenges posed by the timing of tender processes and contract implementation. Construction managers articulated clear frustration with the temporal misalignment between government planning and implementation expectations.

These participants’ observations illuminate a fundamental disconnect between project planning, contract negotiations, and workforce preparation phases. This misalignment particularly impacts the employment of disadvantaged groups, where adequate preparation time proves crucial for the finding and training of candidates.

The government can take their own time bringing the project to market ... many years. ... But all of a sudden, you will come to market, and you’ve got maybe a ten-week tender period. This contract is then awarded, and, bang, you are expected to be on site. (Gary, construction manager, NSW)

Similarly, participants in Victoria noted that, at this stage of a project, there is often a demand for lower-skilled labour. This represents a missed opportunity to employ individuals from disadvantaged cohorts. Additionally, the compressed project timeline poses challenges for organising appropriate training. As one participant from a not-for-profit organisation—established to support the implementation of social procurement policies, including employment requirements—explained:

But the problem is the state, as you know, leading up to the tender process, which can sometimes take two years as you go through these different projects. And there is, for instance, six months where the contract negotiations are happening and everything's quiet. Nobody's doing anything until they signed on the dotted line. Then the signing happens. There's literally a month before they need to get people on the site. But because nobody's doing anything until the contract is signed, no one's doing that pre-early work for core training requirement and, therefore, when they hit the go button, these people are not ready to work. (Matthew, not-for-profit, third-party policy intermediary, Victoria)

Consultation events are frequently held to outline government requirements. During one such consultation, a participant described subcontractors' reactions to the introduction of social procurement obligations, highlighting a strong sense of frustration. Their response aligns with evidence from other participants, who reported that some subcontractors had even '*threatened to call the unions*' and questioned whether they were expected '*to sack*' long-term employees to make room for workers from disadvantaged backgrounds

One participant recounted their experience at a government forum for a Bendigo project:

I attended a government forum for a project in Bendigo a couple of years ago... I've never seen such an angry bunch of people. And it was all small to medium businesses who were, you know, very micro family businesses. And they were told to attend this meeting, which was a Department of [xxx] project ... They were told for the first time when they attended this particular function that they had to contribute to social procurement, and they had to try and employ people as part of their contract, and they would be required to submit this as part of the tender and they could have pitchforks that were on fire ... there were people yelling, they were angry. They were saying, 'So, I have to fire my staff now and employ a disabled person; so now an Indigenous person is more meaningful than the person I've employed for the last 20 years. How am I going to replace them in my

workforce? Where's the social procurement? There is no social procurement in my area'.
(Matthew, not-for-profit, third-party policy intermediary, Victoria)

The above findings highlight several key challenges in the alignment between preparatory activities and the start of a project, particularly in terms of employing people from disadvantaged backgrounds. The findings highlight the fact that inadequate preparation time hinders the ability of employment leads or subcontractors to organise necessary training for candidates, making it difficult for disadvantaged individuals to be effectively employed on projects. Moreover, the rushed timelines lead to missed opportunities for these workers, as the demand for less-skilled labour is often higher at the beginning of the project. This was confirmed by several candidates.

Additionally, the findings underscore a reality where subcontractors may already have a full workforce and may not require additional employees, which further limits the chances for disadvantaged groups to be employed. The overall impact of compressed timelines between contract award and project commencement is significant, creating barriers to meeting social procurement goals. This calls for a reconsideration of the current tender timeline framework, with a possible need for structural reforms to ensure that social procurement objectives can be effectively realised.

To summarise, participants advocate for adjusting project planning and tender timelines to better facilitate the employment of disadvantaged groups by allowing for adequate preparation time and aligning the workforce needs with the objectives of social procurement.

5.2.2 Responses to Employment Requirement in Government Tenders

As outlined in the previous chapter at 4.3.4, in both states, government tender specifications categorise requirements into distinct cost and non-cost components. These non-cost elements vary considerably across projects and often reflect specific agency priorities and geographical contexts. The weighting of these components within the overall evaluation framework influences the firms' responses to the requirements. Several participants explained that construction firms generally aim to meet or exceed the employment targets under the Industry Skills Legacy Program (ISLP) and any associated requirements to employ people from disadvantaged groups. Agencies evaluate and compare bids by awarding scores based

on the number of people a firm commits to engaging from a particular cohort. As one employment lead explained:

Say you want to go for a billion-dollar job, and you can go, yep, we've got 25 [people from disadvantaged cohorts]. You know, 20% of our apprentices. We've got 8% females; we've got 13% under the age of 25. Like the person who's going to evaluate, is going to go tick, tick, they get maximum scores for this. (Olivia, employment manager, large firm, NSW)

In both states, all participants agreed that the level of detail required by firms to address broader social procurement requirements is contingent upon the size and nature of the project. However, in Victoria, participants reported that a social procurement plan is always required in larger projects. By contrast, in NSW, a plan may be requested depending on the requirements as specified by the government agency. As one social inclusion manager explained:

The larger the project you need to actually start to set an inclusivity plan and start to provide in more detail how that would come to be [implemented]..... in Victoria when they're pulling together this document framework, and this also depends on the value of the project as to how much detail you need to go into as well. So the more the project is worth, the more detail you need to go into because there's a weighed against it in terms of valuation. (Jackson, social procurement manager, Victoria)

The analysis reveals that participants consistently recognise the strategic advantage of committing to higher employment percentage targets in both jurisdictions. This approach reflects firms' tactical responses to procurement frameworks. In both NSW and Victoria, participants highlighted the link between increased employment commitments and competitive positioning. In NSW, participants described exceeding mandated employment requirements to gain a competitive edge. By contrast, in Victoria, social inclusion managers, in particular, emphasised the importance of developing a comprehensive social procurement plan to generate additional social value. This approach differs from the 'stretch targets' discussed in Section 4.5.3, where agencies encourage firms to propose higher employment commitments beyond the mandated requirements.

In NSW, the employment requirements are found in the context of ISLP employment targets (these are set out in detail in Chapter 4 at 4.2.2). Participants referred to aiming to

exceed the ISLP minimum requirements and employment thresholds for disadvantaged groups. This strategic approach to employment requirements represents a calculated response to competitive tender environments, as was illustrated by a manager who outlined the strategy employed by their firm during the tendering process for a medium-sized (under \$500 million) government contract:

We achieved the higher percentage of somebody like around 5.5% [employment requirements] on this project; we knew our competition was a lot stronger in this space.... We knew we had to present a pretty strong submission to respond to these two elements, which the client had told us as part of the Right to Information were weighted pretty heavily on the non-price. So, this project was 35% price, 65% non-price. (Gary, construction manager, Sydney)

As an employment lead explained, exceeding the bare requirements is encouraged by government agencies to gain a competitive advantage in the tender process:

They'll go, here's, like, the bare minimum that we want you to achieve. Then, they'll say... select three additional things you could do, or bid back a higher percentage because you want to win the work, right? So, you want to try and go above and beyond the bare minimum, which can be hard because some of the targets are hard. (Olivia, employment manager, large firm, NSW)

The analysis also reveals unanimous recognition among participants that the Indigenous procurement targets in NSW, set at 2.9%, now operate as a minimum benchmark rather than an aspirational goal. Participants reported that firms consistently exceed these thresholds in bid submissions, indicating a competitive landscape where mere compliance no longer provides a strategic advantage:

Our experience over the last, I'm gonna say, 10 years is if you present a tender or respond to tender a request ... And you just say I'm going to meet the 1.5 % [minimum Indigenous spend] you're not going to get more than the minimum points that's awarded to you as on that particular item. (Gary, construction manager, NSW)

Another construction manager reinforced this point:

If you only tender with the bare minimum [Indigenous spend], you will not win the tender. (Steve, construction manager, NSW)

Reflecting the competitive approach to social procurement, a construction manager in Victoria described that the KPIs for social procurement within the firm's contract for the project were 3% and that his firm had achieved a range up to 10%, which was deemed to be exceptional:

So, we have a set of KPIs within our contract in which we're part of the process around social procurement, and for us, it's a 3% of our spend, what is defined as M costs or minimum conditions of satisfaction. And then we have a range up to 10% [10% for social procurement spend], which is deemed to be exceptional in that social procurement space. (Mark, construction manager, Victoria)

These accounts demonstrate that while meeting baseline requirements satisfies mandatory standards, participants recognise that exceeding these targets can be instrumental in gaining a competitive advantage in tender evaluations. In Victoria, participants particularly noted that both head contractors and subcontractors had, at times, lost contract opportunities due to insufficiently competitive social procurement responses. However, participants in both Victoria and NSW indicated that exceeding these requirements or presenting a robust plan did not necessarily guarantee a successful tender outcome. One social inclusion manager from Victoria further underscored that social inclusion constitutes only a minor component of the overall evaluation:

And it is like with social inclusion is a very small part of the overall pie. And there's tenders I have worked on that I've just been so proud of what we've put forward, this amazing plan we're going to do, and then we don't win the job for whatever reason, and it's, like, so heartbreaking. But that, I mean, that's just the nature of it. So, it's not always going to be judged on ... it's never ever going to be judged on social inclusion, but it has to be the whole ... it's got to be integrated within the whole mix. (Jackson, social inclusion manager, Victoria)

I think maybe it's more around, like, we spoke about earlier: government recognising this when they're awarding contracts, so I think and it is spoken about a lot, and there's different weighting too, but I don't know what goes on behind the scenes or how tenders are always evaluated. That's way above my pay grade. (Jackson, social inclusion manager, Victoria)

These observations highlight the complexities participants face in meeting employment requirements within government contracting. Exceeding minimum targets does not always ensure a successful bid, as non-cost factors must compete with cost considerations in the evaluation process.

5.2.3 Employment and Social Value Requirements Assessment

All participants agreed that there was a methodological gap in the way government assesses the non-cost component of a bid, which undermines the effective integration of social procurement objectives into tender evaluation processes. Participant responses revealed that this critical gap between policy framework and practical interpretation in the awarding of contracts contributes to the uncertainty of reward. As outlined in Section 4.4, the fundamental principle guiding the awarding of government contracts in both NSW and Victoria is the achievement of ‘best value’. Participants in this study highlighted that non-cost considerations in government contracts are often difficult to assess and are inherently subjective. One participant, a policy advisor who provides guidance to firms on procurement policies, emphasised the challenges of reaching a consensus on the concept of best value:

Best value is very subjective. Value added, it is very likely subjective, and you’re never going to get agreement across the board [between agencies]. (Lucy, policy advisor, third-party policy intermediary (NSW))

There needs to be a common understanding of what is value for money. The government needs to publish the non-cost part of the bids... When was the last time you ever saw the assessment of those tender submissions against those non-cost criteria published? Never happens. (Doris, social procurement and construction expert, NSW and Victoria)

This methodological gap appears to undermine the effective integration of social procurement objectives into tender evaluation processes and is further compounded by the lack of a standardised methodology for assessing non-cost outcomes in procurement. A construction expert who works closely with government, developing construction policies, highlighted the limitations in current practices and summarised their view of this critical issue:

Because ultimately, we haven't found a way to value non-cost outcomes. We do to a certain degree, at a business case stage... But we don't do this at the procurement stage of a project. What we'll see is we will see government's saying, 'Okay, we're going to rate and rank and weight different assessment criteria. We're gonna say 50% of the evaluation of this bid will be on cost. And 50% will be on non-cost of which say 10% may be Indigenous in your plans for Indigenous engagement attempts...'. (Doris, policy and construction expert, NSW and Victoria)

The expert further noted the lack of transparency in the evaluation of non-cost criteria and suggested that just as the cost bids are published, the non-cost bids and assessment should be published:

When was the last time you ever saw the assessment of those tender submissions against those non-cost criteria published? ... never happens. The problem is that the government hasn't found a way to value non-cost outcomes. (Doris, social procurement policy and construction expert NSW and Victoria)

The findings suggest that absent a more transparent and consistent approach to interpreting non-cost criteria, the result will likely be that best value is simply conflated with the lowest price. As participants emphasised, a common understanding of value for money is crucial. Publishing assessments of non-cost factors at the start of the contract cycle would promote accountability and align procurement practices with broader value-driven objectives.

These insights underscore a fundamental limitation in the current procurement framework. While the integration of non-cost factors into tender evaluation is acknowledged as essential for achieving broader social and economic objectives, the absence of consistent, transparent, and measurable criteria undermines the ability to accurately value these outcomes, suggesting the need for more transparent methodologies to ensure non-cost considerations are given appropriate weight in the procurement process while allowing for flexibility.

5.2.4 Government Contracts Awarded on Lowest Price

The disconnect between the government's stated commitment to social procurement and the reality of procurement decision-making is highlighted in the experiences shared by

participants with direct experience in the tender process. Despite the emphasis on social outcomes and the inclusion of social procurement plans, particularly in Victoria, participants indicated that bids are predominantly awarded based on price. This potentially undermines firms' incentives to invest in the successful implementation of the employment requirements and create additional social value.

But, ultimately, the reason they don't put as much effort as [government] clients would like them potentially to do is that they just do not see there is potentially benefit in doing that. (Doris, policy and construction expert, NSW and Victoria)

Analysis reveals an emerging tension in both jurisdictions: participants in NSW and Victoria increasingly recognise and accept the purpose and importance of the policies, but implementation costs create operational strains within price-driven award frameworks. This tension manifests particularly acutely when firms perceive inconsistent application by agencies. Nevertheless, the findings revealed an important distinction between the states. Though nearly all the participants in Victoria were of the view that contracts were generally awarded on price, there was evidence that the policies appear to be given greater importance in the awarding of contracts in Victoria. As noted above, there was also evidence that a strong social procurement response [including to employment requirements] does not guarantee winning the government contract. The following sections consider this issue as explained by participants in both NSW and Victoria.

Contracts Awarded on Price – NSW

One project manager from a medium-sized firm in NSW succinctly expressed frustration when referring to the ISLP policy requirements, including the Indigenous spend and specific additional employment requirements: *'The government is still awarding on price; you can do all this perfectly, and 99.9% of the time it will still come down to price'* (Gary, construction project manager, NSW). This sentiment was echoed by a construction expert, who works closely with government policy, stating that although the government publicly advocates for social procurement and other non-cost criteria, the final decision always hinges on the lowest price.

The expert explained:

In essence, the government doesn't walk the talk in terms of social procurement. From a construction standpoint, the driving of social outcomes through procurement of major projects is something that the government states that it wants to achieve in the same way that it wants to drive increasingly improved outcomes from an environmental standpoint, and other non-cost criteria. But ultimately, what happens at the end of the day is: if you're not the cheapest price, it doesn't matter what you put in terms of your social engagement plan – in terms of additional value that you may be able to deliver from a social outcomes' perspective or an environmental outcomes perspective. Governments do not walk the talk; it is all about the lowest possible price... for them to award on anything other than price, they have to justify that to Treasury. (Doris, policy and construction expert, NSW and Victoria)

In NSW, although the generation of additional social value is an articulated objective, all participants reported a prevailing perception that contracts are awarded primarily based on the lowest price. This perception appears to diminish firms' incentives to invest in the implementation of employment requirements and social value considerations. These findings highlight a substantial disparity between the NSW Government's proclaimed best practice of awarding contracts based on best value and its emphasis on integrating social value into procurement practices, as outlined above at 4.2.2.

Contracts Awarded on Price – Victoria

Despite the comprehensive social procurement policies in Victoria and the higher weight assigned to social procurement objectives, evidence from both managers and social inclusion officers reveals uncertainty about the role of these policies in awarding contracts. Social value managers consistently noted that while a strong social procurement policy is advantageous, it does not guarantee a successful tender outcome. A social inclusion manager from Victoria highlighted the prevailing focus on cost as the primary determinant of contract awards, explaining:

Often our clients [government agencies] decide who wins the project on cost on the bottom line. And so, we put forward great initiatives and partnerships and outcomes that we can create [additional value], but they're not always considered. But I would say, if we've got a bad reputation, or if we haven't met our requirements on a previous project,

there's just that intangible factor that I'm not sure. (Jackson, social inclusion manager, Victoria)

A senior construction manager from Victoria echoed these concerns, expressing frustration that the government's preference for awarding contracts to the lowest bidder diminishes the incentive to implement social procurement policies diligently. While the system assigns weight to various non-cost criteria, the lack of clarity in how these criteria are evaluated and the overarching emphasis on cost undermine efforts to prioritise social objectives. An experienced construction manager elaborated:

So, the government says ... and we'll give you a weighting criterion, it might be 30% for team, you know, 20% for past performance, you know, 20% on social procurement, 20% on building equality plans and whatever else to make 100%. And that's all good. And then they'll tell you that there is some value for money proposition that needs to be taken into account as well. But they won't weight that, and I think if something comes in under budget, all the other criteria really mean something. If all the prices come in over budget, they will work with the lowest tender to try and get them across the line. And then they'll figure out the other stuff later. And I understand that, but it's ... but it does make it very hard because the people who are actually trying and working and exploring and spending money to try and better themselves to meet the requirements are not recognised. (Joe, construction manager, Victoria)

However, a contrary perspective was offered by another construction manager in Victoria, who noted that when multiple bids meet the budget threshold, non-cost criteria, including social procurement, may become decisive:

But if there's a number of people that could perform the works within the budget that's been allocated, then it very much comes down to the non-cost criteria. So all those other things that we're assessing, you know, the sustainability, their capability, their social inclusion, their ability to work with Aboriginal suppliers is all assessed and all part of that assessment and quite often we'll award works that are not the cheapest price. (Mark, construction manager, Victoria)

A participant proposed an alternative approach whereby firms would develop their own social procurement initiatives, calculated as a percentage of project revenue. This model

would enable organisations to create value for both them and the community while maintaining flexibility in implementation approaches. Under this framework, firms would qualify for tender opportunities by demonstrating the social value they generate through their proposed initiatives. This approach represents a shift from prescriptive government requirements towards outcome-based social procurement, potentially allowing for more innovative and contextually appropriate solutions developed by firms.

In conclusion, while Victoria's procurement framework includes mechanisms to incorporate social objectives, inconsistencies in their application and evaluation reduce their effectiveness. The persistent focus on cost, combined with a lack of transparency and clarity in assessing non-cost criteria, undermines the incentive for firms to prioritise social procurement initiatives. Nonetheless, the findings suggest that when cost is not the sole determinant, non-cost criteria can play a pivotal role in contract awards, suggesting potential for reform and better alignment of policy goals with the evaluation and awarding of government contracts.

5.2.5 Importance of Finding Candidates Early in the Project

Participants in both states emphasised the critical importance of identifying and employing candidates early in the project timeline to meet employment requirements effectively. They explained that delays in meeting these obligations make compliance increasingly difficult as the project progresses. This confirms the critical importance of addressing the potentially short window between releasing an EOI and the response window canvassed in Section 5.2.1. This perspective was echoed by a third-party policy intermediary, who noted that construction managers often postpone addressing unmet requirements until the project's conclusion, frequently opting to pay fines rather than ensuring compliance with employment targets:

And the reason why people aren't employed on projects is because they're not prepared in time to meet the needs when the project hits the go button. ... So a lot of the early works is a missed opportunity because it happens so fast, and they don't give enough preparation time for both social benefits suppliers or training and employment agencies to fulfil that requirement. That, you know, the largest majority of work has [to be] done in the early

work period, and that's where we're missing out on priority groups. (Mathew, manager NFP, third-party policy intermediary, Victoria)

One social inclusion manager from Victoria highlighted the urgency of early intervention:

We need to be on top of that from the start. Because what we've learned since 2017 is [that] if you fall behind in these targets, it's very hard to come back. It's very hard to capture. And so, you need to be on top of it from the start, and the issue that we have is if you, if you miss it, and then the project is going on, you're six months in or whatever, it just caus[es] distress for everyone. And then you're missing the target, and I think what the governments' do well is financially incentivise and financially penalise in this area. (Jackson, social procurement manager, Victoria)

These findings highlight the importance of proactive strategies in meeting social procurement objectives. Early planning, workforce preparation, and strict adherence to targets are essential to ensuring compliance and avoiding penalties. Without such measures, projects risk failing to fulfil critical employment objectives, undermining the broader goals of social procurement policies.

5.3 Lack of Commitment to Policy Implementation by Firms

As outlined in the methodology chapter in Section 3.6, the findings reveal that construction firms tendering for government work might fall into two categories: those actively committed to implementing social procurement policies and genuinely attempting to meet any employment requirements, and those demonstrating limited commitment to employment obligations. Predictably, firms in the former category were more willing and comfortable participating in this research. Nevertheless, some respondents referenced strategies they believed were employed by other firms. Many of these observations came from participants involved in implementing employment requirements external to specific projects. As one participant explained, regarding what is needed to support firms, the government must be able to differentiate between firms genuinely attempting to implement policies and those that are not:

What you need to do [the government] is provide organisations that can support and help and guide and yes, they need to be capable of distinguishing who's having a real effort and who's not. (Joe, construction manager, Victoria)

There was evidence from several participants that some construction firms agree to the policy requirements in the tender process but, once the contract is awarded realise the employment requirements may not be practicable. Consequently, these firms adopt strategies that do not support the successful implementation of the policies. Several participants indicated that some firms would rather pay any associated fines than employ people from disadvantaged backgrounds or meet the requirements under the Indigenous participation policies. As one participant explained:

Now, what the contractors are doing is that they have weighed up the cost of a financial penalty versus [...] what they can use this money for on the whole of the project and will end up [...] working in any penalty costs into the front end of the project to absorb it. So they don't actually have to include social procurement at all, and they'll just wear the cost. (Matthew, manager NFP, third-party policy intermediary, Victoria)

A Victorian construction manager explained that he endeavoured to clarify the employment requirements with an agency during the tender process for the purposes of ensuring compliance with the policies, but found that agencies do not respond or engage in a discussion. While probity considerations are acknowledged, this provides an example of the government agency's lack of willingness to collaborate during the tender process:

You can never get a government organisation to have a conversation. You can send through a Request for Information (RFI), and they will come back and say, please comply with the tender conditions, and I'll say it's a priority ...no one will have an honest conversation because they don't want to. They just want someone to come back and tick the box for them, and then if you're prepared to tick the box and often lie, that's what happens' (Joe, construction manager, Victoria)

What's the point? There is no advantage to doing it so why would you spend time and energy on it? So they need to be rewarding good behaviours and, unfortunately, with government, the attitude, right, rather than supporting and encouraging, is more about we'll set up our task force to come and measure you and can turn up in your office and count how [many] people are working. (Joe, construction manager, Victoria)

Participants indicated they knew of firms that had won work and had not implemented the employment requirements set out in the EOI documents. Participants confirmed that some firms agreed to social procurement targets in bids for government contracts they could not meet and, in some cases, had no intention of attaining the agreed targets. Participants also told of firms that do not report the requirements accurately:

[Social procurement is] ... not the only criteria, like, you still have to tender on and provide your information ... you could theoretically lie and say you're going to meet something, but in a day, you still have a contract or obligation to a lot of these things. So if you're not going to meet the, I guess, the commitments or the procurement policy that's out there, then you can be in breach of contract. (Mark, construction manager, Victoria)

In conclusion, these findings reveal a concerning gap between policy intention and implementation in the construction industry. The evidence suggests a pattern of strategic non-compliance where some firms calculate financial penalties as simply being another project cost rather than genuinely engaging with social procurement objectives. This circumvention is facilitated by limited government follow-up, inadequate communication during the tender process, and possibly insufficient enforcement mechanisms. These practices ultimately undermine the effectiveness of employment and social value requirements in public procurement policies and highlight the need for more robust accountability measures.

5.3.1 A Tick-the-Box Approach to Employment Requirements

Participants indicated that firms often adopt what they referred to as a 'tick-the-box' approach when tendering for government projects. This term referred to two distinct practices that undermined the implementation of social procurement policies:

- (1) Tender-phase misrepresentation: firms provide formal agreement to employment requirements while lacking genuine implementation intent.
- (2) Post-award neglect: firms fulfil numerical employment requirements but subsequently systematically fail to provide substantive support structures necessary for meaningful employment outcomes. This may result in candidates not continuing employment.

The first practice involves firms providing a formal agreement to employment requirements. The second practice refers to firms that employed candidates to meet formal

tender requirements, but which failed to provide meaningful or practical support to these employees after hiring them. As noted, participants reported that some firms agree to the specified requirements during the tendering process without any genuine intention of fulfilling these obligations:

‘It is the way that it’s been looked at, as a KPI tick box ... should be outcomes driven, and what are those outcomes? (Joe, construction manager, Victoria)

Putting down any name. There are some that are still doing that, still see social procurement as a tick-a-box exercise. (Doug, social procurement manager, Victoria)

Some participants reported that firms may delay or fail to comply with the employment requirements and, instead, prefer to pay a fine at the conclusion of the project. A participant described the minimalistic nature of this approach:

It is often in these construction organisations as just a tick-a-box activity, and they do the bare minimum, and they say, ‘Tried it!’. Well, we couldn’t achieve it because there was no one who wants to work for us. So what are we going to do? So that’s how they get away with it. (Doris, SP policy expert and advisor to government, NSW)

So, it was basically a tick-the-box exercise because they don’t understand what they’re doing. No-one’s told them what the requirement is, because they don’t look at the contract carefully, and then it was, like, come, well, if you don’t spend it, you’re going to be penalised, one way or the other. But that penalised, penalty is very grey. There is, really, at the end of the day, no penalty, to be honest. There is not a big stick, so there are no repercussions if they don’t meet it. But I guess for all contractors, the contract is the bible. (Lucy, policy advisor, third-party policy intermediary, NSW)

Some, participants emphasised the disrespectful nature of such practices, particularly when involving marginalised communities, such as First Nations groups:

Well, it’s, I mean, it is starting to happen with first, so I think the partnership aspect between a contractor designer consortium and third-party group is really key, so you don’t have ... better put their name down... Who was it again ... let’s Google? And because as you can imagine, particularly First Nations, it’s really disrespectful. It’s like it’s the biggest tick-the-box thing and it’s just horrible. (Carlo, government policy advisor, third-party policy intermediary, NSW)

Examples of failures of genuine commitment by some firms included instances of firms listing random names, providing superficial efforts, or intentionally delaying compliance—all of which suggests a lack of accountability. Some firms opt to pay fines rather than implement the required employment practices, citing vague or insufficient enforcement mechanisms. As noted by participants, the absence of meaningful repercussions, coupled with unclear contract terms, contributes to this behaviour, further weakening the policy's intended outcomes.

Candidates also described a 'tick-the-box' approach, referring to firms that employed candidates but failed to provide meaningful or practical support. This approach diminished the intended impact of the policies and highlighted deficiencies in their implementation:

So, they might be employed for a couple of months to tick the box, so they can show that they've engaged a certain priority group, and then [they are] dumped after a couple of months. (Mathew, manager- not-for-profit, third-party intermediary, Victoria)

If the target is 20 Aboriginal people, they could get that in Week 1; by Week 3, none of those people could be employed ... but they've reached their target, they've got that tick. And then the company moves on and can get high in/high out people. If it is just this tick-the-box exercise, then what is the point of a quota? (Patrick, government manager, NSW)

Some of the participants were from firms that had a reputation for implementing the policies successfully. Participants in this study appeared to be genuinely trying to implement the policies and report accurately. An employment manager from a large construction firm explained their approach to dealing with the agencies when they could not meet the requirements. They indicated this to the government agency rather than report inaccurately:

I would rather be upfront and honest with the client and say, 'I can't achieve this', and the reasons why as opposed to be told that I'm useless, she just fixes everything. So, I've been very transparent with the client with some targets, and they have in previous projects, amended targets for future projects, because they actually know how hard they are to achieve. But integrity of data is very big for me as a person. I would rather fail and be very transparent with the client as opposed to hiding things. I can relate to so it's a small industry and people know. (Olivia, employment manager, large firm, NSW)

The findings reveal contrasting approaches to the implementation of social procurement policies. On one hand, a ‘tick-the-box’ mentality persists, with firms meeting quotas superficially, such as hiring priority candidates temporarily without offering sustained or meaningful support. This practice undermines the policies’ intended outcomes and raises questions about the effectiveness of current frameworks. On the other hand, some firms demonstrated genuine efforts to implement the policies transparently, openly communicating challenges and prioritising data integrity. These contrasting practices underscore the need for stricter enforcement mechanisms, long-term accountability measures, and support systems to ensure the successful implementation of the policies.

5.4 Unintended Consequences of Employment Requirements in NSW and Victoria

The following section examines several unintended consequences arising from the implementation of social procurement policies in NSW and Victoria. It focuses on two critical areas of concern: first, the complex interactions between different policy frameworks during the tender process across both states; and second, the potential adverse effects these policies may inadvertently have on the very individuals from disadvantaged backgrounds they were designed to support.

Unintended Interplay Between Employment Policies in Victoria

Participants in Victoria reported that, although they integrate disadvantaged priority groups—such as Indigenous candidates or refugees—into their employment structures, this effort is not necessarily recognised when bidding for subsequent projects. Instead, project awards may prioritise different employment policies, such as the Female Building Equality Policy. Participants emphasised that this issue is not about prioritising one disadvantaged cohort over another but rather about ensuring consistent requirements while enabling firms to engage in long-term workforce planning. This construction manager explained that each agency has an aspect of the employment requirements they are focussing on:

[...] and they’ve all got different arrangements in place as to what they’re focusing on.

They all employ a full-time person [who] continually rewrites policies and changes them

to the whims of the different bureaucrats that are in there. (Joe, construction manager, Victoria)

Participants reported that various employment policies can have a negative interplay. For example, one manager in Victoria reported that some agencies are prioritising the Building Equality Policy, which mandates a high percentage of women be employed in large construction projects, in the tender process and give firms no credit for the successful and proven employment of people from disadvantaged backgrounds or work with Indigenous people.

This impacts incentives to implement employment policies because of the investment some firms have made in other cohorts of disadvantaged groups. A construction manager indicated their firm had significant infrastructure supporting Indigenous or refugee employment, yet a particular government department may instead require a percentage of female employment, so when bidding for the contracts, they receive no 'credit' in terms of non-economic value. As the participant explained:

[...] but we've helped place XXX Indigenous in full-time employment, but that doesn't get a tick because it's not a question you've asked, yet we have done a considerable amount for Indigenous employment ... So, all fantastic, but it doesn't get a tick in a box because it's not the question that was asked. (Joe, construction manager, Victoria)

Participants also explained that although the expectation to comply with employment requirements may be a constant feature of the social procurement policy, the specific requirements may not be known until the tendering process. As a result, expertise developed with compliance with one policy may not be easily leveraged in the next contract. This can drag down the sense of commitment to the policies but also means that the firm may not get credit when tendering for any successful compliance with policies. The uncertainty also inhibits the development of skills and resources for compliance more broadly.

At least one participant gave detailed examples of tenders that were lost because they did not think they could fulfil the female quotas required, yet they had proven previous success in employment of people from disadvantaged backgrounds.

5.4.1 Unintended Interplay Between Policies in NSW

In NSW, an SME policy requires firms to include a certain percentage of medium to small business ‘within the project’. The requirement from this policy interplays with the requirement to employ people from disadvantaged backgrounds. Smaller to medium-sized subcontractors do not have the same resources to deliver on the social procurement requirements. This means the government has inadvertently put pressure on the subcontractors that the other policies are designed to assist in obtaining government work. As one employment manager explained:

Projects I’ve worked on that you have to engage so many small to medium-sized enterprises who are local. So, what that means is no more than 200 employees and within sort of the Sydney, either Sydney region or in your region are some of the targets. Yeah, so we have to subcontract this work out to other businesses. And so, therefore, because we’re not self-delivering, we need to push these targets down to these small to medium-sized businesses and any other business that we engage with. This is where it gets tricky, because you might be engaged in a business that has 80 people. They don’t have a HR [human resources] person, they don’t have a trainer person, but we are asking them to perform with the same requirements as if there are two, but they’re a small business and they don’t have the capacity, capability or resources to be able to know how to do the paperwork, the resourcing and all of that. (Olivia, employment manager, large firm, NSW)

The interplay between social procurement policies and requirements to engage SMEs in NSW presents significant challenges. While these policies aim to promote inclusivity and support local businesses, they inadvertently place undue pressure on smaller subcontractors, many of whom lack the resources, ability, and capacity to meet these obligations. This misalignment highlights the need for more tailored support and realistic expectations for SMEs, ensuring that these policies do not hinder the very businesses and communities the policies are designed to help.

5.4.2 Potential Negative Impact on Candidates

Participants in both NSW and Victoria expressed concern about the potential negative impact on candidates who were not adequately prepared or supported for construction jobs.

There were several aspects to this. There was consensus amongst all participants that employing the candidates for one (short) project generally left them in a worse position after the project ended. All participants were of the view that this created short-term social value but often left the participants in a worse position.

If you've got a short-term, short duration project, it is very difficult to go and employ people from disadvantaged backgrounds because you don't necessarily have the long-term workflow in front of them and it's the last thing you want to do is almost give someone a leg up and support them into a new role, provide them a whole new standard of living and then six months later take away from them because that's not it's not fair on them. It's not, it's not going to, it doesn't benefit and it probably provides people with a worse situation than what they've been in. (James, social inclusion manager, Victoria)
So, it's not people don't want to – it just becomes extremely difficult when there is short duration. (Mark, construction manager, Victoria)

A construction manager from Victoria explained how the problem lies at the end of the project because he was uncertain how to help candidates, especially if they were not very good at the job. He questioned whether long-term social value was even being created and suggested it might be better to use the money to help candidates with training rather than employment.

...unless those people turn out to be exceptional at their work, then they're going to be finished again at the end of the project. Even if they are good after a year, what am I supposed to do with them? So, you know, are we creating a patchwork? You know, if the people are no good. What do I do? Do I keep [them] on my books and keep them employed? (Joe, project manager, Victoria)

There was consensus amongst all participants that the policy does not align well with short projects. Participants described 'a short project' generally as lasting one year. Several participants reported that the candidates employed for a short period may then face the prospect of unemployment. At that point, their (prior) Centrelink payments had ceased. Further, the 12-month period was insufficient to sustain an apprenticeship. Participants reported that this could adversely impact candidates. For example, a candidate may have had a period of high income but is now in a difficult position. A manager of a not-for-profit set up

to assist with the implementation of the social procurement policies in Victoria explained the problem:

So, they might be employed for a couple of months to tick the box, so they can show that they've engaged a certain priority group and then [get] dumped after a couple of months. Now, what that means is that they've lost their Centrelink payment, then they have to wait for six weeks to get their Centrelink payment back, unless they've been engaged on another project, which is pretty hard. So realistically, they're actually worse off than when they actually started. They get depressed because they had a job that was paying well, then they suddenly don't have a job. Then they've lost their Centrelink payments, so then they're in a tailspin. Because they're not getting long-term employment, then they can't secure rent, they can't secure a mortgage. You know, there's a lot of things it's not taking them out of disadvantage. It's actually making them more disadvantaged. They're not getting on-the-job support. So, their retention is very low because they feel like they're not supported. (Matthew, manager NFP, third-party intermediary, Victoria)

They cannot complete their apprenticeship. So, then you've got a person who is sitting in no man's land with a one-year apprentice who now has to find a new employer to take them on. But what's worse is the first employer got a subsidy. So, the next employer they don't get the subsidy with this apprentice, so then they don't want him. (Matthew, manager NFP, third-party intermediary, Victoria)

This issue was particularly evident at the conclusion of projects where no immediate employment opportunities were available for candidates. In such cases, individuals could face a sudden loss of income without adequate preparation, leading to financial instability and potential short-term difficulties in accessing Centrelink support. The stress and personal impact of this transition could be particularly pronounced for individuals who had, perhaps for the first time, experienced a relatively high level of income without adequate financial literacy or support. This situation often results in financial instability, affecting not only the individual but also their household and family members.

Participants also highlighted the inherently episodic nature of the construction industry, which is characterised by inflexible work hours, fluctuating income levels, and unpredictable contractual obligations. Several respondents with experience supporting individuals from disadvantaged backgrounds in this sector emphasised the additional

challenges faced by individuals from disadvantaged backgrounds being introduced into this stressful environment.

In what may appear to be a contradictory finding, a construction manager from NSW indicated that, given the ongoing skills shortage, subcontractors would likely seek to retain or re-engage highly capable apprentices beyond the duration of shorter projects. As one construction manager engaged in medium-sized projects noted, given the skills shortage, *‘if you had a good apprentice, you would keep them’* (Gary, construction manager, Sydney).

Nearly all participants emphasised the need for policies that create social sustainability through long-term candidate support and ongoing training. One participant highlighted concerns about workforce development sustainability in regions experiencing significant infrastructure investment:

But we also look at trends where we go, this community has had all this infrastructure. What happens after that? You know what I mean? Look [locally], we’ve got project after project after project, but if we’re only skilling entry-level people, then the council, for example, doesn’t have high-level operators when these projects go. ...What does that look like? Because upskilling could be a short two-unit course in maybe, for example, they might do plant and equipment. (Cathy, large training organisation, third-party policy intermediary, NSW)

In contrast to the compliance-focused ‘tick-the-box’ approach, participants emphasised the importance of firms genuinely supporting candidates through long-term development and career advancement:

I think there needs to be a truly genuine attempt by contractors, and this is probably where the social value impact comes into, too. To go, if we're going to employ local people from a disadvantaged cohort, they need to have skills that are sustainable, they need to have experience, but also we need to be providing them with an avenue that provides a future set of employment skills, they need to be able to develop their career or develop skills that they can use to maintain their employment into the future when that program goes. (Cathy, large training organisation, third-party policy intermediary, NSW)

These findings suggest that the intersection of these industry characteristics can create a scenario that is potentially detrimental to individuals from disadvantaged backgrounds, particularly in the short term. In summary, there is strong evidence to suggest that inadequate

policy implementation, combined with the precarious nature of employment in the construction sector, may exacerbate financial and social vulnerabilities for these individuals.

5.5 Conclusion

This chapter has made several findings: first, when responding to expressions of interest, firms consider exceeding the employment requirements in NSW or presenting a robust social procurement plan in Victoria as a competitive advantage that may increase their chances of winning a government contract.

Second, participants expressed uncertainty about how agencies assess responses to social procurement requirements, particularly as non-cost factors, in the awarding of government contracts.

Third, there was consensus amongst all participants in both NSW and Victoria that government agencies tend to interpret ‘best value’ as the lowest price. Despite this, firms in both states reported that exceeding the minimum threshold by increasing the percentage of employees from disadvantaged backgrounds on projects may give them a competitive edge during the tender process.

Fourth, participants observed that competitors might make representations to the government during the tender process that they do not intend to honour, or they may take a superficial or tick-the-box approach to the employment requirements, lacking genuine intent to implement them.

Finally, both Victorian and NSW policies have unintended consequences. A significant unintended consequence, as evidenced by participants, is that short-term employment of candidates on a project may be detrimental to individuals from disadvantaged backgrounds. When the employment ends, particularly if after a short period, the candidates may experience difficulty finding further employment without support and lose government benefits, which could have an adverse impact on their well-being.

In NSW, the employment requirements appear to place a burden on small and medium-sized firms that are often required to employ people from disadvantaged backgrounds. The small and medium business policy aims to promote inclusivity and support local businesses, many of whom lack the resources, ability, and capacity to meet these obligations. In Victoria, agencies may prioritise certain disadvantaged groups over others and

may also prioritise the Building Equality Policy over the employment requirements for disadvantaged groups. This creates additional burdens for firms that may have invested in training certain groups of disadvantaged candidates.

Proposed Solutions

The findings reveal that all participants suggested improved consistency in how the social procurement policies are implemented across agencies, particularly addressing inconsistencies in the commitment to implementation across departments. Enhanced mechanisms for reporting and accountability were highlighted as critical areas for improvement. Participants external to the project have strongly advocated for introducing greater consequences for non-compliance.

Additionally, participants emphasised the importance of increased collaboration with government and stakeholders, either prior to or after the awarding of the contract and project commencement, to ensure employment requirements are both appropriate for the project and realistically achievable. Participants called for increased certainty of reward in the tender process for firms' successful implementation of the policy. In practical terms, this calls for greater transparency as to how the non-cost aspects of contract evaluation are assessed and less focus on awarding the contract to the lowest bid. One participant suggested that just as the cost aspects of the bid are published, the non-cost aspects of bids could be published.

Participants in both states, though particularly in Victoria, expressed frustration that some firms submit social procurement plans with no genuine intention of implementing them. This finding does not necessarily prove a direct connection between this practice and the awarding to the lowest price. But as one participant explained, *'if something comes in under budget, all the other criteria will really mean something. But if all the prices come in over budget, they'll work with the lowest tender to try and get them across the line'* on the employment requirements (Joe, construction manager, Victoria). Participants also recommended greater recognition for firms that have achieved past success in implementing the policies when awarding contracts. One participant recommended that firms could spend a percentage of the project value on social procurement in a way that creates value for their firm and society. They could then demonstrate this when tendering for projects.

These findings suggest governments need to commit to implementing social procurement policies. As one participant summed up the problem, governments mandate

requirements in their policies; however, their achievement does not translate into the awarding of contracts. In other words, governments ‘do not walk the talk’ (Doris, policy and construction expert, NSW and Victoria).

In terms of implementation support, participants recommended several practical solutions. These include establishing a centralised information centre for contractors and firms, increasing educational opportunities across the supply chain, and providing specialised training for procurement officers within agencies. These support mechanisms would address the knowledge gaps that currently hinder effective policy implementation. The key findings of this chapter are summarised in the table below, with general recommended solutions in bullet points.

Table 5.1
Table of Findings

Topic	NSW	Victoria
Firms’ responses to policies	<p>Firms seek strategic advantage by exceeding minimum employment requirements.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Government sets requirements in EOI – firms respond with how to implement 	<p>Firms seek strategic advantage by formulating a strong social procurement plan and exceeding minimum employment requirements.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Government sets requirements in EOI – firms respond with how to implement
Role of policies in awarding contract	<p>Contracts generally awarded on price; best value generally interpreted as lowest price. Some evidence employment policies can influence awarding of contracts.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Best value not interpreted as lowest price by agencies. 	<p>Contracts awarded on price. BUT evidence social procurement policies may have influence on the awarding of contracts.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Transparency in non-cost assessment of non-cost criteria. • Gov. commitment at high level – higher ‘weight’ assigned to social procurement. Greater certainty of reward – leverage point. • Best value not interpreted as lowest price by agencies.

Topic	NSW	Victoria
Strategies adopted by firms uncommitted to the policies	<p>Firms adopt ‘tick-a-box’ approach in tender responses and fail to implement the policies. Some firms prefer to pay a fine for non-implementation.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> Increased scrutiny of firms’ social procurement plans in tender submissions. 	<p>Firms adopt ‘tick-a-box’ approach in tender responses and fail to implement the policies. Some firms prefer to pay a fine for non-implementation.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> Increased scrutiny of firms’ social procurement plans in tender submissions.
Consequences (fines) for non-compliance	<p>Evidence of limited fines for non-compliance with employment requirements in the contract.</p>	<p>Evidence of significant fines for non-compliance with employment requirements in the contract.</p>
Imposition of fines	<p>Inconsistent and occasional imposition of fines.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> Financial consequences for not meeting targets should be uniformly introduced. 	<p>Evidence fines are imposed, however not uniformly applied by all government agencies.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> Financial consequences for not meeting targets should be uniformly introduced.
Unintended consequences of policies for firms (small to medium-sized firms)	<p>Support for small and medium-sized businesses under the SME policy can be undermined in infrastructure projects. The employment requirements often fall to subcontractors (often SMEs), who often lack the resources to implement the policies.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> Greater practical support for small and medium-sized firms. 	<p>Agencies may prioritise Building Equality Policy over employment requirements, resulting in lack of recognition for successful employment of people from disadvantaged backgrounds.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> Governments to provide clarification to reduce negative impact of agencies prioritising one policy over another.

Topic	NSW	Victoria
Unintended consequences for candidates	<ul style="list-style-type: none"> • Fund the role of social procurement advisor. • Central information centre for employment requirements (as in Victoria). <p>Episodic employment of candidates can be financially and personally disruptive.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Government should incorporate evidence of support for long-term social sustainability goals into employment requirements & social value requirements. 	<p>Certificate or preapproval scheme for firms (recognising successful implementation of employment requirements & social procurement).</p> <p>Episodic employment of candidates can be financially and personally disruptive.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> • Government should incorporate evidence of support for long-term social sustainability goals into employment requirements & social value requirements.

Chapter 6: Findings – Project-Level/Third-Party Intermediaries

How can we coordinate better? ... you need somebody to do the coordination. So, I don't know who that is... you need somebody who is able to do the coordination, whether it's government, whether it's a non-profit, whether it's another independent body that does it, you need somebody who can do that coordination. (Andrew, policy advisor, third-party policy intermediary, Victoria)

6.1 Introduction

In this chapter, I present the findings to the research question '*At project level, how do actors within the project engage with third-party organisations?*' and to the sub-question '*How do third-party policy intermediaries support firms to implement policy requirements?*'

Research indicates knowledge gaps regarding the implementation of social procurement policies (Lou et al., 2023; Troje, 2020). As detailed in the literature review (Section 2.3.4), construction firms frequently collaborate with not-for-profits, social enterprises, and training institutions to fulfil requirements to employ individuals from disadvantaged backgrounds (Loosemore et al., 2020; Loosemore et al., 2019). These organisations, termed third-party intermediary organisations, perform a vital function in identifying suitable candidates to satisfy policy requirements (Loosemore, S. Alkilani, et al., 2020; Loosemore et al., 2019). Despite their essential role, limited research exists on these intermediaries and their interactions with construction project stakeholders. Given the critical importance of third-party intermediaries, this chapter investigates how actors within and outside the project interact.

As detailed in the methodology chapter in Section 3.5.2.2, this chapter's structure reflects the distinction between participants employed internally within a project and participants operating externally to the project. This reflects the distinct perspectives that emerged during the NVivo coding process. This structure facilitates a comprehensive examination of both internal project stakeholder viewpoints and external policy implementation perspectives. Throughout the chapter, the interaction between internal and external actors at the project level is explored using descriptive language grounded in empirical evidence, with contextual explanations of participants' roles.

The first section addresses the initial research question, focusing on the perspectives of participants employed in construction firms and their interaction with third-party organisations, thereby addressing the first research question: ‘*At project level, how do actors within the project engage with third-party organisations?*’ It presents empirical findings from interviews with construction firm employees responsible for candidate supply, skills development, and employment support. Additionally, it examines interactions and interdependencies between actors within the projects. A summary of the key findings is provided at the conclusion of this section.

The subsequent section investigates the second research sub-question: ‘*How do third-party policy intermediaries support firms to better implement policy requirements?*’ This section examines the facilitative function of individuals within intermediary organisations in policy implementation processes, with a particular emphasis on mechanisms supporting firms in achieving policy compliance.

As detailed in the methodology chapter in Section 3.2.2, the analysis revealed a significant difference between the participants operating inside and outside the project. Therefore, this chapter culminates in a comparative analytical framework that juxtaposes findings from within the project and the perspectives of participants whose roles are situated outside the project framework. This project-level approach offers a mechanism for identifying and comparing leverage points to better coordinate the implementation of the employment requirements from within and outside the project.

Internal policy intermediaries are participants whose roles focus exclusively on implementing social procurement policies, including the requirement to employ individuals from disadvantaged backgrounds. These participants are distinguished from construction managers, whose primary function does not involve direct implementation of employment requirements but who nevertheless have practical experience with these policies. Third-party policy intermediaries are participants operating outside the project whose roles focus exclusively on supporting firms in meeting employment requirements. These participants are often employed by large training organisations or government bodies.

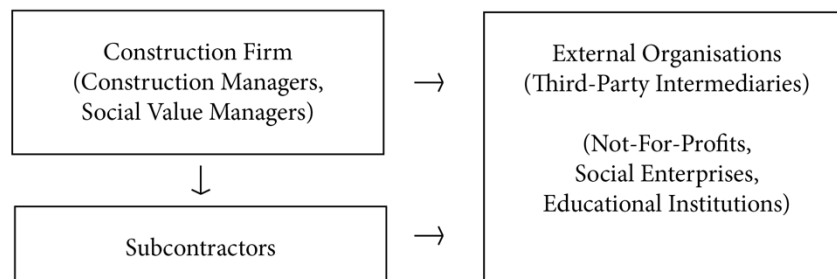
Key findings in this chapter indicate that internal policy intermediaries can play an increasingly influential role in preparing and guiding construction managers to support the employment of individuals from disadvantaged backgrounds. Their influence is particularly enhanced when they can highlight the financial consequences stipulated in the contract for

failing to retain these candidates. Internal policy intermediaries are able to mitigate the impact of the project nature of the industry and support construction managers who supervise candidates.

Third-party policy intermediaries also play a crucial role in preparing and supporting candidates. However, when construction managers are unsupportive and there is no ongoing relationship, these intermediaries have limited leverage to encourage employer commitment. A notable finding is that certain third-party policy intermediaries serve as essential connectors between construction firms and external organisations during the tender process, while also educating managers on employment requirements and social procurement obligations. This role appears to be particularly important in helping firms and subcontractors identify suitable candidates when starting new projects, especially when they lack an internal dedicated role to implement employment requirements. The following diagram illustrates the possible interconnection between the firms, subcontractors, and third-party organisations.

Figure 6.1

Current Understanding of Relationship Between Firms and Third-Party Intermediaries



The findings set out in the following section endeavour to explore and clarify how firms interact with third-party organisations in practice and how this interaction can be improved.

6.2 Implementing Employment Requirements at Project Commencement

Participants described varied approaches to implementing employment policies and engaging with third-party organisations, with no standardised methodology emerging across firms. Nevertheless, common themes emerged across participants' accounts despite these variations in implementation.

Participants' experiences may have been influenced by the size of the projects discussed; therefore, where the project was a medium-sized project, this is specified. Consistent with the pragmatic and realist approach to data interpretation, these participants provided authentic accounts of their experiences implementing the employment requirements.

As expected, the investigation of how employment requirements are implemented at project level revealed different approaches between large firms with a dedicated social procurement manager, and medium-sized firms. Medium-sized firms interviewed for this research did not appear to have a dedicated social procurement manager to implement the policies, though in some cases, participants indicated it was part of other roles to ensure implementation and reporting requirements are met.

Participants described a clear divide between their role as social procurement managers and the commercial team responsible for the construction project. One participant responsible for the implementation of social procurement explained their implementation process for employment requirements at project initiation on a large project. After the contract is awarded, they provide guidance for the 'commercial team' (construction managers and subcontractors) to implement the requirements.

Participants reported that project size typically determined whether a dedicated social inclusion manager was assigned to the project. These participants indicated they provide guidance on candidate sourcing and implementation strategies before transferring responsibility to the commercial team. The handover process requires construction managers or designated personnel to connect with not-for-profit organisations, recruitment agencies, or training institutions to identify candidates from disadvantaged backgrounds. Participants outlined this general process sequence that occurred at project commencement:

So, we have a tender team, and we've got a delivery team. And so, I sit more of a corporate level and so we're got a delivery side, my role then would be to say, to the

delivery team, 'Here's how we said we're going to meet our targets. Here's partnerships that we've got to help us meet them. Here's some Aboriginal businesses or social enterprise that are going to that you should be procuring those packages of work'. And then depending on the size of the project, they might have a social inclusion person on the project or this, these responsibilities might sit with the HR person or sit with the commercial person, you know, there's someone that is going to be responsible for (Jackson, social inclusion manager, Victoria)

Another participant, who was a social value manager in the UK and now works as a consultant in NSW, described a similar process:

I was a social value manager at the tier-one contractor. So, there was a team of us. There's probably 20 of us around the country at the time doing this I worked across 33 different projects, just ensuring we were doing things like this and creating social value in the areas that we were working on. So, making sure that our commercial teams were spending with social enterprises, making sure that we were recruiting local people making sure that we were working with individuals in disadvantaged backgrounds to give them experiences on our construction sites or work experience or donating to local charities, all that all of that sort of stuff. (Nicholas, social procurement consultant, Sydney & Victoria)

In contrast, managers from medium-sized firms and employment leads in NSW reported challenges in locating not-for-profits capable of supplying candidates. In this context, participants described the difficulties associated with organising training programs in a short time frame at the commencement of the project. A participant explained the competitive environment in Sydney when trying to recruit individuals from disadvantaged backgrounds within project commencement timeframes:

Which can be hard because some of the targets are hard in the current market. You've got a major infrastructure project in Sydney within a sort of three-kilometre radius. So, we are all fighting for the same business, same Aboriginal business and social enterprises, refugees like everyone is trying to get the same pool, especially in Sydney right now. (Olivia, employment manager, internal policy intermediaries, large firm, NSW)

Similarly, a manager from a medium-sized enterprise in Sydney reported significant challenges in identifying not-for-profit organisations capable of supplying suitable

candidates. The manager explained that not-for-profit organisations typically do not initiate contact with their organisation. The manager indicated a willingness to engage with and support candidates should such outreach occur. However, the manager emphasised the necessity for these organisations to possess adequate resources to provide support and assist in managing individuals from disadvantaged backgrounds:

... if someone were to say to me, 'I've got four kids come across from wherever, Syria, Afghanistan,...and they've shown an interest in using their hands and getting an apprenticeship and they want to come into the world of construction', that would be music to people's ears ... We've got four people ... let's invest in four people. Let's get them linked with an apprenticeship program. Let's get them in three days a week. They can study over there for two days come to work first three days. How are they getting there? They have motor vehicle transportation, they have learned public transportation, do they have clothes to have boots to have PPE? ... we kind of need like those organisations to really reach out with a level of sophistication organisation ... to reach out. (Gary, construction manager, Sydney)

6.2.1 Importance of Establishing Relationship with Third-Party Intermediaries

Construction and social value managers in Victoria highlighted the benefits of establishing and maintaining ongoing relationships with third-party organisations. Participants emphasised the importance of the organisations in finding appropriate candidates and prepare the individuals for employment. Two participants indicated that when they directly employed people from disadvantaged backgrounds without an organisation to facilitate ongoing support, the employment later failed. They also indicated that they required a dedicated role to assist these individuals and ensure the appropriate support is offered:

Without external support, employing people from disadvantaged backgrounds will fail. That's only fair and that's why so when we when we originally went out and directly employed people without the support network, it failed, because we didn't. And I looked back at when we when we first started, we thought we'd go and grab some Aboriginal employees. They came on board, and we didn't have the right support networks around them. So that's, we kind of reset and said, this is not, you know, as an organisation, we didn't have an Aboriginal engagement officer that was available to come in ... and, and

work through the unique challenges that some of the individuals have. (Jackson, social inclusion manager, internal policy intermediaries, Victoria)

Similarly, a construction manager from Victoria explained that when they commenced hiring people from disadvantaged backgrounds, they did so without any support from an external third-party organisation. In those circumstances these candidates failed to continue in their employment:

If we go back a number of years ago, five years ago when we first started and we start with the Aboriginal side of things, we direct[ly] employed a number of Aboriginal employees probably wasn't as successful as we'd hoped because we didn't really have the support networks around that cohort. (Mark, construction manager, Victoria)

The manager further explained that when the company established an ongoing partnership with such an organisation, the employees received the necessary support, which contributed to their continued employment.

So, we that's when we pivoted and went to like the likes of ABC [a not-for-profit that supplies candidates] and said, we need you know, if it's blue collar, white collar, we need some, we want some people to come on board as labour spotters, whatever it is, blue-collar workforce, and they've supplied those individuals into us. And they've supported [candidates] so, we, in effect, utilise it a little bit like a labour hire off of a blue-collar perspective. (Mark, construction manager, Victoria)

Participants also emphasised the significant value of the third-party organisations' in-depth understanding of project role requirements and how this enhances the effectiveness of candidate placement. The manager noted that over time these organisations develop a comprehensive understanding of the specific roles required within construction projects:

I think, again, it's just horses for courses because you got to choose the right [organisation to partner with]. We're going to sit down with the likes of ABC recruitment; they do get an understanding of what the role is you need, what's the working environment, where the[individual has to] go and what are the constraints around it and then they find the right individual, the right candidate to suit when you've got. (Mark, construction manager, Victoria)

The third parties, generally specialising in a type of person or a type of experience, and so they can build that knowledge and support and put everything in place. That then just makes at least gives them a better chance to succeed. And then if they came to us, you know by sea or knocked on our front door, or whatever it might be. (Mark, construction manager, Victoria)

These findings offer insights into how successful on-going relationships with third-party organisations can operate. They confirm that successful implementation of employment requirements for disadvantaged groups relies heavily on effective partnerships with specialised third-party organisations. The evidence indicates that these third-party organisations and policy intermediaries (both internal and external) provide crucial support through their deep understanding of both candidate needs and project requirements, enabling better job matching and ongoing employee support. Construction firms that establish ongoing partnerships with such organisations, rather than attempting direct recruitment, may achieve more sustainable employment outcomes. This suggests that the effectiveness of social procurement policies may depend on the availability and capacity of specialised intermediary organisations to facilitate successful placements and provide continued support to ensure job retention.

6.2.2 Importance of Preparing Candidates for Employment

Participants indicated that the co-existence of several practical elements need to be aligned for the successful employment of the candidates. Where a third-party organisation was involved, participants reported they would be responsible for preparing and supporting the candidates and could be responsible for organising training of candidates. Participants also noted that the third-party organisation must be rewarded financially for their services. The managers emphasised this point:

So, then the third party are identifying the candidate and then doing all that work around that pre-employment support. And so, then when they come to us, you know, as much as possible, they're probably as employee-ready as possible, you know, so we've used organisations like xx recruitment, and they work with typically people with disability, and we've used xx again, similarly for normally for white collar as well, so we'll typically employ people out of xx will then supply that work. Then individually they come to us in

a kind of a labour hire contract arrangement or find us candidates that we can direct[ly] hire ... we use xxxxx to find candidates; I guess typically, again, they kind of run a program where you have a cadetship program, they might come in and I think it might be 12 weeks or something, whilst they're going through university or something. To give them some experience, typically, again, asylum seekers, new entrants to Australia offer cadetships. (Jackson, social inclusion manager, Victoria)

These findings illustrate how effective partnerships can be established and function within the transient, project-based nature of the construction industry. Specialised intermediary organisations are able to facilitate candidate matching through their knowledge of both industry requirements and candidate capabilities. This specialised knowledge appears particularly valuable where participants reported established relationships enable more efficient placement processes. While the finding that people from disadvantaged backgrounds require ongoing support and training is well-established, these findings demonstrate that building effective partnerships remains possible within the context of episodic construction projects. They also show that support is more likely to be given where a dedicated role (internal policy intermediary) enables firms actively engaging in a positive partnership with third-party organisations.

These insights contribute to our understanding of the complex ecosystem required for successful employment outcomes for candidates. They also serve to highlight the importance of sustained partnerships between construction firms and specialised intermediary organisations.

Participants consistently emphasised that fostering productive relationships between firms and third-party intermediaries requires deliberate governmental intervention, as well as organisational cultures that are aligned with policy objectives. Without adequate tools, support, and accountability structures, policy implementation from project commencement to project delivery remains inconsistent. A more proactive governance framework—one that embeds responsibility, accountability, and an enabling organisational culture—is essential to achieving sustained and meaningful employment outcomes for disadvantaged groups.

6.2.3 Importance of Ongoing Support

All participants emphasised the importance of ensuring the candidates receive ongoing support from external organisations. Participants emphasised the importance of clearly identifying who holds responsibility for ensuring that candidates receive ongoing support from a third-party organisation. This responsibility must be assumed either by managers or by the candidates themselves, who may have to actively seek and maintain this external support:

And they've been able to provide that support network so that those individuals are supported in that way it works. And we did the same thing with ABC with a white collar. So typically, although the ABC is a mix of blue and white, so we've had people from cleaners through to people working as office admin through to engineers. (Mark, construction manager, Victoria)

One social inclusion manager emphasised that all stakeholders must be '*playing a part*' in supporting candidates; however, they also noted that construction managers are not social workers and cannot be expected to take on that role:

I think the one thing I always say is that our people aren't social workers, and you know, we need we can't expect that they can always be able to take someone from disadvantage and make it work and so partnering with organisations is really key for us because you know, essentially we all play our part, right? (Jackson, social inclusion manager, Victoria)

In conclusion, the findings underscore the critical role of third-party intermediary organisations in supporting the employment of individuals from disadvantaged backgrounds within the construction industry. These findings confirm previous research that without such support, candidates often fail to sustain employment due to the lack of tailored assistance for their unique challenges. Successful outcomes depend on a coordinated approach and not-for-profit organisations providing ongoing support to both candidates and construction managers. This highlights the importance of integrating external partnerships into employment strategies to ensure the successful implementation of the policies.

6.2.4 Internal Policy Intermediaries Dealing With Onsite Managers

Social inclusion managers emphasised the necessity of ‘preparing the ground’ for candidates from disadvantaged backgrounds. Their responsibilities encompass ensuring that the commercial team fulfils obligations stipulated in social procurement policies to provide adequate support for both managers and candidates. One participant indicated that it greatly assists if the onsite managers are aware from the beginning of the project of the specific barriers for candidates. To facilitate this process, the social inclusion managers engage with construction managers who will directly supervise individuals from disadvantaged backgrounds. Participants explained that construction managers frequently have little experience dealing with the cohorts of disadvantaged groups and need support. Simultaneously, participants indicated they must ensure that the construction managers, already under time and cost pressures, are not under increased pressure by supporting people from disadvantaged backgrounds. As a social procurement manager explained:

... recognise [construction] managers and supervisors have a job to do that they’re not social workers. They’ve got these massive pressures. Time costs all of it ... so we need to put as much support around them as possible. (Jackson, social inclusion manager, Victoria)

A social inclusion manager indicated that usually similar barriers exist within different cohorts, and they were able to effectively communicate these broad challenges to construction managers responsible for supervising candidates on site. Furthermore, the participant emphasised the importance of these initial steps: *‘Usually starting as a pilot with a small number of people and then you can spend the time with that manager’*. The participant explained that part of their role is to *‘advocate and to support and to stay involved ... so it’s not plunking someone on a project and saying good luck ... it just won’t work’* (Jackson, social inclusion manager, Victoria).

All participants agreed that a supportive construction manager was critical to a successful outcome. It is within this context that the social inclusion manager’s role may extend to discussing with the construction manager how to assist them with understanding the unique requirements of these candidates and their need for support:

And that's sort of where the social inclusion role comes in ... it is almost to prepare the ground for that person or that cohort of people before they start seeing, like we say, you know that everyone is an individual, everyone's circumstances are going to be slightly different, but there are some consistencies with if you're a refugee, these are some of the barriers can characteristics you might display. ... And so, you can kind of paint a picture that will prepare the supervisor or the team somewhat about what might be coming in, you know, so that's part of that. (Jackson, social inclusion manager, Victoria)

The finding that people from disadvantaged backgrounds need support in employment is not in itself significant or new. However, these findings in the complex and dynamic environment of a construction project demonstrate how employment requirements can be successfully implemented. The evidence presented demonstrates that social procurement managers, as internal policy intermediaries, fulfil a critical intermediary function, ensuring construction managers are able to deal with people from disadvantaged backgrounds. Their multifaceted role encompasses preparing both the organisational context and supervisory personnel to accommodate individuals from disadvantaged backgrounds, while simultaneously addressing the specific needs of these candidates. This research also highlights the strategic implementation of incremental integration approaches, beginning with small-scale pilot programs that allow for intensive support and gradual scaling.

Furthermore, the findings underscore the importance of recognising that disadvantaged cohorts often need individualised preparation. This will usually necessitate a third-party organisation with knowledge of the specific cohort—rather than generic interventions. These insights contribute to our understanding of effective implementation of employment requirements and offer valuable guidance for organisations seeking to enhance workforce diversity and inclusion through structured, supportive integration processes.

6.2.4.1 Internal Policy Intermediaries Leveraging Financial Consequences

Social inclusion managers reported leveraging the profit motive, albeit as a last resort, to gain the support of commercial teams for employing disadvantaged candidates. They indicated that their initial approach was to appeal to the teams on ethical grounds, emphasising that '*it is the right thing to do*', only resorting to financial consequences as leverage when necessary. One participant highlighted this strategy by referencing the

'construction industry's undeniable focus on financial gains and the risk of losing money'. They explained that failing to support disadvantaged candidates or adhere to the policies could result in financial penalties, stating: *'I talk in terms of dollars. If these people are not employed, then we lose money'* (Jackson, social procurement manager, internal policy intermediary, Victoria).

Another social inclusion manager elaborated on the financial benefits of adhering to social inclusion policies, particularly in large-scale projects. They explained how they leverage these financial penalties to encourage the commercial team to support the broader social employment requirements and the employment of disadvantaged people:

It could be \$5 million worth of benefits in doing social inclusion. On a Victorian project, depending on the size obviously and so, it incentives that. You get a more captive audience as a social inclusion person if there's a dollar value attached to what you do. So, if I go to the commercial team and say, 'We need to use this Aboriginal business or we need to employ five refugees' or whatever it is, and they can see that if we don't do that, it's going to cost us a million dollars or \$5 million or we're going to gain \$2 million. It's an easier conversation, you know, if I went to the same person and said, 'We need to employ those 5 refugees, because it's the right thing to do', I might not have the same reaction. (Jackson, social inclusion manager, internal policy intermediary, Victoria)

This approach was confirmed by a participant from Sydney, who was previously a social value manager in the UK. The participant highlighted that in the UK, the government mandated the employment of disadvantaged individuals, and construction managers were made aware of the financial consequences under the contract for failing to meet these employment requirements. The participant noted that in NSW, the successful implementation of the policies did not appear to be recognised. This participant highlighted that this contrasted with the position in the UK, where non-compliance carried consequences, including the risk of being disqualified from future bidding processes if the policies had not been implemented. The participant observed:

Then you start to, once you start working with the commercial teams, it's the same in any construction project, and they start to understand it and how it can work. They're like, 'Okay, I get it'. But as soon as it was mandated as well, they're like, 'Okay, we really need to do this because this is what's bringing us money into the business as well'. And

yes, if we don't do it—you do run the risk of not getting any work [from the government] or not being able to bid for work. (Nicholas, social procurement consultant, NSW & Victoria)

Ultimately, that will always ... well, maybe not always ... but for the time being, in my opinion, still be the driver ... the risk of losing money and the risk of not being able to make money, so that definitely is still the focus [in the UK]. (Nicholas, social procurement consultant, NSW & Victoria)

In summary, these findings suggest that while appealing to construction managers to do the right thing or based on ethical considerations remains an important aspect of advocating for employment policies, financial considerations appear to continue to serve as the primary leverage point in securing support from commercial teams and construction managers. Participants highlighted that framing the policies in terms of financial risks and benefits significantly increases the likelihood of compliance. This approach underscores the critical role of aligning employment requirements and possibly the broader social procurement policies with commercial imperatives to ensure successful implementation.

6.2.4.2 Dealing With Candidates at the End of the Project

Support for Candidates at the End of the Project and Increased Government Assistance

Most participants either raised the issue of what happened to disadvantaged individuals at project completion or were specifically asked about this issue during the interviews. As detailed in Chapter 5 (Section 5.7), the data suggest that the policies generate unintended consequences, including the possibility that candidates from disadvantaged backgrounds experience particular difficulty securing subsequent employment after project completion, potentially leaving them in a more precarious position than prior to their period of employment. Social managers indicated they aided candidates where possible in securing further employment opportunities at project conclusion; however, social managers identified some candidates' inability to travel to a new construction project as a major barrier to further employment. A social manager explained their approach to supporting candidates at project completion and how this process contributes to creating sustainable social value:

When we were not working with them [candidates] ... so where can we go and find them work, and it's just like kind of all comes crashing down again and actually ... you've got to think about creating social value that has a legacy. So once that project team has shut the gates and handed over the keys to the client, what social value is still taking place? Are those people still employed somewhere? Are they still engaging with the community? Or for me, when I was working for that tier-one contractor, I guess the relationships get passed, sort of, back to the client to continue delivering social value. From an in-house perspective, it really does fall to myself and the project manager on that construction site ... to make sure that we were following up with individuals and things like that to make sure that a legacy was still continuing. (Nicholas, social procurement consultant, NSW)

Social inclusion managers indicated that a key barrier to further employment was often that the next project may be in a distant geographical location. Candidates from a disadvantaged background may not have the means to travel to the next project or move to the next geographical location due to their family commitments.

One participant, a former social inclusion manager who had worked in the UK, provided detailed insights into supporting candidates directly during and after their involvement in projects. This role involved directly assisting candidates in obtaining training and ensuring continuity of employment when the project concluded. By working collaboratively with other firms or subcontractors, the participant sought to secure subsequent job opportunities, emphasising the critical importance of addressing post-project employment.

The participant indicated that they found jobs for candidates, where possible, by collaborating with other firms and/or subcontractors. The participant described this step as critical and spoke of a lasting impact, ensuring that the person had a job to go to. This finding suggests that this support could mitigate the impact of the project-based nature of the industry on participants. The participant related this detailed example of assisting a candidate, which included mentoring during the project and assisting with finding an apprenticeship:

So, she didn't drive and things like that. She relied on public transport. So that can be a huge factor. How do people come to work once they've just started a role? So, we sat with her. Meanwhile, throughout her whole employment with us, she was having one-to-ones and mentoring with our project team. But we sat with her to discuss the next steps ... like 'what do you want to do? What are you interested in? How can we help to make sure

that you stay in employment? We found a local apprenticeship in bricklaying with another company [for her] ... So, we supported her with writing her application. We spent hours and hours and hours of interview preparation with her. (Nicholas, social procurement consultant, Sydney & Victoria)

The participant emphasised the potential of this approach for a long-term positive impact on candidates, describing it as crucial for addressing challenges associated with the project-based nature of the construction industry:

This proactive and individualised strategy illustrates how continuous mentoring and follow-up can foster sustainable employment outcomes for candidates. It also underscores the importance of dedicated onsite support roles within social procurement frameworks. (Nicholas, social procurement consultant, Sydney & Victoria)

These findings highlight the need to assist candidates at the end of the project. Social value managers may mitigate the potential negative effects of the episodic nature of construction projects, particularly on individuals from disadvantaged backgrounds. By providing ongoing assistance, social value managers can help candidates access additional training and employment opportunities. Ideally, they may also leverage their established networks to facilitate further employment placements for candidates, thereby enhancing the long-term benefits of social procurement initiatives.

6.3 Purposeful Approach to Construction

The most surprising finding came from a participant who indicated their firm took a purposeful approach to construction. The participant, from a construction firm in Victoria, reported that their firm often provided full-time employment opportunities to individuals from disadvantaged backgrounds at the conclusion of government projects. This meant the disadvantaged candidates did not have to rely on episodic contractual work. To facilitate this initiative, the firm established a joint venture with two not-for-profit organisations to recruit and support disadvantaged job seekers. Notably, the participant explained their firm maintained ongoing contracts with the government, which contributed to its ability to offer permanent employment.

The participant highlighted the detrimental impact of episodic employment on disadvantaged candidates, a concern echoed by other participants. The participant explained that it was for this reason the firm employs candidates on a permanent basis to address the challenges associated with project-based work. The participant emphasised that the not-for-profit organisations involved continued to provide post-employment support to candidates, which the participant explained was both necessary and effective. Reflecting on the broader implications of this approach, the construction manager noted:

So, we're having a program where it is exceptionally beneficial in that whole social procurement, social inclusion space. It's probably the biggest thing, the biggest game changer for all of the things. So if you're typically on a small value or a short-duration project, it is extremely difficult to manage those types of situations. When you're on a larger project and have a longer duration, then it doesn't become that much of a, I guess, a burden. It's just the right thing to do and kind of happens naturally. (Gary, construction manager, Victoria)

We've employed over 20-odd people through [ABC] charity, with refugees, asylum seekers. And we've ended up direct[ly] employing a number of those people. Originally, we hired them through [ABC] charity, but we now effectively pay [ABC] charity support for either like with direct hire those individuals and then ABC charity continues to support those individuals. (Gary, construction manager, Victoria)

The participant reflected on the role of subcontractors in this process and emphasised the importance of having a realistic understanding of what the subcontractors can contribute to meeting the employment requirements in a government contract. Although they do not rely on subcontractors to fulfil the requirements, the participant noted that they replicated the employment requirements in their tender documents for subcontractors. This approach reinforces and supports their own approach to the employment requirements throughout the supply chain:

It's unrealistic to think that you can push downstream [to subcontractors] like you can always encourage and support, which is what we do, and that's why we have non-cost criteria. And that's why we assess certain individuals in the packages, what they can support us with, but it's unrealistic to think that we would meet our [employment]

requirements by pushing all of them down straight. (Mark, construction manager, Victoria)

We need to be able to ante up ourselves, like, it would never work [putting all the employment requirements onto subcontractors]... if we just said to our subcontractor workforce: 'You have to meet all these obligations for us, so it doesn't work that way'. (Mark, construction manager, Victoria)

In summary, the participant underscored the significant impact of establishing permanent employment pathways for disadvantaged individuals, facilitated through partnerships with not-for-profit organisations. While episodic contracts pose significant challenges, particularly in smaller or short-duration projects, larger and long-term projects offer greater potential for achieving meaningful and sustainable social procurement outcomes. This approach also highlights the importance of integrating ongoing support mechanisms to maximise the long-term benefits of employment initiatives.

Importance of Planning and Alignment of Purpose

The construction manager emphasised that meeting government employment requirements for disadvantaged groups was not inherently difficult, provided that planning and alignment with social inclusion priorities were undertaken even before the project lifecycle. Reflecting on this approach, the participant noted the way in which meeting obligations and 'doing the right thing' and be successful in the tender process are not mutually exclusive.

But you've kind of gotten an outlook that says, if you can meet all the criteria and do the right thing, then you can win this work, so you can plan for a fair way up front, and that enables you to actually, you know, meet a lot of these criteria and actually do the right thing. (Gary, construction manager, Victoria)

Some of the people, like I said, ... they have found opportunities that have been life changing ... we like the fact that we have been able to make a positive impact ... anyone can go build something that's good ... this is what we want to do ... my old manager used to say ... 'it's just about being a good human, very simple'. (Mark, construction manager, Victoria)

The participant further explained that their firm adopted a deliberate strategy that aligned with the government's social inclusion priorities, particularly the requirement to employ individuals from disadvantaged backgrounds. This purposeful approach to construction facilitated compliance with policy requirements while also ensuring meaningful employment outcomes. The participant described the alignment between their firm's values and government objectives as follows:

And then I think the other side of it is you got to have people that want, you know, as strategy we sat down and he's targeted around the same things that government want, because we want we want to do the right thing, and we've got people that are trying to make a positive difference to the industry, to the world and to everything else. So, it's, you know, it's not that we're not misaligned. We're very similar in what we want to try to achieve. So it's, it's the education and awareness piece. (Gary, construction manager, Victoria)

The construction manager highlighted that the contractual provisions allowed flexibility in meeting social procurement requirements. While the government's social procurement framework included a 3% KPI, the firm retained discretion in how these targets were achieved. Although they directly employ disadvantaged individuals, this is not a mandatory requirement. The manager emphasised the firm's commitment to employing and supporting individuals from disadvantaged backgrounds:

There's an incentive regime ... the key performance indicator around social procurement is at 3%. But we can slice and dice that however we want; we could just go to a social enterprise and employ them to do subcontractor work. We don't have to direct[ly] employ or anything like that. It's more, I guess, it's the right thing to do. So we've got passionate people that want to do the right thing. (Mark, construction manager, Victoria)

In summary, the participant underscored the importance of strategic alignment with governmental priorities and proactive planning in order to achieve successful employment outcomes for disadvantaged groups. Notably, the firm maintained ongoing or rolling contracts with the government, which likely contributed to its ability to implement long-term employment strategies. The emphasis on shared values and mutual goals between the construction firm and government objectives further highlights the potential for employment requirements to be effectively integrated into construction projects.

6.4 Summary

This section found that internal policy intermediaries serve as essential facilitators in preparing and supporting construction managers to effectively employ individuals from disadvantaged backgrounds. A critical function of these internal policy intermediaries is their capacity to educate management personnel about the diverse barriers encountered by various cohorts of disadvantaged groups prior to their integration into the workforce. Additionally, internal policy intermediaries facilitate the preparation of candidates for construction roles and establish collaborative relationships with third-party organisations to provide comprehensive training and candidate preparation.

The findings suggest that internal policy intermediaries can facilitate the employment of candidates by consulting with the construction managers prior to the candidate being employed. For example, they can communicate key characteristics of the candidates and highlight potential barriers the manager may encounter in employing them. In addition, internal policy intermediaries play a role in preparing tenders, using their understanding of local conditions to anticipate what the government may expect in a particular area.

The findings show internal policy intermediaries also help ensure that disadvantaged candidates remain in employment, which supports the firm in meeting its contractual obligations. Internal policy intermediaries hold greater leverage with construction managers because they can directly engage with them, supporting managers where necessary and reminding managers of the benefits of continued employment for these candidates.

When confronted with managerial resistance towards supporting candidates, intermediaries occasionally find it necessary to leverage potential financial repercussions of discontinuing employment to encourage sustained support. Furthermore, the scope of the internal policy intermediary role extends beyond project conclusion, potentially encompassing assistance for candidates in securing subsequent employment opportunities or accessing further training programs.

One participant who was previously an internal policy intermediary in the UK explained how she assisted candidates at the end of the program with further training and support for future employment. This highlights the critical role of the social value managers (see Section 6.3.2.4) who are entrusted by the government to oversee these responsibilities

within the private sector. This finding suggests that this role has the potential to mitigate the impact of the construction industry's project nature on candidates.

Evidence from one construction manager in Victoria indicated that their firm maintains full-time employment for people from disadvantaged backgrounds who were initially employed to meet the firm's contractual obligations with the government. This approach reflects the firm's purposeful approach to construction. The participant explained that the firm simultaneously continues to utilise support services from the not-for-profit organisation that initially facilitated the candidate's placement. The manager explained that their firm's approach to construction aligns harmoniously with the Victorian Government's social procurement framework. The firm adopts a purposeful approach to construction and recognises that it can be a vehicle for assisting disadvantaged groups in securing employment opportunities. According to the manager, this approach has resulted in far better outcomes for the many individuals employed.

The findings presented in this section demonstrate the multidimensional role of internal policy intermediaries within social procurement implementation processes. These intermediaries function as critical knowledge brokers, educating construction managers about the specific challenges faced by disadvantaged groups while simultaneously preparing candidates for industry integration. The research highlights both supportive and coercive mechanisms employed by intermediaries to ensure continued employment opportunities, including leveraging financial incentives when necessary.

Furthermore, the case example from Victoria illustrates how organisational alignment with government social procurement frameworks can facilitate sustained employment models that extend beyond initial placement, resulting in very positive outcomes for disadvantaged individuals. These insights contribute to our understanding of effective implementation strategies for social procurement policies within the construction industry, emphasising the crucial function of internal policy intermediaries in bridging policy objectives with candidates' practical integration into the workforce.

6.5 External Third-Party Policy Intermediaries

This section outlines the principal themes that emerged from interviews with third-party organisations and third-party intermediaries. The themes range from candidate

identification, training provision and job-readiness assessment to ongoing support throughout the project. As explained in Section 6.1, the interviewees from organisations external to the construction projects are referred to as third-party organisations due to their role and responsibility in facilitating policy implementation within firms, usually by supplying candidates. These interview participants represent diverse organisational roles that provide comprehensive support to construction firms in meeting policy requirements.

To illustrate the importance of third-party policy intermediaries, one participant reported that when the social procurement policies were first introduced by the Victorian Government, the structural framework to support firms or subcontractors in implementing these regulatory requirements was minimal. The participant established a not-for-profit organisation to facilitate the implementation of the social procurement policies over the life cycle of the project. The organisation was set up to act as an intermediary between the firms and third-party organisations from the not-for-profit sector. When the policies were established in Victoria, the participant recounted approaching Treasury officials to emphasise the necessity of third-party intermediary support for successful policy execution. Confirming the importance and necessity of third-party policy intermediaries functioning as liaisons between construction firms, subcontractors, and candidate-supplying organisations, the participant elaborated:

[When] the social procurement framework [was launched], I advised [the] Department of Treasury at that time, that policy could not be implemented properly, given the framework and the lack of intermediary support and I was told that it was the responsibility of the contractors and not their issue any longer because the policy was created and it was robustbut it's not fit for purpose for implementation and I've recognised that from day one, which is why I started this company because it's a gap in the market'. (Matthew, NFP, third-party policy intermediary, Victoria)

We do a lot of things that are very unique in this space, but everyone else is really more sitting on the commercial end and not as a social enterprise delivering a commercial intermediary solution, but [there is] also no one who delivers it from an end-to-end process either. (Matthew, NFP, third-party policy intermediary, Victoria)

The findings of this research confirm that firms and subcontractors have difficulty connecting with not-for-profit organisations that might be able to supply candidates from

disadvantaged backgrounds. This represents a significant barrier to the practical execution of the policies—one that participants acting as third-party policy intermediaries have sought to address. The participants were of the view that specialised intermediary organisations or individuals are needed to navigate the complex interfaces between contractual requirements, construction firms, not-for-profit organisations and disadvantaged individuals.

These findings assume that firms and subcontractors want to engage with policy intermediaries, and that individuals from disadvantaged backgrounds want to work in construction. Importantly, the findings do *not* assume that intermediaries operate as a uniform bridge between government, contractors, and the not-for-profit sector. On the contrary, no evidence was found that third-party intermediaries, or third-party policy intermediaries, were actively liaising with government in the way the policy framework might imply.

6.5.1 Assisting Firms and Subcontractors Locate and Supply Candidates

Head contractors and subcontractors frequently require external support to connect with not-for-profit organisations that can provide suitable candidates for employment under social procurement policies. This need persists even for larger firms that may have dedicated roles for policy implementation. The dynamic nature of employment requirements across different projects often compels firms and subcontractors to ‘start again’ with each new project. However, as participants in this study, confirming previous research findings, revealed, construction managers, particularly subcontractors, often lack the time and resources to identify appropriate candidates.

One participant, whose role is within a government-funded organisation operating across both Victoria and NSW, explained that their work involves assisting firms and subcontractors in identifying suitable not-for-profit organisations. These organisations can supply candidates to meet the policy requirements of employing individuals from disadvantaged backgrounds. The process typically involves firms proactively seeking assistance from the participant to ensure compliance with social procurement policies and fulfil employment obligations.

This role plays a critical role during both the tender and compliance phases. During the tender phase, advisors may provide guidance on incorporating social procurement obligations into bids, while in the compliance phase, they offer support in identifying and collaborating with organisations to meet employment targets. As one participant explained:

So, a lot of them are doing that research in that tender phase, and then they'll do the engagement with them because sometimes, they'll build them into the tender if they can. So, that becomes, you know, more solid that they will deliver on it. Or if not, then they'll do more work postponing awarded ... and link them to the social benefits suppliers who can help them meet their targets. (Andrew, policy advisor, third-party policy intermediary, Victoria)

A participant in a similar role in NSW characterised their organisation and functional role as serving as a 'conduit' between construction firms' needs and the resources required to fulfil social procurement objectives. They emphasised that numerous Tier-2 and Tier-3 subcontractors frequently encounter challenges in comprehending social policies or lack sufficient understanding of their specific requirements:

We are a conduit, basically, we're a third party that helps to connect people together. So for us, it's if we say, for example, if a John Holland is building a hospital and they then award the work to a tier two or tier three company, all their KPIs, whether it's construction KPIs or social procurement KPIs get filtered down the different subcontractors that they utilise. Lucy, policy advisor, third-party policy intermediary, NSW)

So what we do is, if a medium-sized company gets an electrical contract and they're told, 'we have these social procurement goals, number of Indigenous, businesses or number or indigenous spend other things like stability employees or long-time unemployed refugees. So the social procurement banner, a lot of Tier 2s and T3s don't understand it. They don't know where to find information in order to educate themselves on it, because it can be quite confusing. So what we aim to do, aim to do is educate. (Lucy, policy advisor, third-party policy intermediary, NSW)

Participants acting also described advising on a wide range of project scales. This could involve advising on varying employment and associated social procurement requirements, as Andrew, a policy advisor and third-party policy intermediary in Victoria, explained:

I could work on anything from experienced tenders to here's the first time the[y] tender in Victoria. I can have the full gamut, and I can be working on a \$500 or \$600 million

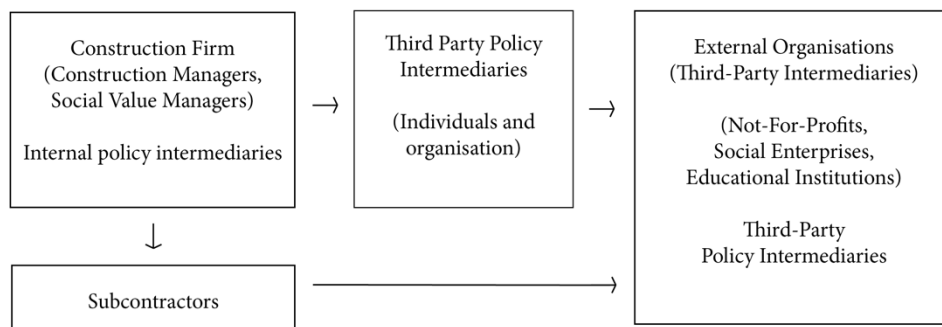
project, or I could be giving advice on a \$12 million project... sorry, I probably should say 20 million because that's when the Building Equality Policy comes into play... it really depends. (Andrew, policy advisor, third-party policy intermediary, Victoria)

The functional significance of third-party policy intermediaries acting as conduits appears critical in providing support to head contractors and subcontractors for the effective implementation of social procurement policies. Their specialised expertise may effectively bridge knowledge deficiencies, help ensure regulatory compliance, and facilitate strategic connections with relevant organisations, thereby helping construction firms to fulfil their policy obligations better.

This bridging function appears especially valuable in addressing challenges experienced by smaller subcontractors when trying to implement employment requirements. Of course, this finding assumes that firms (head contractors) and subcontractors are willing and able to utilise this help to implement the policies. The following diagram depicts the potential role of third-party policy intermediaries showing how they might connect firms and subcontractors with not-for-profit organisations.

Figure 6.2

Revised Understanding of Relationship Between Firms and Third-Party Intermediaries



6.5.2 Education of Managers and Subcontractors

Three third-party policy intermediaries identified education as a central component of their role, specifically focussed on clarifying for managers and subcontractors the contractual obligations related to social procurement, including any employment requirements. Such education is likely to involve explaining what the policies are and what must be done to fulfil the requirements. In Victoria, this is particularly focused on the new Building Equality Policy, which mandates female employment quotas and the employment of people from disadvantaged backgrounds for larger projects. As one participant explained:

So, I do educate industry on the Building Equality Policy and what it means and how they can meet the targets. And the same with [the] Social Procurement Framework. A lot of it is around what the targets actually mean and how you can implement them. (Andrew, policy advisor, third-party policy intermediary, Victoria)

The third-party policy intermediaries also assist managers and subcontractors with their reporting obligations and understanding the importance of the reporting process as part of overall compliance. Participants explained that to fulfil this role, the person must have a knowledge and understanding not only of the construction industry but also of the local area (as well as the specific attributes relating to the construction industry), including up-to-date and relevant knowledge about third-party organisations that may be able to assist.

Participants also emphasised the role of government—especially procurement officers—in understanding, applying, and monitoring these policies. Without adequate education and training, the procurement officers, contract managers, and agencies cannot effectively integrate these policies into contracts or ensure accountability. As highlighted by a participant who advises and educates firms in Victoria, a comprehensive education program for government agencies is essential to support authenticity, accountability, and effective contract management in social procurement practices:

So often we look at these policies and it's all about industry, what industry have to do, but what's agency's responsibility in this as well? ...and education is a big one. Because if they don't understand that they can apply it, they can't effectively apply it into a contract, and then they can't effectively manage and monitor it. (Olivia, policy advisor, third-party policy intermediary, Victoria)

So, I would say agencies need, and also agencies like government, they need education as well. It can't just be industry education, authenticity, agency education on what the policy is. I've what it means how to check reporting. So not just, you know, I call that reporting and we hit the up, okay. Like, what does the reporting actually look like? And what does the reporting actually mean? So how do they verify the data themselves? Because then that's going to bring accountability back into the industry? And it can't put all of that on industry when agency is a basic contract management, right? It needs to make sure so agencies or education as well. It's not just all industry. (Olivia, policy advisor, third-party policy intermediary, Victoria)

This finding highlights the need for both industry and government agencies to share responsibilities for the successful implementation of the employment policies and the broader social procurement policies. Education for government procurement officers and contract managers is critical to the successful implementation of social procurement policies.

The support provided by the participants to managers and subcontractors, as described above, appears to be a critical step in assisting managers and subcontractors to meet their contractual obligations. Importantly, this involves subcontractors and firms being able to find appropriate organisations to supply individuals from disadvantaged backgrounds to fulfil the contract obligations. This is especially crucial when firms or subcontractors do not have an ongoing relationship with a third-party intermediary or a dedicated internal role to implement the policies. The findings also highlight the critical role the agencies play and the need to educate procurement offices to better apply the employment requirements.

6.5.3 Finding, Training and Supporting Candidate

Participants who could be described as third-party policy intermediaries described their role as identifying, training, and supporting suitable candidates, ensuring they developed the necessary skills to manage construction industry pressures. The projects discussed were large-scale operations where roles and training requirements were established in advance. Participants explained that they pre-screened candidates to understand individual training needs rather than applying a one-size-fits-all approach, with one participant noting, *'where we get a greater understanding of that student, that individual student needs, as opposed to*

let's just assume that everyone needs it'. (Cathy, large training organisation, third-party policy intermediary, NSW).

Another participant emphasised providing holistic support for individuals from disadvantaged backgrounds entering construction projects. This comprehensive approach extends beyond job-specific training to include broader support services such as financial literacy education, transportation assistance, educational support, and health resources addressing mental, physical, and other medical needs. Three participants raised the issue of candidates suddenly earning large amounts of money and not having the skills to manage the money. As one of the participants summed up: *'Financial literacy—you are earning a lot of money on the project. What do you do with it?...'* (Cathy, large training organisation, third-party policy intermediary, NSW).

Participants explained that pre-employment courses to prepare candidates for employment often proved critical to candidates' overall success. Participants also explained they supported contractors to prepare them to employ people from disadvantaged backgrounds. As one participant explained:

We are at the beginning of that process in terms of providing skills training and education for those people preparing to be employed by ... but also the other spectrum, and that is that we provide support to the contractors in providing the pre-employment programs but also to supporting the engagement in the recruitment of those people for those programs ... I was responsible with another colleague for building those relationships....and [ensuring] education and skills was carried out across the alignment.....so it is around providing that connected piece for organisations for XYZ training to build a training program to support people ... including financial literacy, you are earning all that money what you are going to do with it? (Cathy, large training organisation, third-party policy intermediary, NSW)

Third-party policy intermediaries appear to play a vital role in preparing candidates for employment by addressing both job-specific and broader personal challenges. However, as the next findings show, if construction managers are not willing to support the employment of people from disadvantaged backgrounds, external third-party policy intermediaries have very little leverage to encourage construction managers to do so. The following section outlines how these participants described their experiences of dealing with managers from projects.

6.5.4 Third-Party Policy Intermediaries Dealing with Managers

An important finding from the interviews with participants tasked with supporting candidates was that tensions can arise in dealing with construction managers who are overseeing the employment of people from disadvantaged backgrounds. Participants indicated they often need to advocate on behalf of the candidates if flexibility or support is needed from a construction manager. Participants indicated that how successful they are in dealing with the managers will often depend on whether they have an ongoing relationship or leverage with the construction firms, particularly at the leadership level. One participant explained they were able to leverage their relationship to assist candidates in obtaining flexible working arrangements to ensure training:

These students were completing certificates. They also received foundational courses and support as well throughout their studies to ensure they had full wraparound support within the condensed timeframe ... So we were able to leverage our relationship both within xxxxx with the tier one contractor, as well as the [government agency] to provide support and release for these students [to study]. (Cathy, large training organisation, third-party policy intermediary, NSW)

However, all third-party policy intermediaries reported that they have limited leverage when dealing with managers on a project. Participants indicated that if the construction manager was not concerned about fines or other adverse consequences due to non-compliance, then any leverage they have is reduced. As outlined in Section 5.3.6, at least in NSW, participants reported that there were generally few consequences for non-compliance with the employment requirements. Further, if the managers were not flexible or supportive, then candidates would not succeed, even if the third-party policy intermediary had spent considerable time and effort getting the candidates job-ready:

We see the data around employed, trained but not the data around the disadvantaged groups experienced as to whether they felt supported culturally ... if you are not supported culturally, or even, you know, through the process, in terms of your development, then you're not going to stay. (Cathy, large training organisation, third-party policy intermediary, NSW)

In the interviews, further obstacles were described, which may be difficult to navigate. One participant explained that they prepared a candidate for a year with appropriate qualifications (referred to as tickets) and training; however, just prior to project commencement, the candidate lost their driving licence. This meant the candidate had no means of transport to the project. The participants explained that they suggested to the construction manager that they could organise a bus to take the candidates to the project, but this offer was not accepted. They also explained how construction firms would sometimes rather fly people in from overseas than use the people they had organised for the project:

And we find they'll often bring in workers, people from [another country] that's where they are coming from. They'd rather pay for like 1000 people to fly in from overseas than put in a little bit of effort work with the communities that you're actually going to be in. (Carlo, government policy advisor, third-party policy intermediary, NSW)

We hand it to them on a platter – we do the pre-work, so we do the job-ready skills, we link them up with all the government services like the TAFEs, we get them skills ... we know exactly what tickets we need ... so they can do a portion of the project, but they're never willing to break up the project. (Carlo, government policy advisor, third-party policy intermediary, NSW)

All participants were of the view that the social procurement frameworks needed to focus on obtaining sustainable employment and long-term skill development. As this participant explained:

In terms of I think they're just a number and a quarter to attain a tender and not looking at long-term support for those people in terms of the career, in terms of the career progression and sustainable, sustainable employment past the contract. (Cathy, large training organisation, third-party policy intermediary, NSW)

The policy says 'employ local people', but the reality is that those local people don't fit that model because they don't have a clear understanding of what project life is. They're not as experienced. So therefore, you know, it is that they're not giving the opportunity to be mentored and trained in a timeframe that is conducive to them, learning experiencing development skills. (Cathy, large training organisation, third-party policy intermediary, NSW)

These findings demonstrate that even with external support, the candidates will not succeed unless the onsite managers are willing to allow for some flexibility and offer support. While the third-party policy intermediaries played a critical role in finding training and supporting candidates, the extent to which they could do so was directly linked to the level of leverage they had in the construction company. This limitation was largely a consequence of the actual and perceived lack of consequences in the event of non-compliance with policy obligations.

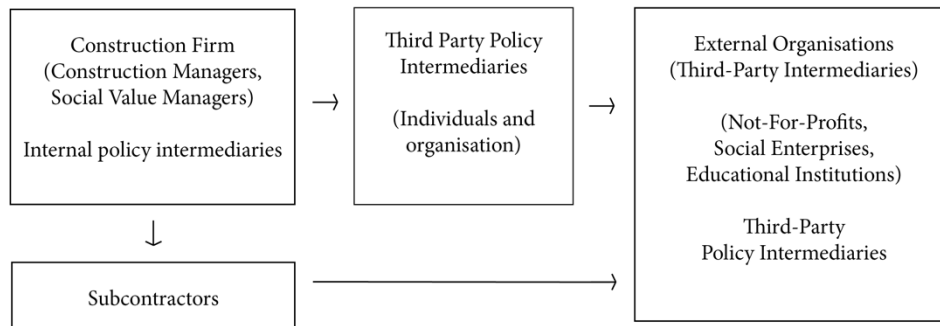
6.5.5 Summary

The key role of third-party intermediaries has been identified as facilitating the connection between firms and not-for-profit organisations, as well as educating managers and subcontractors on social procurement obligations. This role appears to support firms and subcontractors in implementing the employment requirements by addressing previously identified barriers, including finding suitable candidates in new project locations. Further, participants in this study confirmed previous research that found widespread confusion about the relevant policies in the industry. This facilitative role, therefore, appears to offer an effective mechanism for educating firms and subcontractors and clarifying the employment requirements associated with a project.

Many firms and subcontractors do not have established relationships with not-for-profit organisations. The often episodic nature of construction can result in firms having to find new candidates frequently, especially if a project is in a new area. The following diagram illustrates the role of the third-party policy intermediaries in connecting firms and not-for-profit organisations.

Figure 6.3

Relationship Between Governments, Firms and Not-for-profit Organisations



Interviewees included participants from third-party organisations who undertook the roles of finding, training, and supporting candidates. These roles were dedicated roles focussed on supporting candidates whom firms employ to meet their contractual obligations. However, external policy intermediaries are often hampered by a lack of leverage when dealing with construction managers who are not sympathetic to or supportive of employing people from disadvantaged backgrounds.

Third-party policy intermediaries interviewed for this research acted as a ‘conduit’ between the firm and the not-for-profit sector. One participant established a not-for-profit organisation specifically to assist firms with implementing employment requirements and social procurement policies, for example, by helping head contractors and subcontractors connect with candidates and work with them effectively. Third-party intermediaries also play a critical role in explaining the nature of the contractual obligations to smaller firms and subcontractors.

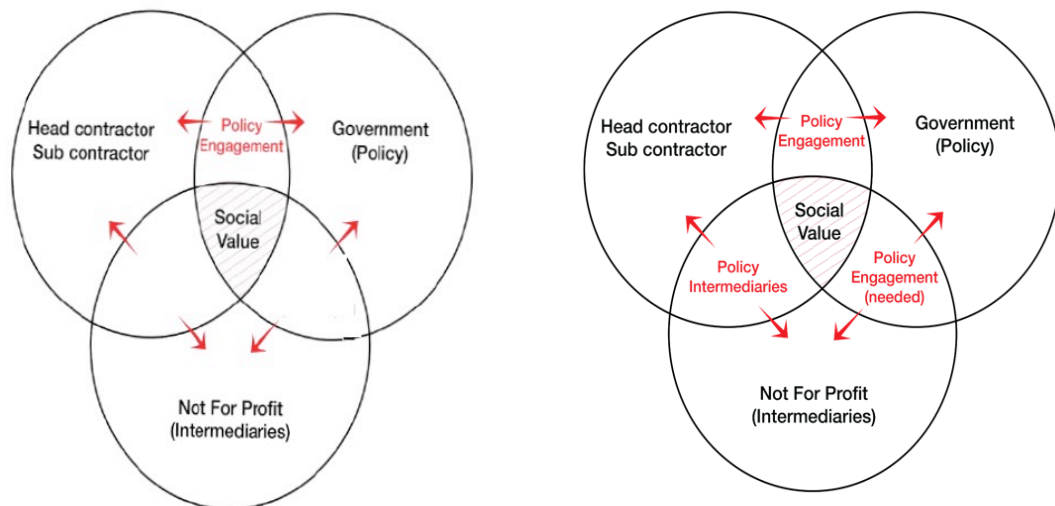
Third-party policy intermediaries provided training and support to candidates, including courses in financial literacy and job readiness. However, these third-party intermediaries often had limited leverage with onsite construction managers unless they had established relationships with the firm. The findings indicate that a prior and ongoing relationship between the intermediary and the firm helped secure sustained cooperation and support for individuals from disadvantaged backgrounds. One participant described how their

firm offered candidates ongoing employment and training opportunities, a practice supported by the firm's continued engagement through long-term government contracts.

The following Venn diagram illustrates the relationship between firm, government, and the not-for-profit sector, as summarised in the literature review. The diagram also illustrates the crucial role of third-party policy intermediaries in connecting third-party organisations from the not-for-profit sector. It also shows that further engagement is needed between the not-for-profit sector, specifically third-party policy intermediaries and the government. It highlights how the interaction between the actors discussed in this chapter can generate social value when effectively coordinated.

Figure 6.4

Diagram – Role of Third-Party Policy Intermediaries



6.6 Conclusion and Summary

This chapter has explored the implementation of the employment requirements at project level. The research reveals several critical factors for the successful implementation of social procurement employment requirements. Participants consistently emphasised the necessity of early engagement, with construction firms required to address employment obligations during the initial project planning phases rather than attempting to incorporate them retrospectively. However, participants also identified missed opportunities at project commencement when less-skilled labour requirements could more readily accommodate

disadvantaged candidates. A clear operational divide emerged between social procurement managers, who provide initial guidance and candidate sourcing strategies, and commercial teams (construction managers and subcontractors), who assume implementation responsibility following contract award. Project size typically determined whether dedicated social inclusion managers were assigned, with larger projects more capable of supporting specialised roles to facilitate ongoing candidate support and ensure appropriate workplace integration.

The findings underscore the critical importance of third-party organisational partnerships in achieving sustainable employment outcomes for disadvantaged cohorts. Participants consistently reported that direct employment attempts without external support networks resulted in failure, highlighting the necessity of ongoing support mechanisms beyond initial job placement. Successful implementations were characterised by construction firms establishing and maintaining relationships with not-for-profit organisations responsible for candidate preparation, training coordination, and post-employment support. The most notable case involved a Victorian construction firm that adopted a purposeful approach through joint ventures with two not-for-profit organisations, enabling the provision of permanent rather than episodic employment opportunities. This approach demonstrated that when supported by adequate planning, ongoing contracts, and dedicated support systems, social procurement requirements could align with both commercial objectives and meaningful social outcomes, particularly on larger and longer projects.

External and Internal Policy Intermediaries

The findings suggest that both internal and external policy intermediaries play a critical role in mitigating the effects of the project-based nature of employment in the construction industry. On large projects, internal dedicated roles appear to be critical to the successful implementation of the employment requirements, for example, social inclusion managers find cohorts of disadvantaged groups and organise their training and employment. However, the findings highlight a key distinction: there is a significant disparity in the level of influence that external intermediaries have over onsite construction managers. External intermediaries, lacking sustained relationships with construction firms—particularly with onsite managers—had limited influence. In contrast, internal policy intermediaries appeared

to be better positioned to leverage the financial consequences linked to non-compliance with employment obligations, providing them with a more effective means of influencing managers. Both internal and external intermediaries remain essential in ensuring that disadvantaged participants receive adequate support onsite.

Despite these differences, both internal and external policy intermediaries strongly recommended that the policies target training and ongoing employment to assist candidates with continued employment after the project ends. In Chapter 5 at 5.7, it was found that an unintended negative consequence of the social procurement policies was that candidates may only be employed for a short period. As participants explained, this has the potential to significantly impact candidates who were previously unemployed. Consequently, both internal and external policy intermediaries appeared to prioritise assisting individuals at the end of the project in securing further employment and training. There was also some evidence that the cyclical nature of the construction industry could be mitigated if internal or external intermediaries were able to dedicate resources to providing additional training opportunities and facilitating employment pathways for candidates at the end of the project.

Participants were of the view that the contractual arrangements typically focus on ensuring the initial employment of people from disadvantaged backgrounds to fulfil firms' contractual obligations rather than ensuring the candidates' long-term career prospects. If firms lack dedicated social procurement roles, it appears likely that candidates may receive no assistance at project completion. Without this crucial final step of ongoing support and training, candidates may become further disadvantaged, generating only short-term rather than sustainable social value. The key issue is that while contracts mandate the initial employment of people from disadvantaged backgrounds, they rarely require supporting their future employment prospects beyond the program period.

Given the focus in this chapter on internal and external policy intermediaries, the following table summarises and compares the findings between these two categories. This comparison assists in understanding how policies are implemented, with particular attention to the roles of external organisations and both internal and external policy intermediaries in the implementation process.

Table 6.1*Comparison of Internal and External Policy Intermediaries in Social Procurement**Implementation*

Aspect	Internal Policy Intermediaries	External Policy Intermediaries
Primary Role	Social inclusion managers within firms; direct employee roles	Third-party conduits between firms and not-for-profit organisations
Key Functions	<ul style="list-style-type: none"> • Educate construction managers on disadvantaged group barriers • Prepare candidates for construction role • Consult with managers prior to employment • Assist in tender preparation using local knowledge 	<ul style="list-style-type: none"> • Facilitate connections between firms and NFPs • Educate managers/subcontractors on policy obligations • Provide training (financial literacy, job readiness) • Establish dedicated NFP organisations
Leverage with Construction Managers	High – Direct engagement and ability to leverage financial repercussions for non-compliance	Limited – Lack sustained relationships with firms, particularly onsite managers
Relationship Dynamics	Embedded within firm structure; ongoing internal influence	External relationship; effectiveness depends on established firm connections
Support Mechanisms	<ul style="list-style-type: none"> • Direct managerial consultation • Financial consequence leverage • Ongoing internal advocacy 	<ul style="list-style-type: none"> • Candidate training and preparation • NFP sector connection facilitation • Policy clarification for smaller firms
Post-Project Support	Extends beyond project completion; assists with future employment and training opportunities	Limited post-project influence without established firm relationships
Implementation Effectiveness	More effective due to internal leverage and sustained firm relationships	Hampered by lack of leverage with unsympathetic construction managers

Aspect	Internal Policy Intermediaries	External Policy Intermediaries
Shared Challenges	Both prioritise long-term employment and training beyond initial placement requirements	Both prioritise long-term employment and training beyond initial placement requirements
Common Limitation	Contracts focus on initial employment rather than sustainable career development; risk of short-term rather than sustainable social value without ongoing support	Contracts focus on initial employment rather than sustainable career development; risk of short-term rather than sustainable social value without ongoing support

Chapter 7: Discussion

Genuine collaboration, characterised by balanced power relations and the joint construction of meaning by a variety of actors, is rare
(Raschendorfer & Roder Figueira, 2024)

7.1 Introduction

This research has investigated the social procurement policies implemented by the NSW and Victorian governments, specifically focusing on the 'employment requirements' that mandate construction firms to integrate disadvantaged populations into their workforce for government infrastructure projects. The emphasis on employment requirements was warranted because of the increasing prominence within social procurement frameworks as well as the substantial empirical evidence indicating significant impediments to their effective implementation (Loosemore et al., 2020; Montalbán-Domingo et al., 2018; Troje & Gluch, 2020a). Additionally, though secondary in scope, this research has examined stakeholder perspectives on the requirements for firms to demonstrate supplementary social value generation beyond the inherent benefits of the infrastructure project itself.

As outlined in detail in the literature review in Table 2.1, there are gaps in our understanding of the employment requirements and social procurement policies. Prior research has established institutional resistance and confusion about the established practices and challenges inherent in the project-based nature of construction work (Barraket & Loosemore, 2018). Prior research has not examined the written policies or their context in depth (Lou et al., 2023). Additionally, gaps remain in our understanding of how social procurement policies operate in the tender process (Lou et al., 2023). Troje (2020) notes that the relationship between policy design and implementation is incompletely understood.

At the project level, significant barriers to collaboration with third-party organisations exist, and studies have identified the need for new roles to implement the policies successfully (Loosemore et al., 2020; Troje, 2020). These barriers create a complex implementation environment that requires careful consideration of both structural and operational solutions. Specifically, the potential role of third-party organisations or intermediaries in facilitating successful implementation warrants further examination. Previous studies have not

thoroughly investigated mechanisms that could assist firms and subcontractors during the crucial tender stage (Lou et al., 2023; Loosemore et al., 2023).

This research addressed these gaps through a detailed analysis of perspectives on policy design, particularly in relation to the tendering process and the implementation of a firm's contractual obligation at project level. Most existing studies in Australia have either examined a single stakeholder perspective or examined case studies of collaborative efforts by tier-one construction firms. One comparative study compared the impact on firms of the broader social procurement policies in Victoria and Scotland, noting that both jurisdictions possess well-developed social procurement policies (Loosemore et al., 2024). In contrast, the present study focusses specifically on employment requirements only in social procurement policies and examines the differing policy approaches adopted by NSW and Victoria. To provide a broader understanding, this qualitative study drew on interviews with a diverse cross-section of professionals—both strategic and practical—who are directly involved in the employment of disadvantaged individuals.

7.1.1 Addressing the Aim and Objectives of the Research

The overall aim of this research was to identify solutions to existing barriers and contribute to the enhancement of policy design. The first research question examined both written policy documents and participants' perspectives on these policies. The objective was to improve policy alignment and identify enablers that could assist governments in strengthening social procurement policies to better address social value and employment requirements (RQ1). The second research focus was on exploring policy implementation within the context of the tender process (RQ2). The third research question investigated the role of third-party organisations, identified as potential enablers of project-level collaboration (RQ3).

7.1.2 Brief Overview of Findings

The following table presents a consolidated overview of the findings associated with each of the three research questions and, collectively, their contribution to addressing the overarching research aim. In addition, the table summarises participants' proposed solutions

to the identified issues and barriers that impede the effective implementation of social procurement policies

Table 7.1

Research Questions, Key Findings and Solutions Proposed by Participants

Research Questions	Key Findings	Solutions
<p>1) What are the relevant social procurement policies that identify the employment and ‘social value’ requirements within the jurisdictions of New South Wales and Victoria</p>	<ul style="list-style-type: none"> • NSW: No dedicated Social Procurement (SP) Policy • Victoria: Dedicated implementation SP Policy • Both states: Require disadvantaged groups to be employed in Projects • Both states: Policy inconsistently applied • Both states: Reporting and accountability – financial consequences inconsistently applied • Little opportunity for government/firm collaboration at this stage 	<ul style="list-style-type: none"> • Increase in ‘weight’ applied to SP/Employment Requirements (ER) • Policy consistently applied across agencies (suggest broad legislation) • Education for Gov. and agencies • Central information centre for ER (this exists in Victoria) • Certificate or preapproval scheme for firms (recognising ER & SP successfully implemented)
<p>2) What are construction managers’ and relevant actors’ responses to policies requiring employment of people from disadvantaged backgrounds and to create social value in government projects in NSW and Victoria?</p>	<ul style="list-style-type: none"> • Best value interpreted as lowest price. Lack of incentives – uncertainly of reward in tender process (less so in Victoria) • Use of ‘stretch’ targets to encourage competition in bidding for contracts. Firms agreeing to employment requirements – not implementing 	<ul style="list-style-type: none"> • Transparency in non-cost assessment of non-cost criteria. Gov. commitment at high level – higher ‘weight’ assigned to SP. Greater certainty of reward – leverage point. • Reporting of sustainable outcomes for candidates. • Greater scrutiny of firms’ SP plans in tender submissions
<p>3) What are industry perspectives on third-party intermediaries and what would help assist managers and relevant actors in</p>	<ul style="list-style-type: none"> • Critical role of internal policy intermediaries and third-party policy intermediaries • Financial consequences for not meeting targets – used as 	<ul style="list-style-type: none"> • Internal policy intermediaries essential to mitigate impact of project nature of construction industry. • Advocate for higher financial penalties.

Research Questions	Key Findings	Solutions
implementing the employment requirements?	<p>encouragement for construction managers.</p> <ul style="list-style-type: none"> • External policy intermediaries essential - less leverage with construction manager. 	<ul style="list-style-type: none"> • Collaboration on employment requirements with governments at project stage. • Governments fund and recognise role of third-party policy intermediaries in connecting firms and not-for-profits.

7.2 Discussion

This research has examined the written policies, tender phase, and project-level implementation. In this section, theoretical perspectives are revisited and discussed in relation to the data and findings. As outlined in Chapter 2 at 2.6, this research employs both agency theory and systems thinking to provide comprehensive analytical depth. Agency theory proves instrumental in explaining the findings from a public law perspective, particularly regarding the contractual nature of government relationships within the New Public Governance paradigm. However, the analysis of the data across the cycle of government projects revealed that agency theory alone cannot fully account for all findings. Although the micro-level contractual focus of agency theory explains the contractual relationship central to this research, systems thinking ‘holistically traverses disciplinary boundaries’ and offers crucial insights into the successful implementation of employment requirements across interconnected project phases (Nguyen et al., 2023). Applying systems thinking to the findings helps identify potential critical leverage points and feedback loops and enhances adaptive responses to the embedded nature of social procurement mechanisms throughout the project lifecycle (Nguyen et al., 2023; Rees, 2024, p. 6).

The following section discusses the major themes that arose from the findings in each chapter. The structure is as follows. For each chapter, a brief overview of the key findings is provided, followed by a discussion on how these findings align with the current literature; then, agency theory and systems thinking are applied. The three themes are:

1. Pre-contract phase – Policy-Led Procurement
2. Leverage and Lack of Incentives in the Tender Process

3. Policy Intermediaries at a Project Level

The chapter then considers the common good as an overarching philosophical approach to this research. The chapter concludes with a brief discussion of the study's limitations and directions for future research.

7.2.1 Pre-Contract Stage: Implementing Policy-Led Procurement

This study analysed social procurement policies in NSW and Victoria, revealing distinct approaches to integrating social value objectives within government procurement processes. The findings highlighted contextual variations between the two states, particularly in the design and implementation of policy structures, and demonstrated differing levels of institutional commitment to embedding social procurement in public procurement. However, evidence indicates that government agencies in both jurisdictions have, at times, demonstrated limited prioritisation and inconsistent compliance with employment-related requirements in government construction projects.

Victoria has established a comprehensive written social procurement policy framework, while NSW operates without a formalised policy structure. Despite this fundamental difference, participants in both states reported that in practice, on large projects, in the last five years, the minimum requirement has been that 3% of the workforce consists of people from disadvantaged background. However, consistent with previous research (Loosemore et al., 2024), the implementation of social procurement policies appears stronger in Victoria than in NSW. Victoria's dedicated policy framework provides guidance on the weighting of social procurement objectives, incorporates centralised reporting mechanisms, and includes clearer financial consequences for non-compliance. By contrast, NSW lacks such formalised arrangements, and both states demonstrate inconsistencies in policy interpretation and application.

Participants in both states reported a lack of standardised reporting and accountability mechanisms. This finding supports the argument of Davies et al. (2023), who highlight the need for more robust accountability, measurement and enforcement mechanisms in social procurement. The recent NSW Government Inquiry into the *Procurement practices of government agencies in New South Wales and its impact on the social development of the*

people of New South Wales acknowledged systemic inconsistencies in implementation and accountability (Standing Committee on Social Issues, 2024), recommending that there be increased training of procurement officers to ensure ‘accountability for the management of risk and monitoring of procurement contracts’(p. xiv).

While previous research has indicated that the social procurement requirements may vary between projects (Loosemore et al., 2020), the findings reveal that such inconsistencies have an impact on firms’ operations. Variations in agency commitment create uncertainty for firms about the importance and enforcement of social procurement policies from one procurement to another.

The lack of a dedicated social procurement policy in NSW, the limited application of a 10% weighting for social value considerations, and the lack of standardised reporting and accountability mechanisms all suggest a limited commitment to social procurement. The NSW Inquiry did not recommend establishing a dedicated social procurement policy; the final report recognised the importance of employing people living with a disability but did not specifically address the employment of disadvantaged groups as part of any social procurement framework(Standing Committee on Social Issues, 2024). This finding aligns with Thai (2002), who argues that the policymaking in public procurement is primarily driven by senior management within the procurement hierarchy. Similarly, the findings align with Monte and Leire’s (2008) observation that social procurement initiatives are often constrained by insufficient legislation support and limited commitment from senior leadership.

In Victoria, written policies appear relatively clear, identifying specific disadvantaged groups and providing general descriptions of each. The policy also sets out in some details the broad objectives of the policy. Yet, participants reported the need for clarification of the definitions of each disadvantaged group. Troje (2020) argues that both the outcomes and processes of social procurement policies often lack clarity, further highlighting a ‘misalignment of goals’ between policy intentions and actual outcomes (see also Troje & Gluch, 2021). The findings support Harland et al.’s (2023) observation that a fundamental challenge arises when policy-led procurement in broad policy frameworks must be translated into specific procurement requirements. It also highlights Harland et al.’s (2023) observation about the complexity of the decision-making involved in incorporating social and environmental policies into procurement.

Although the NSW framework is less structured and more open to interpretation, participants in both states reported that the requirements often did not align with the local community's needs. At times, project-level employment requirements were disconnected from the local environment in which projects were delivered. Participants, therefore, advocated for enhanced education regarding setting employment requirements for both industry and government actors to ensure that employment requirements are contextually appropriate. The NSW Inquiry supported this view recommending improved training for procurement officers and the implementation of key performance indicators in contracts to ensure social, sustainability and environmental outcomes are targeted and aligned with objectives, while ensuring 'government and agency leaders deliver on required expectations' (Standing Committee on Social Issues, 2024, p. xiv). These findings support Maiganna's (2002) view that without appropriate skills, procurement officers may struggle to incorporate social procurement objectives into government contracts.

The findings demonstrate that the pre-contract phase is critical in policy-led procurement implementation. Procurement officers play a central role during this phase, making key decisions that significantly influence how social procurement policies are enacted. Greater consistency in application across agencies, alongside standardised accountability and reporting mechanisms, could strengthen policy outcomes. This conclusion aligns with Davies et al. (2023), who emphasise the need for robust accountability, measurement, and enforcement frameworks to ensure that social value objectives in procurement are effectively realised.

Pre-Award Stage Coordination between Government and Firms

One of the aims of this research is to try to improve cooperation or coordination between firms, not-for-profit organisations and the government. Participants suggested that collaboration with government during the development of employment requirements would greatly assist in ensuring they are realistic and appropriate. Participants also reported that communication with government agencies prior to the awarding of contracts is often minimal or, in some cases, impossible. This finding aligns with Troje (2020), who, drawing on broader policy-in-practice literature, emphasises the importance of collaboration and alignment between policy objectives and industry practices. Seddon (2023, p. 45) notes the confidentiality constraints inherent in the tender process. These present findings extend this

work by illustrating how the competitive and legally constrained nature of the tender environment continues to limit opportunities for meaningful collaboration between government and construction firms at the pre-contract stage.

The findings also highlight that coordination at a pre-project phase is unlikely, as firms compete on the basis of how they plan to meet employment requirements. Additionally, current practices, such as setting overly ambitious employment requirements and stretch targets, tend to foster competition rather than collaboration. This dynamic undermines constructive engagement between firms and government agencies and may disadvantage smaller or more compliant firms. A more balanced approach to target-setting would better align incentives with policy objectives while maintaining competitive pressure.

The literature emphasises barriers created by the construction industry's nature and subsequent impacts on subcontractors (Loosemore et al., 2020). Troje (2020) and Loosemore et al. (2023) found that social procurement policies create confusion and uncertainty. Accordingly, this study's findings suggest that greater commitment to the policies by governments, manifesting in a comprehensive framework with standardised definitions, uniform application across agencies in terms of commitment to the policies, and consistent accounting and reporting requirements, would improve policy alignment, although not completely reduce the misalignment. The following sections apply agency theory and systems thinking to these findings.

7.2.1.1 Application of Agency Theory

Government agencies (principals) often establish employment requirements that construction firms (agents) find unrealistic to implement, creating a classic principal-agent problem as described in agency theory. This misalignment stems from information asymmetry, where procurement officers often lack practical understanding of construction realities while firms possess superior operational knowledge (Chrisidu-Budnik & Przedańska, 2017; Loosemore et al., 2024). According to Mitnick's (1975) formulation of agency theory, such conditions generate uncertainty where agents may engage in compliance rather than substantive implementation of government policies. Applying principles of Agency theory, effective social procurement requires redesigning incentive structures, implementing appropriate monitoring mechanisms, and creating feedback loops that allow construction firms to inform policy design (Chrisidu-Budnik & Przedańska, 2017). Such measures may

enhance the practical implementation of the employment requirements and associated social procurement objectives.

7.2.1.2 Application of Systems Thinking

Systems theory deals with patterns of behaviour and the identification of leverage points (Meadows, 2015). Social procurement in government contracts can be understood through Meadows' (2008) systems thinking framework, particularly feedback delays, information flows and identification of leverage points. Systems thinking recognises that the identification of leverage points for effective intervention and increased collaboration can have a significant impact on the system (Williams et al., 2017).

From a systems perspective, a distinct and detailed social procurement policy, such as the Social Procurement Framework in Victoria (Victoria, n.d. -a), may serve as a leverage point for systemic change. However, as the findings show, even a detailed policy is inadequate to ensure uniform compliance or consistent commitment across agencies. As discussed above, early intervention in policy implementation—particularly education and training of procurement officers - may strengthen implementation outcomes.

When procurement officers issue social requirements in tenders without adequate feedback mechanisms at the EOI stage, they limit construction firms' ability to meet employment requirements that may be unrealistic or poorly aligned with project conditions (system adaptation). This was confirmed by the findings that there are firms that would prefer to pay a fine rather than implement the employment requirements. Given the competitive nature of the tender process, construction firms often lack opportunities to signal implementation challenges early, leading to requirements that are disconnected from project realities. Establishing an earlier feedback loop would enable procurement systems to self-correct before final tender specifications are set, thereby enhancing systemic responsiveness and resilience.

By addressing these leverage points, the procurement system can achieve greater alignment between social policy objectives and firms' capabilities. The identification of these leverage points both confirms and extends the work of Loosemore et al. (2024) and Troje (2020). Applying systems thinking to policy implementation identifies within the policy framework where intervention is most effective. It also highlights how important it is that

government prioritises social procurement policies, demonstrated through standardised procedures, increased training, and increased incentives for construction firms.

As Monte and Leire (2008) observe, the absence of supportive legislation and insufficient commitment from senior management can significantly hinder the effectiveness of social procurement initiatives. This aligns with Meadows' (2015) suggestion that higher leverage points are more likely to facilitate change. The UK's legislative framework, particularly the *Public Services (Social Value) Act 2012*, offers a compelling point of comparison. By mandating the integration of social value considerations across all government procurement, the UK model creates a systemic foundation for consistent implementation. In contrast, the approaches in NSW and Victoria remain largely policy-based and discretionary, leading to variable levels of agency engagement and commitment.

This comparison underscores the need for NSW and Victoria to consider adopting similar legislative measures to embed social procurement more firmly within the procurement process. Such reform could help address the structural inconsistencies currently undermining uniform uptake and ensure a more coherent and accountable implementation across government agencies. Confirming previous research, these findings highlight the critical importance of governments' commitment to social procurement policies at a higher level. The following is a table summarising the application of systems thinking in the pre-tender phase:

Table 7.2

Application of Systems Thinking in the Pre-Contract Stage of Social Procurement

Systems Thinking Principle	Application in Pre-Contract Social Procurement	Implications
Leverage Points (Meadows, 2008)	Clear and detailed social procurement policy can act as a leverage point to influence agency behaviour and systemic change.	However, policy alone is insufficient without standardised implementation and commitment across agencies.
Feedback Loops	Absence of feedback mechanisms during the EOI stage delays firms' ability to adapt and respond to social procurement requirements.	Introducing early feedback mechanisms would allow procurement systems to self-correct. Increased education of procurement officers would diminish the need for feedback if employment requirements are realistic and appropriate.
Delays	Feedback delays between policy issuance and firm response result in misalignment between procurement goals and project realities.	Timely communication and early engagement can minimise delays in implementation and adaptation. Increased time between the awarding the contract to the firm and the commencement of the project.
Information Flows	Limited opportunity for firms to communicate challenges during the tendering process reduces transparency and responsiveness.	Improved information flows between agencies and firms can support more realistic and effective social outcomes.

Systems Thinking Principle	Application in Pre-Contract Social Procurement	Implications
System Adaptation	Competitive tendering environments constrain firms from signalling practical limitations of social procurement requirements early on.	Adaptive mechanisms are needed to allow tailoring of requirements to on-ground realities.
Government Commitment as High Leverage Point	Strong legislative frameworks (e.g., UK's <i>Social Value Act 2012</i>) embed social value as a non-discretionary requirement, ensuring consistent application.	NSW and Victoria's discretionary policy frameworks limit consistent uptake; legislation could act as a higher leverage point.
Capacity-Building as Intervention	Training and support for procurement officers in applying social procurement goals are crucial for systemic alignment.	Enhances the system's capacity to implement policy effectively and assists with creating an equitable framework for compliance and accountability.

7.2.2 Leverages and Lack of Incentives in the Tender Process

This study reveals significant ambiguity in how employment requirements and the creation of social value criteria are evaluated in government contract awards, coupled with a persistent focus on the lowest price. These factors contribute to uncertainty, confusion, and perceived risk among bidding firms. The application of agency theory (Chrisidu-Budnik & Przedańska, 2017) and systems theory (Meadows, 2015) provides valuable insights for understanding tensions in social procurement implementation in the context of the tender process. A detailed examination of the tender process reveals three key findings.

7.2.2.1 Key Themes in the Tender Phase

Previous studies have identified value misalignments among government agencies, private firms, and not-for-profit organisations (Loosemore et al., 2020). While many studies apply institutional theory to examine the impact of social procurement, prior research has not sufficiently explained how these misalignments manifest during the tender phase:

1. **Evaluation ambiguity:** While requirements to employ disadvantaged groups and deliver social value are included in non-price evaluation criteria, the government has sufficiently transparent methods to assess these non-cost considerations. The weight assigned to these criteria varies significantly between projects, creating uncertainty about how the employment requirements and social value creation as part of the non-cost criteria are evaluated. A dissenting recommendation by a member of parliament in the final report suggests increasing the baseline weighting for non-cost criteria related to social value considerations in NSW from 10% to 30% (Standing Committee on Social Issues, 2025 p. 113).
2. **‘Best value’ interpretation:** Nearly all participants agreed that ‘best value’ is frequently interpreted as the lowest price in practice, a perception acknowledged by the NSW Government Inquiry (NSW Government, 2024, pp. 63–64). The study findings confirmed the Inquiry's final report recommendation that the definition of ‘value for money’ should be expanded to assist agencies in interpreting and applying this concept effectively within procurement activities.
3. **Moral hazard in tendering:** The study identified specific instances where firms commit to employment targets without genuine implementation capacity. This

contrasts with firms that have invested in successfully implementing policies and intend to meet requirements. Findings also highlighted unintended consequences of the employment policies.

Participants identified several potential solutions to address transparency issues in the procurement process. Currently, while unsuccessful pricing bids are published, non-price evaluation outcomes remain confidential. Participants suggested that publishing these non-cost criteria could enhance transparency and improve compliance monitoring. This issue confirms Montalbán-Domingo et al.'s (2018) international study of social sustainability in government tenders, which found that there is a lack of metrics of social sustainability.

South Africa's certification system, requiring firms to meet internal benchmarks before bidding, was designed to reduce tendering uncertainty. However, the case of *SMEC South Africa (Pty) Ltd v South African National Road Agency SOC Ltd* (075024/2023) [2023] ZAGPPHC 1108 (29 August 2023) (discussed in detail in Chapter 2, Section 2.3.5) demonstrates that even clear certification criteria cannot eliminate fairness challenges, as the court acknowledged potential discrimination while ultimately upholding the system on procedural grounds. Similarly, *Vitali SpA v. Autostrade per l'Italia SpA*, Case C-63/18 (discussed in detail in Chapter 2, Section 2.3.4) established that social procurement measures must satisfy proportionality, transparency, and non-discrimination tests to maintain competitive integrity. These international examples illustrate that transparency alone may be insufficient to address underlying fairness concerns and that social procurement frameworks must carefully balance policy objectives with fundamental procurement principles to minimise legal challenges.

7.2.2.2 Coordination between Firms and Government in the Tender Process

The findings also highlight limited opportunities for collaboration between the construction and not-for-profit sectors during the tender phase. While previous studies have called for greater consultation, the legal and competitive constraints of the tender process are often overlooked. Seddon (2023, p. 45) emphasises that confidentiality and probity obligations inherently restrict engagement at this stage. As a result, meaningful collaboration typically cannot occur until after contract award.

Participants reported that some government departments are reluctant to engage in discussions about social procurement—particularly employment requirements—during the

tender process. Although the NSW Government Inquiry advocated for collaborative tendering (Standing Committee on Social Issues, 2025, p. 47), it provided no practical guidance on how this could be achieved within the legal framework of construction procurement.

The timing of collaboration presents inherent challenges: post-EOI engagement risks undermining the competitive process; collaboration during tendering raises probity concerns; and negotiating requirements post-award may compromise the integrity of the original tender. These constraints suggest that employment and social value requirements are best clarified after contract award, enabling more realistic and achievable commitments.

This approach aligns with Victorian guidelines recommending the refinement of social procurement obligations post-award of the contract (Victorian Government, n.d.-f). However, Victorian participants observed that contracts are sometimes awarded on the basis of the lowest price, relegating the evaluation of potential social outcomes to a secondary concern. This underscores the need for government agencies to assign greater baseline weighting to employment and social procurement criteria, thereby elevating their significance in the tender evaluation process. This confirms the view of Rees (2024) that increasing the weighting criteria to 30 % could materially influence the outcome of a bid. Furthermore, governments must offer more practical support to firms and subcontractors with limited resources to enable effective implementation (See 8.4 for detailed recommendations).

7.2.2.3 Application of Agency Theory in the Tender Process

These findings can be explained through agency theory, which suggests that agents (firms) make decisions under conditions of uncertainty and risk (Chrisidu-Budnik & Przedańska, 2017). This is especially evident at the tender stage, where firms must determine how much to invest in meeting social procurement requirements—often without assurance of reward. In NSW, particularly, this investment appears precarious. This finding confirms Epstein and O'Halloran's (1999) suggestion that the differing goals of principals and agents become pronounced when policies impose significant costs on agents without corresponding incentives.

Current contract structures may inadvertently incentivise adverse selection. Chrisidu-Budnik & Przedańska (2017) describe this aspect of agency theory as 'actions taken by the agents' to encourage the principal to 'enter into a contract with him' (p. 156). Current

approaches to tender evaluation appear to enable firms to present themselves as capable of delivering social outcomes during the tender process, even when they lack the genuine capacity to do so. Consequently, some firms may prioritise competitive pricing over the expense of creating authentic social value. The findings also indicate that at least one construction manager chose not to bid for contracts by a particular agency, considering the employment targets unrealistic. The lack of meaningful reward for compliance, alongside inconsistent accountability mechanisms, appears to exacerbate uncertainty and risk for firms genuinely trying to implement the employment and social procurement requirements.

Information asymmetry significantly influences policy implementation, as governments lack visibility into firms' internal processes and cannot easily verify compliance (Chrisidu-Budnik & Przedańska, 2017; Epstein, 2013). This 'causal' problem—where firms make commitments in tenders that are not enforced post-award—weakens the integrity of social procurement policies. The failure to reward firms for past or current compliance undermines policy legitimacy and may reduce motivation for continued compliance with employment and social procurement requirements by firms.

While prior research (e.g., Troje, 2020) suggests that governments' limited understanding of construction project complexity hampers effective policy implementation, this study finds that uncertainty surrounding rewards and evaluation during the tender stage presents a critical barrier to successful implementation by construction firms. Although evidence suggests that Victoria places greater emphasis on these criteria in contract awards, participants in both jurisdictions pointed to persistent uncertainty and the absence of meaningful incentives. This aligns with Chrisidu-Budnik & Przedańska (2017) application of agency theory by demonstrating its application to social procurement, in particular the employment requirements, in infrastructure projects. The findings suggest that the tendering process itself creates conditions conducive to moral hazard, weakening compliance and accountability (see the findings in Section 5.4 concerning the 'tick a box' approach by some firms).

The recent decision in *Kousisis v United States* (605) U.S. (2025) illustrates the extent of moral hazard that can occur, even if there is legislation mandating that firms include social procurement requirements within supply chains. The case involved a firm that represented to the government agency that they would use disadvantaged business enterprises (DBEs) (social enterprises employing people living with a disability). This representation was false.

The regulation mandated a portion of such contracts be subcontracted to a DBE who must perform a ‘commercially useful function’ (49 C.F.R. 26.55(c)). However, the construction firm’s arrangement with the DBE amounted to the DBE organisation passing the actual supplier through its own accounts, adding its name and a handling fee in the process.

This case demonstrates that, even with regulations mandating social procurement, firms may seek to circumvent compliance where oversight mechanisms are weak. Although the firm had completed the substantive work of the contract—a government painting project—the evidence was that it misrepresented the DBE’s role. Notably, the firm appears to have conceded that the misrepresentation regarding DBE’s commercially useful function was material to the award of the contract.

While the Court emphasised the significance of material misrepresentations, it did not establish a definitive standard for determining ‘materiality’ in procurement contexts. The justices’ differing perspectives illustrate this ambiguity: Justice Clarence Thomas questioned whether misrepresentations regarding DBE compliance were material, arguing that DBE requirements were largely peripheral to the contracts’ primary objectives (*Kousisis v United States* (605) U.S. (2025), p. 2). Justice Thomas raised several questions regarding the materiality of the DBE provisions at issue in this case. First, he observed that these requirements were largely peripheral to the primary purpose of the contract. Second, he noted that other contractual terms — such as quality and timeliness — were clearly of greater importance, as evidenced by the fact that they attracted financial penalties, whereas the DBE provisions did not. Third, he highlighted that the government was aware that violations of DBE requirements were both common and widespread. Justice Thomas argued that where the government consistently overlooks such violations, this casts considerable doubt on whether the requirement can genuinely be characterised as material. As he suggested, if non-compliance is routinely tolerated, the threshold of materiality becomes difficult to sustain (*Kousisis v United States* (605) U.S. (2025), pp. 6–11).

In contrast, Justice Sonia Sotomayor emphasised that the government agency had explicitly designated DBE non-compliance as a material breach that could jeopardise federal funding access, thereby establishing its centrality to contract performance (p. 2). This seems contradictory to the nature of secondary policies in government contracts. Significantly, Justice Sotomayor acknowledged the widespread ‘*enforcement and compliance*’ problems with these contractual provisions, but firmly rejected the notion that systemic non-

compliance could excuse individual violations—that ‘*everyone is doing it*’ provides no legal defence (p. 7). As outlined in Chapter 1 at Section 1.3.3, Seddon (2023, p. 53) contends that, in the Australian context, an appropriate legal remedy for a contractor’s failure to comply with social procurement obligations may be the inclusion and enforcement of liquidated damages provisions within the contract. Seddon suggests that, as terms of this nature are not central to the main purpose of the contract and government suffers no economic loss, liquidated damages are an appropriate remedy (p. 53).

This judicial recognition of ongoing compliance issues reflects broader challenges in implementing social procurement. *Koussisis v United States* ((605) U.S. (2025) demonstrates that even with legislative frameworks in place, moral hazard and goal conflicts persist when compliance standards remain unclear. Justice Sotomayor’s acknowledgment that widespread non-compliance is commonplace, yet legally inexcusable, highlights the gap between policy intent and practical implementation. The absence of consistent standards for what constitutes material compliance—coupled with inadequate rewards and recognition systems for genuine adherence to policy objectives—creates an environment where firms may engage strategically with social procurement requirements rather than embracing their substantive goals.

This case directly supports the research findings (Section 5.4) and confirms the recommendations of Davies et al. (2023). Unlike Australia’s recent adoption of social procurement policies, the USA and Europe have decades of experience incorporating social requirements—particularly employment provisions—into government contracts (McCrudden, 2004, 2007a). Despite this extensive experience, compliance problems persist internationally, demonstrating that longevity alone does not guarantee effective implementation.

The findings in this research (Section 5.4) also highlight two critical issues: the first is the need for enhanced scrutiny of tender proposals. The second is the need for contract enforceability mechanisms for non-compliance with contractual obligations, even though social procurement requirements are considered secondary to the contract’s primary purpose. This also confirms suggestions by participants in this study that effective social procurement requires not only clear legislative mandates to encourage government agencies to include robust mechanisms for defining, measuring, and incentivising meaningful compliance (Section 5.4).

This analysis extends previous research by Troje (2020) and Loosemore (2020) illustrating how agency theory explains persistent implementation gaps: when agents (firms) perceive that adherence to social procurement requirements carries uncertain or limited benefits, their incentives to comply diminish. The persistence of these issues across mature jurisdictions suggests that Australia's current framework—which lacks specific definitions and relies on broad guidelines—is insufficient. Clear, enforceable standards are essential to prevent the ambiguity that enables non-compliance. It also demonstrates that to safeguard policy integrity, government agencies must improve monitoring of tender submissions, clarify evaluation criteria, and reward authentic efforts, thereby fostering a more transparent and accountable tendering environment.

7.2.2.4 Application of Systems Thinking in the Tender Process

This research identifies critical intervention points—particularly in tender design—where systemic changes could enhance the effectiveness of social procurement policies. The study findings highlight two key leverage points that demonstrate the utility of systems thinking in policy refinement:

1. **Incentives and compliance relationship:** Firms face minimal consequences for post-award non-compliance. While causality is difficult to establish in qualitative studies, evidence points to a strong correlation between weak incentives and inconsistent implementation.
2. **Early systems thinking application:** Applying systems thinking at the beginning of policy design would reduce unintended consequences, such as prioritising certain employment policies over others and the potential negative impact of short employment periods on candidates.

The conflicting goals within the procurement system create leverage point tensions, which Meadows (2015) identified as critical opportunities for system intervention. Government agencies often prioritise the lowest price while simultaneously pursuing social outcomes. In contrast, construction firms primarily focus on profitability (Watts & Higham, 2021). The resulting misalignment of objectives appears to introduce systemic instability. This observation also aligns with earlier research applying institutional theory to social

procurement, which found that such policies are creating institutional instability at all levels of the project (Loosemore et al., 2023a; Troje, 2020).

If agencies avoided interpreting ‘best value’ solely as the lowest price, this would represent a critical leverage point in the system. This perspective is supported by the findings of the NSW Inquiry. The Enquiry found that social procurement objectives are not currently being given proper ‘consideration’ by procurement officers when determining ‘value for money’ (best value) (Standing Committee of Social Issues, 2024, p. xiv). The Enquiry recommended training for procurement officers to address this issue (Standing Committee of Social Issues, 2024, p. xiv). Reducing the practice of equating best value with lowest price may encourage construction firms to build capabilities necessary to respond to the employment and associated social procurement requirements. Building internal capability of firms represents a higher-order leverage point (Meadows, 2008) that may be more powerful than introducing higher penalty amounts for non-compliance (altering parameters) (Meadows, 2008).

A more effective approach may require a stronger government commitment through legislation—rules of the system (Meadows, 2008)—that clearly prioritises social outcomes alongside price considerations, creating consistent signals that allow construction firms to adapt their business models accordingly. These findings illustrate the contrasting approach of the Victorian and NSW Governments with the approach adopted by the UK’s *Public Services (Social Value) Act 2012*, which mandates uniform social value considerations across all agencies. The findings also suggest that a lack of transparency and accountability in the tender process creates negative feedback loops, potentially encouraging further non-compliance. The following summarises the application of systems thinking in the tender process.

Table 7.3

Application of Systems Thinking in the Tender Process of Social Procurement

Systems Thinking Principle	Application in Tender Process	Implications
Leverage Points	Tender requirements are a critical leverage point where incentives and compliance mechanisms can be embedded to influence behaviour. (Meadows, 2008)	Weak or absent incentives for compliance post-award undermine social procurement goals. Building internal capacity of firms rather than fines is advised.
Feedback Loops	Lack of accountability and transparency in the tender process creates negative feedback loops, reinforcing poor compliance.	Strengthening monitoring and reporting mechanisms can generate corrective feedback and improve outcomes.
Conflicting Goals & System Instability	Government prioritisation of lowest-cost tenders while also seeking social outcomes introduces systemic tension.	Misaligned objectives between agencies and firms risk destabilising implementation and undermining policy goals.
Rules of the System (Legislation)	The UK's <i>Public Services (Social Value) Act 2012</i> embeds social value into the rules of procurement.	Legislative frameworks provide stronger system signals and reduce agency-level discretion.
Early Intervention & Design	Systems thinking in the tender process could prevent, for example, tick-a-box approach and varying commitment between agencies.	Anticipating system-wide effects in the tender stage increases policy coherence and long-term impact.
Information Flows	Lack of clear, consistent communication of social procurement priorities in tenders creates uncertainty for firms.	More consistent tender language and clearer priorities would allow firms to better align bids with policy goals. Tenders are assessed on response to set requirements.
Incentive Structures	Weak incentives and limited enforcement mechanisms reduce	Stronger, contractually embedded incentives and penalties are needed to

Systems Thinking Principle	Application in Tender Process	Implications
	firm motivation to follow through on social commitments post-award.	enhance compliance and systemic integrity.

7.2.3 Policy Intermediaries at Project Level

This research extends our understanding of intermediaries in the implementation of employment requirements, identifying them as a critical leverage point. While previous literature has established the importance of third-party intermediaries in facilitating cross-sector collaboration (Caldwell et al., 2017; Keast & Mandell, 2012; Keast et al., 2013), this study advances our theoretical understanding by distinguishing between internal and external policy intermediaries and highlighting their complementary roles in facilitating the employment of people from disadvantaged backgrounds.

In the context of construction projects and policy implementation, third-party intermediaries have been identified as organisations outside the project which may assist construction firms and subcontractors in finding, training, and retaining candidates and facilitate ongoing support (Loosemore, Denny-Smith, et al., 2021; Loosemore, Keast, Barraket, et al., 2022). Loosemore et al. (2024) acknowledge the role of intermediaries in facilitating cross-sector collaboration; however, the present study extends this by following interviews with individuals who occupy such roles and by examining their functions in greater depth.

The findings illustrate the use of policy intermediaries that extend previous conceptualisations in the literature. Drawing from Bullock and Lavis’s (2019) work in mental health policy implementation, this research identifies two distinct categories of policy intermediaries operating in social procurement in construction: internal policy intermediaries embedded within the project structures and external third-party policy intermediaries that facilitate connections between projects and support services.

This classification builds upon works by Barraket and Loosemore (2018) and Troje and Gluch (2020) by demonstrating how different intermediary types contribute to policy success through distinct but complementary mechanisms. While Loosemore, Keast, and

Barraket (2022) and Troje and Gluch (2020) found that many social procurement roles were voluntary and additional to primary job functions, this research reveals an evolution towards dedicated specialist roles, particularly in projects with significant social procurement requirements.

This professionalisation of intermediary functions (found predominantly in Victoria) represents a maturation in how the industry approaches social procurement implementation, moving from ad hoc arrangements to systematised roles with clear accountability structures.

7.2.3.1 Internal Policy Intermediaries: Bridging Policy and Practice

The research identifies internal policy intermediaries—such as social value managers embedded within project teams—as critical actors who facilitate communication channels, ensuring the policy requirements are effectively conveyed to operational managers. This finding aligns with Troje and Gluch (2021), who argue that the creation of new roles is necessary to support the successful implementation of social procurement policies.

The findings demonstrate that internal policy intermediaries significantly enhance implementation effectiveness through several mechanisms:

1. Pre-implementation preparation: internal policy intermediaries can have a greater influence on construction managers by preparing them before the candidates are employed, including communicating candidate characteristics and potential employment barriers.
2. Financial leverage: unlike external intermediaries, internal specialists can utilise contractual consequences (if necessary and if they exist) to ensure compliance from project managers and subcontractors.
3. Ongoing support coordination for candidates and managers: internal intermediaries facilitate connections to support services to be provided by third-party (NFP) service organisations and, in some cases, provide direct support to participants.
4. Facilitate further employment for candidates: internal intermediaries can facilitate candidates finding further training and employment at the end of the project, mitigating the short-term project nature of the employment.

Loosemore et al. (2021) suggested that further research was needed to explore the development of new roles that will be needed to implement these policies at a project level. The emergence of dedicated internal intermediary roles suggests that the industry is beginning to build these capabilities. This aligns with Loosemore et al. (2023), who found that social procurement policies are driving changes in industry practices. Participants explained that workers from disadvantaged backgrounds need to be culturally supported onsite to secure their continued and effective participation. The role of the social value manager may also help to facilitate broader cultural change.

7.2.3.2 External Policy Intermediaries: Creating Cross-Sector Pathways

External third-party intermediaries play a complementary but distinct role in the social procurement ecosystem. The research extends Loosemore's (2021, 2024) findings on the importance of intermediary organisations by identifying specific functions that external intermediaries perform. These functions included the following:

1. Candidate sourcing and support–conduit role: external policy intermediaries help head contractors and subcontractors connect with third-party intermediary organisations that can supply candidates to fulfil their contractual obligations. These policy intermediaries can act as conduits between construction firms and the not-for-profit sector, although they are not necessarily part of the not-for-profit sector themselves.
2. Policy education: these intermediaries explain the nature of the contractual obligations to firms and sub-contractors, enhancing understanding of employment and social procurement requirements.
3. Training, educational and support services: external policy intermediaries arrange training for workers from disadvantaged backgrounds and ensure that they receive courses in financial literacy.

These findings align with broader literature suggesting that intermediaries work within existing structures to facilitate specific goals (Bullock & Lavis, 2019) and that disadvantaged groups often require support to maintain employment (Troje & Kadefors, 2018). By identifying and exploring the role of the third-party intermediaries, these findings extend the work of Barraket and Loosemore (2018), who observed that public employment

services and third-party organisations can bridge the gap between firms and disadvantaged people.

An important limitation of the intermediaries' role emerged in the research. Third-party policy intermediaries indicated they had no leverage unless there was a relationship with the manager or the construction firm. They highlighted the lack of financial consequences in the government contract if the candidates are not employed or do not continue in their employment.

This highlights the importance of relationship-building as a prerequisite for effective external intermediary functions and suggests that purely transactional approaches to intermediary services may be insufficient for policy success. A particularly valuable contribution of this research is the identification of how intermediaries can mitigate unintended negative consequences of social procurement policies.

Both internal and external intermediaries play crucial roles in addressing such consequences through their coordinated actions. This finding resonates with Kivimaa et al.'s (2019) work on intermediaries in sustainable systems, whose roles can facilitate change in the implementation of sustainability practices, which can identify and address systemic issues beyond individual project boundaries. The intermediary functions identified in this research thus extend beyond simple compliance mechanisms to include system-wide coordination and participant advocacy.

7.2.3.3 Application of Agency Theory at a Project Level

The research findings substantively engage with agency theory frameworks, revealing complex principal-agent dynamics that shape the implementation of social procurement in construction projects. This principal-agent framing illuminates why construction firms may lack intrinsic incentives to invest in internal structures supporting employment requirements, highlighting fundamental tensions between how social procurement policies are conceptualised in governance frameworks versus how they manifest in implementation contexts.

From an agency theory perspective, internal policy intermediaries play a critical role in mitigating principal-agent problems at project level. These intermediaries function to reduce information asymmetry between government principals and construction firm agents (Mitnick, 1975). The findings suggest that the internal policy intermediaries, by translating

policy expectations into operational guidelines, act as monitors that may assist in verifying employment requirements for the principal.

Financial penalties for non-compliance represent an agency theory control mechanism designed to align agent behaviour with principal objectives. According to Epstein and O'Halloran's (1999) framework, these penalties create economic incentives that theoretically overcome the moral hazard problem where agents might otherwise prioritise profit over social outcomes. However, excessive penalties may lead to adverse selection where only firms willing to engage in superficial compliance (rather than genuine implementation) participate in bidding. This observation aligns with the frustration expressed by one participant who explained that his firm would no longer bid for a particular agency because of the inconsistent application of these policies in the awarding of contracts.

The evidence from Victorian projects, where dedicated social value managers are engaged specifically to ensure compliance with policy mandates, challenges more collaborative characterisations of public-private engagement in social procurement. Rather than 'stepping into the shoes' of government to address social issues autonomously, as suggested by New Public Governance perspectives (Furneaux & Barraket, 2014), the empirical reality more closely resembles a classical principal-agent relationship as conceptualised in public law literature (Epstein, 2013). Construction firms appear to be acting primarily as agents under contractual obligations rather than as co-creators of social value.

This finding may help to further our understanding of how agency problems in public procurement—specifically related to employment requirements—manifest in practice by illustrating how information asymmetries and misaligned goals emerge in social procurement contexts. When contracts are awarded predominantly on price considerations, some firms may strategically underinvest in social procurement implementation, thereby creating significant market uncertainties and potential adverse selection problems (McCue & Prier, 2008; Saunders, 2022). Internal policy intermediaries consequently become essential to facilitate and monitor social procurement implementation and can mitigate agency risks through direct oversight and accountability structures.

The research also supports Troje's (2020) and Rees' (2024, p.27) observations regarding the additional implementation costs of social procurement, suggesting that effective evaluation in the tender process must incorporate appropriate compensation mechanisms for these added responsibilities. Without such accommodations, agency problems are likely to

persist unless there is recognition of the inherent cost associated with implementing these policies effectively.

These dynamics indicate that successful social procurement implementation requires sophisticated contract design that accounts for agency problems through aligned incentives, effective monitoring, and appropriate risk allocation. Applying Chrisidu-Budnik and Przedańska (2017) and Epstein’s (2013) agency theory framework, policymakers might consider developing more outcome-oriented contracts with performance metrics that reward substantive social impact rather than procedural compliance alone. Additionally, embedding internal policy intermediaries within organisational structures represents an institutional response to agency problems—creating dedicated roles whose primary loyalty lies with policy objectives rather than commercial imperatives.

Figures 7.1–7.3

Overview of Application of Agency Theory



⚠️ UNCERTAINTY AND RISK FACTORS

Investment Precarity (NSW)

Particularly evident - firms invest without assurance of reward, creating significant financial risk

Information Asymmetry

Government lacks visibility into firms' internal processes, creating "causal" verification problems

🔄 RESULTING AGENCY PROBLEMS

Adverse Selection

Contract structures incentivize firms to focus on competitive pricing at expense of genuine social value

Moral Hazard

Tender process creates conditions conducive to moral hazard, weakening compliance and accountability

Policy Legitimacy

Failure to reward compliance undermines policy legitimacy and reduces motivation for engagement

🎯 CRITICAL TENDER STAGE DECISION POINT

Key Challenge: Firms must determine investment in social procurement requirements without assurance of reward

Investment Decision

How much to invest in meeting social procurement requirements?

Uncertainty

No guarantee of contract award or reward for compliance

Risk

Significant costs imposed without corresponding incentives

7.2.3.4 Systems Thinking Perspective on Social Procurement Implementation

Recognition and Reward Systems as Missing Feedback Loops

Applying Meadows' (2015) systems theory framework reveals several critical leverage points in the implementation of the employment requirements. Financial consequences function as a powerful reinforcing feedback loop, where internal policy intermediaries use contractual requirements to amplify compliance behaviours among construction managers. As Meadows (2015) suggests, modifying these loops can influence organisational practice.

The research identifies significant gaps in information flows between policy requirements and operational implementation. When internal intermediaries facilitate timely and accurate communication about candidate characteristics and support needs, they address what Meadows (2015) describes as information distortions and poor feedback loops. In practical terms, the internal intermediary is reducing these information gaps, and this may lead to improved outcomes for candidates.

The findings also reveal a shifting of the burden to external policy intermediaries who train and support candidates without addressing the construction managers' lack of support, reflecting the need for a cultural shift. Meadows (2015) would argue that sustainable implementation requires building internal capabilities rather than dependency on external interventions. However, a participant from the UK, where policy implementation is further advanced, suggested that imposing financial consequences for at least the short and medium term is necessary to ensure that the employment requirements are implemented successfully.

Applying systems thinking to project-level implementation reveals how internal policy intermediaries function as crucial information providers within the project. These intermediaries translate abstract policy requirements into operational practices, which Meadows (2008) might identify as information flow structures. When these intermediaries are effective, they reduce structural barriers within the project by interpreting requirements appropriately for project contexts. This represents a positive leverage point where relatively small interventions (properly trained intermediaries) can produce significant system improvements by enhancing information quality throughout the implementation process.

Financial penalties for non-compliance connect to systems thinking as a feedback mechanism that alters the system's behaviour. These penalties represent what Meadows

(2008) calls balancing feedback loops that help maintain system stability by correcting deviations from desired outcomes. However, the effectiveness of these penalties may depend on their proportionality and timing—excessive penalties may trigger system resistance or gaming behaviours, while delayed penalties may reduce their effectiveness. This aligns with the finding that certain firms would prefer to pay the penalty at the end of the project rather than employ people from disadvantaged backgrounds.

External third-party intermediaries function as system bridges that connect otherwise separated sectors (construction firms and not-for-profits), reducing what Meadows (2008) would identify as system fragmentation. These external actors create new information pathways and relationship structures that allow resources and knowledge to flow between previously disconnected system elements, enhancing the system’s capacity for adaptation and resilience when facing implementation challenges. Following is Figure 7.4, showing the systems thinking lenses, and Table 7.4 summarising the application of systems thinking at project level.

Figure 7.4

Systems Thinking Lenses

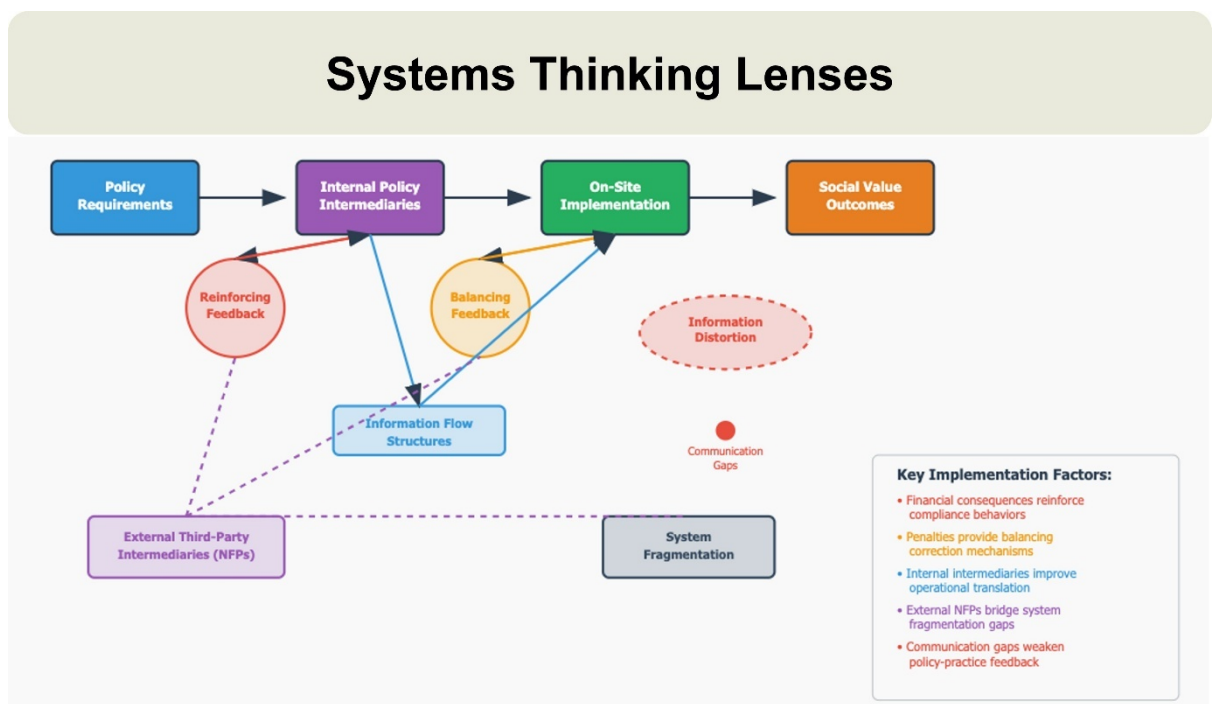


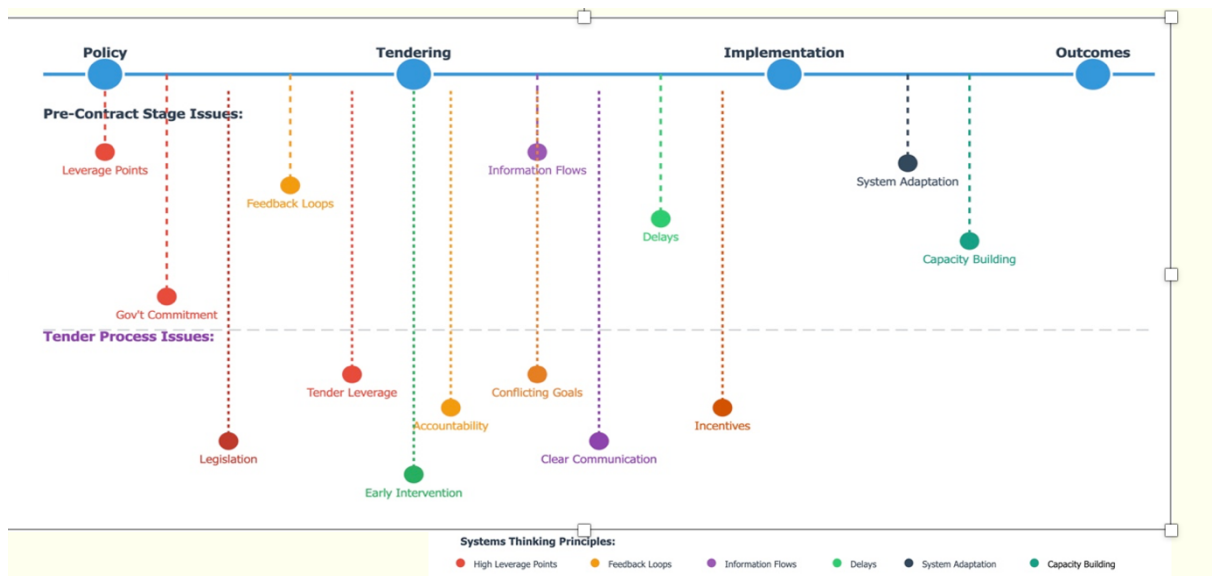
Table 7.4

Application of Systems Thinking to Social Procurement Implementation

Systems Thinking Concept	Application in Implementation Phase	Implications
Reinforcing Feedback Loops	Financial consequences tied to non-compliance can reinforce desired behaviours when implemented through internal policy intermediaries.	These loops strengthen compliance culture among construction managers but require proportional and timely enforcement.
Balancing Feedback Loops	Financial penalties serve as balancing feedback loops to correct deviations from policy objectives (e.g. underemployment of disadvantaged groups & creation of SV).	Effectiveness depends on timing and severity; delayed or weak penalties reduce deterrent effect, excessive penalties risk resistance.
Information Flow Structures	Internal policy intermediaries improve outcomes by translating abstract requirements into operational actions and sharing relevant candidate information with onsite managers.	Enhances system function by reducing implementation gaps and aligning firm actions with policy goals.
Information Distortion & Gaps	Poor communication about candidate needs and policy goals weakens the feedback loop between policy and practice.	Improved internal communication channels and intermediary capacity are needed for adaptive implementation.
System Fragmentation	External third-party policy intermediaries (e.g., NFPs) bridge gaps between disconnected actors, facilitating the flow of knowledge and resources.	Reduces fragmentation, enhances system coherence, but should complement—rather than substitute for—internal firm capacity.

Figure 7.5

Application of System Thinking to Policy, Tender, and Project Stages



7.3 Common Good and Social Procurement Research

Globally, there is growing recognition that public procurement can serve purposes beyond the mere acquisition of goods and services. This reflects an evolving understanding of the role of government expenditure as a tool for promoting broader societal outcomes. In his foundational work on public procurement, Thai (2001) highlights this dual function—procurement as both a means of securing goods and services and a vehicle for advancing secondary socio-economic goals such as poverty reduction, local economic development, and social inclusion. At the same time, how construction firms interpret and implement these policies plays a crucial role in determining their effectiveness.

This research examines the complex interactions among private entities, government institutions, and not-for-profit organisations. Given the inherent tensions between institutional logics and organisational purposes across government agencies, for-profit firms, and non-profit organisations (Epstein, 2012), establishing a unified philosophical foundation may facilitate future analytical frameworks for understanding these institutional conflicts. The common good philosophy presents a compelling theoretical foundation for examining social procurement policies within governmental procurement processes.

Moore (1995, 2013) argues that public sector research should rest on a normative frame that articulates the public value or public purpose being pursued. The findings of this research confirm what others have identified in the literature — that the divergent goals of government, construction firms, and not-for-profit organisations create ongoing tensions that undermine the effective implementation of social procurement policy (Loosemore & Barraket, 2018). Where government is oriented toward public value and social outcomes, construction firms are primarily driven by profit, and not-for-profit organisations by mission and community need.

Given that stakeholder theory lacks an agreed philosophical foundation (Dunham et al., 2001), these findings suggest that the common good may offer a unifying normative basis for reconciling these competing interests and for grounding future social procurement policy and practice.

The common good philosophical tradition posits that societal organisation should prioritise collective benefits, with particular emphasis on protecting and advancing the interests of the most vulnerable populations, rather than serving exclusively individual or selective group interests (Enrico et al., 2015). When applied to social procurement frameworks, common good philosophy challenges the traditional supremacy of market efficiency by emphasising collective welfare and social cohesion as primary considerations.

Adopting this philosophical approach, the common good could be a guiding principle for procurement decision-makers, construction firms, and not-for-profit entities, by elevating considerations of social justice, inclusion, and community benefit to the same status as traditional performance metrics of cost-effectiveness.

7.4 Limitations and Future Research

Limitations of this study are discussed at the end of the methodology chapter, in Section 3.7. This qualitative study, while providing rich insights through interviews with 23 participants and analysis of policy documents, is subject to several limitations that should be acknowledged. The participant sample size, though appropriate for qualitative inquiry, may limit the transferability of findings to other jurisdictions and contexts. However, this sample size reflects both the study's deliberate purposive recruitment strategy—guided by strict selection criteria to ensure relevance and analytical depth—and the relatively small pool of

construction professionals who are directly involved in government infrastructure projects with employment requirements for disadvantaged groups.

In addition, as discussed in Chapter 3 at 3.4.4, participants from disadvantaged backgrounds were not included in this study due to practical difficulties in locating policy beneficiaries and due to ethical considerations around interviewing vulnerable groups. However, several participants who worked directly with disadvantaged individuals were able to provide insights from these interactions.

While there are corresponding roles in both jurisdictions, the study exhibits an uneven distribution of participants between NSW and Victoria. Additionally, a potential selection bias exists as firms that agreed to participate in this study were more likely to represent organisations genuinely committed to implementing social procurement policies, potentially excluding perspectives from firms that may be less engaged with or resistant to implementing the requirements (Keeble et al., 2013; Sherratt & Leicht, 2019). However, it should be noted that participants still identified critical deficiencies in policy design and implementation, suggesting that even committed organisations face significant challenges with current policy frameworks. The study's timing during a period of policy evolution in both jurisdictions means that findings reflect a specific moment in the policy development cycle, potentially limiting their applicability as policies continue to mature and evolve.

The documentary analysis was constrained to publicly available materials, including policy frameworks and suggested standard social procurement terms provided by the Victorian Government. Access to participants' specific contract documentation was not possible due to legitimate privacy and commercial confidentiality considerations. While this limitation prevented deeper analysis of the written contracts, the combination of participant insights and publicly available policy documents provided sufficient data to offer comprehensive insights into the various approaches by which social procurement policies, and specifically employment requirements, are incorporated and managed within government contracts.

Future Research Directions

Several avenues for future research emerge from this study's findings. First, future investigations should clearly distinguish between social procurement policies requiring the direct employment of disadvantaged groups and aspects of social procurement requirements

focused on including social enterprises within supply chains, as these represent different practical considerations and implementation challenges. Future research could build on existing research on the inclusion of social enterprise into construction supply chain issues (Harland et al., 2019).

Comparative studies across different jurisdictions would significantly advance understanding in this field. Such research could examine how various countries design and implement social procurement policies in government infrastructure projects, with particular attention to transparency mechanisms, accountability frameworks, and employment outcomes for disadvantaged groups. International comparisons could reveal successful policy innovations and implementation strategies that could be adapted to Australian contexts.

Future studies would benefit from adopting mixed-method approaches where feasible, combining the depth of qualitative insights with the breadth and generalisability that quantitative methods can provide (Sherratt & Leicht, 2019). Such approaches could help researchers test the theoretical frameworks developed in this study across larger samples and diverse contexts, thereby strengthening the evidence base for policy recommendations and theoretical propositions.

Chapter 8: Summary and Conclusion

8.1 Introduction

This research was designed to improve policy design by bridging the gap between policy intent and practical implementation in social procurement. The findings reveal that effective implementation requires fundamental changes to how governments structure, support, and monitor these policies. While the original focus examined both government and industry perspectives, the evidence suggests that the most significant opportunities for improvement are those that the government could implement.

The recommendations presented in this chapter are therefore primarily directed towards government agencies and policymakers. Central to these recommendations is the need for higher-level governmental commitment to policy implementation, which would cascade down to ensure that individual agencies are genuinely committed to achieving policy objectives rather than merely fulfilling administrative requirements. Without this foundational commitment, even well-designed policies struggle to achieve their intended social outcomes.

The following sections outline the theoretical contributions of this research, followed by specific recommendations for policy design improvements and practical implementation strategies for firms and subcontractors. These recommendations collectively demonstrate how governments can transform social procurement from a compliance exercise into an effective mechanism for creating sustainable employment opportunities for disadvantaged groups.

8.2 Theoretical Contribution

The primary theoretical contribution lies in the combination of agency theory and systems thinking frameworks to analyse social procurement implementation. This research demonstrates how their integration of the application of both theories creates a more robust analytical framework that captures both the relational dynamics between government and industry actors (agency theory) and the systemic patterns and leverage points within the

broader policy ecosystem (systems thinking). This theoretical synthesis reveals intervention opportunities that would remain hidden if using either framework in isolation.

8.2.1 Extension of Agency Theory in Public Procurement Context

The research applied agency theory to social procurement implementation in government contracts by identifying specific manifestations of principal-agent problems at the critical stages of the procurement process. Rather than treating government-industry relationships as simple contractual arrangements, the findings reveal complex information asymmetries and goal misalignments that occur during the policy design, tender evaluation, and project implementation phases. The study identifies internal and external policy intermediaries as essential actors in mitigating principal-agent problems, assisting in translating policy expectations into operational realities. This represents an extension of previous conceptual understanding of intermediaries in construction research.

8.2.2 Systems Thinking and Leverage Point Identification

The application of systems thinking contributes to theory by identifying potential leverage points within social procurement systems. Drawing on Meadows' (2008,2015) framework, the research demonstrates how early intervention points—particularly in procurement officer training, policy standardisation, and incentive structure design—create cascading effects throughout the implementation system. This systems perspective reveals why isolated interventions often fail and how coordinated changes at multiple system levels can achieve transformational rather than incremental improvements.

8.2.3 Conceptual Framework for Policy Intermediary Roles

Building on the work of Loosemore et al. (2021; 2022a) and Troje and Gluch (2020), this study contributes to conceptual understanding by delineating the roles of internal and external policy intermediaries and illustrating their complementary functions in mitigating implementation challenges in social procurement practice. This provides a conceptual foundation for understanding how different intermediary types contribute to policy success through distinct yet interconnected mechanisms, offering a more nuanced perspective of cross-sector collaboration in complex policy environments.

The integration of these theoretical perspectives may provide policy makers and researchers with a framework for analysing and improving social procurement implementation by focussing on the contractual relationship while also considering the procurement system as a whole.

8.3 Implications and Recommendations for Improvement to Policy Design

The research generates several important practical recommendations for enhancing policy effectiveness. By focusing on the specific challenges associated with policy-led procurement—rather than relying solely on broad principles of policy design—the findings offer more targeted insights to support policy improvement.

First, governments should establish consistent approaches across agencies, including comprehensive written policy documents that provide detailed definitions of disadvantaged group cohorts. This standardisation would reduce confusion and improve implementation consistency. The evidence suggests that consistency in policy application, commencing with a detailed written policy, could significantly reduce confusion and improve compliance rates across industries, although this needs to be weighed against agencies making place-based decisions. The NSW Government Inquiry recommendations acknowledged the need for greater consistency in procurement practices generally (Standing Committee on Social Issues, 2024, p. 63).

The Inquiry acknowledged the approach of other countries and Australian states with dedicated social procurement frameworks (Standing Committee on Social Issues, 2024, p. 39). However, no recommendation was made to introduce a social procurement policy; instead, the Inquiry recommended setting specific targets for the procurement of social enterprises and ‘collaborating and consulting across relevant government agencies’ (Standing Committee on Social Issues, 2024, p. 39). It is unclear from the Inquiry findings how the collaboration between agencies and firms would be improved on a practical level. The Inquiry examined procurement practices generally and acknowledged that a standardised approach to procurement contracts was needed to reduce difficulties for business, especially small businesses (NSW Government, 2024, p. 68).

Social procurement frameworks typically provide broad, general guidance to agencies that then adopt specific requirements within government projects (Harland et al., 2023).

However, findings suggest that certain changes could mitigate the challenges arising from the general nature of the policies. These include the consistent application by agencies of definitions for each disadvantaged cohort, ensuring agencies set employment requirements that are both appropriate and realistic for each project, and assessing firms based on the clarity and feasibility of their proposed implementation strategies. Reducing variation in the selection of social procurement priorities across agencies would enhance consistency and fairness in policy application.

Equally important is ensuring equal commitment by all agencies to the implementation of social procurement policies. As Justice Thomas argued in *Koussis v. United States*, 605 U.S. (2025), the government cannot simultaneously claim that social procurement requirements are material while routinely overlooking widespread non-compliance. Although arising in the American context, this remains a relevant point for governments more broadly — where violations are consistently tolerated, the assertion that such requirements are genuinely important becomes difficult to sustain (*Koussis v. United States*, 605 U.S. (2025), pp. 8–9).

Previous successful implementations by firms of employment requirements and creation of social value should receive greater recognition and reward, thereby creating positive incentives for continued engagement. In NSW, while policy requirements emphasise engagement with smaller firms, implementation responsibility primarily falls to subcontractors, necessitating enhanced support mechanisms for subcontractors. This research has identified several third-party policy intermediary roles that would assist subcontractors in implementing the policies. A key recommendation is the increased recognition and funding of external policy intermediaries to connect firms to not-for-profit organisations that can supply individuals from disadvantaged backgrounds. This recommendation assumes that the firm actively utilises these intermediary resources to strengthen social procurement outcomes.

8.3.1 Increase in Weight for Non-Cost Considerations

The findings highlight the critical importance of the ‘weight’ assigned to the employment requirements within broader social procurement obligations. As demonstrated, weighting plays a pivotal role in determining the attention firms give to social procurement requirements in their responses. In NSW, the policy suggests a minimum of 10% weight be assigned to consideration of social, environmental, and ethical factors. The NSW Inquiry

similarly recognised the critical importance of the weighting of non-cost considerations, noting that a member of parliament expressed a dissenting opinion recommending that the weighting for social procurement be increased to 30%, although it was not clear if this would occur (Standing Committee on Social Issues, 2024, p. 113). In contrast, Victorian participants expressed the view that one reason social procurement is having an impact is that the weight assigned to social procurement is 10 to 15% in tenders.

Implementation frameworks require significant strengthening through consistent reporting mechanisms and standardised approaches to non-compliance penalties. This aligns with the Inquiry's recommendation that reporting and KPIs be adopted in contracts 'to ensure social, sustainability and environmental outcomes are targeted ... and agency leaders deliver on required expectations' (Standing Committee on Social Issues, 2024, p. 61). However, there was no suggestion of mandatory financial consequences or an increase in weighting for social procurement. The Inquiry recommended consideration be given to increasing weighting for local content (Standing Committee on Social Issues, 2024, pp. 9–10), but no suggestion that weighting be increased for social procurement considerations.

Additional recommendations that could further mitigate the impact of the general nature of the policies and their application by different agencies included increased training for procurement officers to ensure targets are achievable and appropriate once contracts are awarded. Further, the report recommended considering consultation during the tender process (accounting for probity requirements) to ensure targets are achievable and appropriate (Standing Committee on Social Issues, 2024).

If the requirements set by the government are realistic and appropriate for the project, then firms may compete on how they intend to implement the requirements. The practice of stretch targets, which encourages competition, should be reduced so that firms only compete on plans for successful implementation or have the option to present a social procurement plan that exceeds expectations. This maintains a competitive tension in the tender process but allows to compare tender responses. Greater consistency is recommended in reporting mechanisms and approaches to fines for non-compliant firms.

Another recommendation comprises enhanced assistance, in the form of a central information and support system, to subcontractors in both jurisdictions. It should be noted that the Victorian government website has centralised information and a dedicated social procurement team to contact for assistance. Governments could provide a free service to

smaller construction firms and subcontractors to help them increase their employment of people from disadvantaged backgrounds. The service could also provide advice about how to incorporate social procurement practices generally into their core business practices.

8.3.2 Legislative Approach

A key issue was the inconsistent approach taken by agencies in terms of the importance given to social procurement, assigned weight in the tender process, accountability, and reporting requirements in both states.

The governments could consider adopting a combination of the UK and South African approaches to social procurement in government contracts, each offering distinct advantages that could be synergistically combined to create a more robust and effective system. However, the South African approach must be considered with more caution, given the specific historical issues the social procurement legislation addresses (World Economic Forum, n.d.).

The *Kousisis* decision (discussed in Section 7.5 above) highlights how even with clear prescriptive regulation, firms can still subvert secondary policy requirements when these are not core to the contract's primary purpose and when enforcement mechanisms are weak.

Table 8.1

Overview of Recommendations for Policy Improvement

Previous	<p style="text-align: center;">POLICY - PRE-CONTRACT</p> <p>Broad SP policies – limited ER definitions. Vague social value goals. ER unaligned to project /community needs. Variable agency commitment to SP. Limited reporting and accountability. Variations in weight applicable to SP/ER.</p>	<p style="text-align: center;">TENDER PHASE</p> <p>Stretch targets used. Minimal govt help or collaboration including help for subcontractors to find NFP/candidates "Best value" often just lowest price. Minimal practical assistance. Some firms use ‘tick a box’ approach to tender.</p>	<p style="text-align: center;">PROJECT STAGE</p> <p>Subcontractors unsupported for ER. Inconsistent penalties and reporting. Overreliance on site manager or NFPs. Insufficient time from tender to project start. Limited or no collaboration on ER suitability. Ad hoc NFP support post-project. Absence of coordinated help brings inconsistent outcomes.</p>	
	Recommended	<p>Dedicated SP Policy - standardise criteria; focus on key groups and lasting skills. Refine policies with clear definitions. Broad legislation mandates social considerations.</p> <p>Clear SV goals in EOI and contract terms (NSW).</p>	<p>End use of stretch targets/set ER – firms compared on ‘how’ to implement.</p> <p>Clarify ‘best value’ beyond lowest price, clarification of non-cost component assessment/increased weight for SP.</p> <p>Increased scrutiny of SP tender response.</p> <p>Consider limited use of certificate for SP.</p>	<p>Build capacity with targeted training for onsite construction managers. Acknowledge need for dedicated SP manager in costing. Improve post-contract collaboration with firms so ER align with project needs. Consistent application of fines for non-compliance. Ensure effective implementation.</p>
		Support	<p>Provide targeted training for procurement officers. Replace passive guidance to active support, with standard reports and consistent accountability measures.</p>	<p style="text-align: center;">Dedicated procurement team to advise Firms, central advisory hub with SME support, funded policy intermediary roles to connect firms to NFP, and training for procurement officers.</p>

8.4 Recommendations for Practice

For Well-Resourced Construction Firms

Construction firms with adequate resources should engage a dedicated social procurement role to maximise their impact and effectiveness. These organisations should establish ongoing relationships with not-for-profit organisations or educational institutions that can supply candidates from disadvantaged backgrounds. The social procurement role serves as a crucial bridge, working with not-for-profits to ensure candidates are properly prepared for employment opportunities.

To mitigate the challenges posed by the project-based nature of the construction industry, several strategies should be implemented. Managers should ideally undergo specialised short training courses for working with people from disadvantaged backgrounds. At a minimum, the social procurement manager should prepare the ground by ensuring managers are aware of any barriers candidates may face. They can also serve as a conduit to third-party intermediary organisations that provide critical support to candidates throughout their employment journey.

The social procurement manager plays a vital role in ensuring continuity beyond individual projects. They should work to secure further employment opportunities for candidates or ensure they remain engaged with additional work or training programs at the conclusion of each project, preventing individuals from falling through the cracks.

For Smaller Firms and Subcontractors

Where smaller firms and subcontractors do not have the resources for a dedicated social procurement, they should utilise third-party policy intermediaries that can advise, support, and facilitate connections with third-party intermediary organisations. Third-party policy intermediaries should connect with organisations that can source suitable candidates. These firms should start modestly—employing one or two people from disadvantaged backgrounds—to build experience and refine their processes gradually.

Even smaller firms should establish relationships with not-for-profit organisations that can supply future candidates. Third-party policy intermediaries can facilitate these initial connections, potentially leading to long-term partnerships that provide coordinated candidate support and possibly, over time, collaborative implementation approaches. In these

arrangements, the third-party organisation may need to assume a larger role in supporting the candidates throughout their employment journey.

For Third-Party Organisations

Participants emphasised that construction firms need to be assured that the third-party organisation understands the construction project environment. Participants also emphasised they required an understanding of the specific employment needs to be able to assist with support, training, and job readiness. Generally, people from disadvantaged backgrounds experience significant barriers to employment, and these may vary depending on the cohort and individual; however, the third-party intermediary organisations and third-party policy intermediaries are critical to ensuring that the specific barriers are addressed in the pre-employment phase and the ongoing successful employment of these individuals.

Third-party organisations must take a proactive approach in building relationships with construction firms. Rather than waiting to be contacted, these organisations need to actively seek out construction companies to ensure they understand where to find support and what types of candidates might be available. This proactive engagement is essential for creating effective partnerships and ensuring construction firms are aware of the resources and support available to them. The following diagram provides an overview of the recommendations for practice for larger construction firms, medium-sized firms, subcontractors and third-party organisations.

Figure 8.1

Overview of Recommendations for Practice

For Well-Resourced Construction Firms

Construction firms with adequate resources should engage a dedicated social procurement.

Firms should establish ongoing relationships with not-for-profit. The social procurement role serves as a crucial bridge to ensure candidates are properly prepared for employment opportunities.

To mitigate the challenges posed by the project-based nature of the construction industry. Managers should ideally undergo specialised short training courses for working with people from disadvantaged backgrounds. Social procurement manager should ensure managers are aware of any barriers candidates may face. They can also serve as a conduit to third-party intermediary organisations that provide critical support to candidates.

Internal or external policy intermediaries can play a vital role in ensuring continuity beyond individual projects to ensure they remain engaged with additional work or training programs at the conclusion of each project.

For Smaller Firms and Constructors

Smaller firms and subcontractors do not have the resources for utilising third-party policy intermediaries that can advise and connect with organisations that can source suitable candidates. These firms might start modestly—employing one or two people from disadvantaged backgrounds—to build experience and refine their processes gradually.

Smaller firms should establish relationships with not-for-profit organisations and third-party policy intermediaries can facilitate these initial connections, potentially leading to long-term partnerships.

In these arrangements, the third-party organisation may need to assume a larger role in supporting the candidates throughout their employment journey.

For Third-Party Organisations

Participants emphasised that the construction firms need to be assured that the third-party organisation (TPO) can understand their employment needs for projects. TPO play a critical role with assisting with support, training, and job readiness. They may have less leverage with firms where there is no ongoing relationship.

Third-party organisations must take a proactive approach in building relationships with construction firms. This proactive engagement is essential for creating effective partnerships and ensuring construction firms are aware of the resources and support available to them. Need to understand job requirements project environments.

8.5 Conclusion

While this research aimed to bridge the gap between policy intent and implementation of the employment of disadvantaged groups, the findings revealed a much richer landscape of intervention opportunities than anticipated. The study identified significantly more leverage points available to government than to construction firms and subcontractors.

An examination of the written policies between Victoria and NSW and their implementation revealed that despite Victoria's comprehensive Social Procurement Framework and NSW's lack of dedicated social procurement policies, similar issues arose in both states. In both states, the significant impact of the inconsistent application of social procurement policies on firms was evident. This reflects the nature of social procurement policies—they must be broad enough to be applied by different agencies in various contracts. The research identified measures to mitigate government agencies' inconsistent application of social procurement policies. These leverage points, including increased training for procurement officers, weighting adjustments, enhanced reporting mechanisms, and formal recognition of intermediary roles and increased practical support for firms and subcontractors, represent tools for systemic change that governments could implement to drive more effective and consistent implementation outcomes.

By applying both agency theory and systems thinking frameworks, this research demonstrates that policy success would not only be assisted by industry willingness but could be greatly improved if governments created coherent, consistent incentive structures that align commercial imperatives with the creation of social value. This does not dismiss the critical role of genuine support for people from disadvantaged backgrounds from firms, onsite construction managers, and their employers. The identification of government leverage points and the critical role played by internal and external policy intermediaries is an important aspect of this work's contribution. This research offers concrete pathways that may help transform social procurement requirements in government contracts from being a burden for construction firms to being a genuine driver of the creation of sustainable employment opportunities for people from disadvantaged backgrounds.

As governments face increasing pressure to deliver both economic efficiency and social value, social procurement has emerged as a mechanism for achieving these dual objectives. This research reveals differing industry responses: despite a dedicated social procurement framework, significant penalties, and reporting requirements, some firms remain

non-compliant with employment and social value requirements. Conversely, other firms demonstrate genuine commitment to implementing social procurement policies and merit recognition and reward for their efforts. This dichotomy highlights the need for policy frameworks that both deter non-compliance and incentivise authentic engagement with social procurement objectives. Firms need to be assured that the successful implementation of social procurement policies will be rewarded.

This research revealed several tensions in public procurement. Key tensions include the tension between private law contract principles and the normative obligations of public law, as well as reconciling economic imperatives of public procurement with broader societal well-being. This research has established that achieving broader social outcomes requires commitment from governments themselves, not solely from the private entities with whom they contract. Traditional procurement practices have predominantly focused on obtaining goods and services at the lowest possible cost, with little consideration for broader societal outcomes. When awarding contracts, government agencies should not treat the implementation of social procurement requirements as cost free, while awarding contracts to the lowest bidder. This narrow approach fails to capture the full potential of public spending and fails to reward construction firms that genuinely try to implement social procurement requirements. This approach recognises that every dollar spent represents not just a transaction but an opportunity to strengthen communities, support vulnerable populations, and foster a more inclusive economy.

As outlined in the introduction to this thesis, the scale of Commonwealth procurement is substantial. In 2023–2024, over 83,453 Commonwealth contracts were issued, with building and construction representing the second-largest contract category (Department of Finance, 2025). Government contracts are estimated to represent approximately 10% of gross domestic product, underscoring the significant economic leverage that procurement represents as a policy instrument (Seddon, 2023, p. 323). As Robert F. Kennedy famously observed in 1968, our economic metrics often measure ‘the destruction of the redwood’ but not ‘the health of our children’ (Kennedy, 1968), highlighting how conventional economic priorities can overlook critical social values:

Even if we act to erase material poverty, there is another greater task, it is to confront the poverty of satisfaction—purpose and dignity—that afflicts us all.

Too much and for too long, we seemed to have surrendered personal excellence and community values in the mere accumulation of material things. Our Gross National Product, now, is over \$800 billion dollars a year, but that Gross National Product—if we judge the United States of America by that—that Gross National Product counts air pollution and cigarette advertising, and ambulances to clear our highways of carnage. It counts special locks for our doors and the jails for the people who break them. It counts the destruction of the redwood and the loss of our natural wonder in chaotic sprawl. It counts napalm and counts nuclear warheads and armoured cars for the police to fight the riots in our cities Yet the gross national product does not allow for the health of our children, the quality of their education or the joy of their play. It does not include the beauty of our poetry or the strength of our marriages, the intelligence of our public debate or the integrity of our public officials. It measures neither our wit nor our courage, neither our wisdom nor our learning, neither our compassion nor our devotion to country. (Kennedy, 1968)

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Appendices

Appendix A:

Appendix A1: Ethics Approval

Dear Applicant,

Re: ETH22-7648 - "Exploring the Perceptions and Responses of Managers in Construction Firms to Government Social Procurement Policies for Government Projects"

Your local research office has reviewed your application and agreed that it now meets the requirements of the National Statement on Ethical Conduct in Human Research (2007) and has been approved on that basis. You are therefore authorised to commence activities as outlined in your application, subject to any conditions detailed in this document.

You are reminded that this letter constitutes ethics approval only. This research project must also be undertaken in accordance with all UTS policies and guidelines including the Research Management Policy.

Your approval number is UTS HREC REF NO. ETH22-7648

Approval will be for a period of five (5) years from the date of this correspondence subject to the submission of annual progress reports.

The following standard conditions apply to your approval:

- Your approval number must be included in all participant material and advertisements. Any advertisements on Staff Connect without an approval number will be removed.
- The Principal Investigator will immediately report anything that might warrant review of ethical approval of the project to the [Ethics Secretariat](#).
- The Principal Investigator will notify the Committee of any event that requires a modification to the protocol or other project documents, and submit any required amendments prior to implementation. Instructions on how to submit an amendment application can be found [here](#).
- The Principal Investigator will promptly report adverse events to the Ethics Secretariat. An adverse event is any event (anticipated or otherwise) that has a negative impact on participants, researchers or the reputation of the University. Adverse events can also include privacy breaches, loss of data and damage to property.

- The Principal Investigator will report to the UTS HREC or UTS MREC annually and notify the Committee when the project is completed at all sites. The Principal Investigator will notify the Committee of any plan to extend the duration of the project past the approval period listed above.

- The Principal Investigator will obtain any additional approvals or authorisations as required (e.g. from other ethics committees, collaborating institutions, supporting organisations).

- The Principal Investigator will notify the Committee of his or her inability to continue as Principal Investigator including the name of and contact information for a replacement.

This research must be undertaken in compliance with the [Australian Code for the Responsible Conduct of Research](#) and [National Statement on Ethical Conduct in Human Research](#).

You should consider this your official letter of approval.

If you have any queries about this approval, or require any amendments to your approval in future, please do not hesitate to contact your local research office or the Ethics Secretariat.

Appendix A2: Participant Information Sheet with Consent Form

PARTICIPANT INFORMATION SHEET

ETH22-7648 Exploring the Perceptions and Responses of Managers in Construction Firms to Government Social Procurement Policies for Government Projects

WHO IS CONDUCTING THIS RESEARCH?

My name is Rhonda Bell and I am an PhD student at the UTS Business School. My contact details are

(m) [REDACTED] and Rhonda.bell@uts.edu.au. My supervisor is Dr. Alice Klettner. Her contact details are : Alice.Klettner@uts.edu.au.

WHAT IS THE RESEARCH ABOUT?

The purpose of this research is to explore perceptions and responses to government social procurement and social value requirements by managers from construction firms and other relevant stakeholders when tendering for Government construction contracts in Australia.

This research also explores the potential for not-for-profit organisations (known as third-party intermediaries) to assist construction firms to implement these policies.

The focus of the research is the requirement to employ people from disadvantaged groups and the requirement to create additional social value in government projects.

WHY HAVE I BEEN INVITED?

You have been invited to participate because you are involved with the implementation of these policies through your professional role.

Before you decide to participate in this research study, please check the selection criteria.

Your contact details were obtained when I met you at an industry event. I then contacted you through LinkedIn and email.

If you decide to participate, I will contact you and arrange to meet face to face at your place of work to conduct the interview, or at a public place convenient to you . Alternatively, interviews can be conducted by zoom.

WHAT DOES MY PARTICIPATION INVOLVE?

Only one semi-structured interview of approximately 1 hour will be audio recorded and transcribed.

Interview topics or questions can be provided ahead of the interview if you wish

If you would like to review a transcript, this can be provided. Interviews are recorded and transcribed so common answers can be collated.

ARE THERE ANY RISKS/INCONVENIENCE?

I do not envisage any risk to yourself or your employer . All answers will be confidential. All data will be de- identified when stored. Neither you nor your organisation will be able to be identified in any academic work or articles.

If any sensitive commercial information happens to be disclosed, it will not be able to be accessed by other people or be able to be identified in any academic work.

We have minimised these risks by ensuring the information is de identified when stored. All results will be aggregated and synthesized in the PhD or in any published academic article.

DO I HAVE TO TAKE PART IN THIS RESEARCH PROJECT?

Participation in this study is voluntary. It is completely up to you whether or not you decide to take part.

If you decide not to participate, or to withdraw from the study, it will not affect your relationship with the researchers or the University of Technology Sydney.

WHAT IF I WITHDRAW FROM THIS RESEARCH PROJECT?

If you decide to withdraw from the study after your participation has commenced, you can do so at any time without having to give a reason, by contacting Rhonda Bell on [REDACTED] or Rhonda.bell@uts.edu.au. If you withdraw from the study, any tape recording of interviews will be erased, and transcripts destroyed and not used in the study.

However, it may not be possible to withdraw your data from the study results if these have already had your identifying details removed and aggregated.

WHAT WILL HAPPEN TO INFORMATION ABOUT ME?

By signing the consent form, you consent to Rhonda Bell collecting and using personal information about you for the research project. All this information will be treated confidentially.

Your information will only be used for the purpose of this research project, and it will only be disclosed with your permission, except as required by law.

The interviews will be recorded on stand-alone equipment . The audio recordings of the interviews will be transcribed and when stored de-identified into separate folders with another password. This data will then be stored on UTS computer.

The de-identifying of the data will mitigate the risk of the sharing of confidential information.

It is anticipated that the results of these interviews conducted for the purposes of this research project will be published and/or presented in a variety of forums. In any publication and/or presentation, information will be provided in such a way that you cannot be identified, except with your permission.

In accordance with relevant Australian and/or NSW (New South Wales) Privacy laws, you have the right to request access to the information about you that is collected and stored by the research team. You also have the right to request that any information with which you disagree be corrected. Please inform the research team member named at the end of this document if you would like to access your information.

The results of this research may also be shared through open access (public) scientific databases, including internet databases. This will enable other researchers to use the data to investigate other important research questions. Results shared in this way will always be de-identified by removing all personal information (e.g. name, address, company name).

WHAT IF I HAVE ANY QUERIES OR CONCERNS?

If you have queries or concerns about the research, please contact Rhonda Bell on [redacted] or by email Rhonda.bell@uts.edu.au or my PhD supervisor can help you, Dr. Alice Klettner on Alice.Klettner@uts.edu.au.

You will be given a copy of this form to keep.

NOTE:

This study has been approved in line with the University of Technology Sydney Human Research Ethics Committee [UTS HREC] guidelines. If you have any concerns or complaints about any aspect of the conduct of this research that you wish to raise independently of the research team, please contact the Ethics Secretariat on ph.: +61 2 9514 2478 or email: Research.Ethics@uts.edu.au], and quote the UTS HREC reference number. Any matter raised will be treated confidentially, investigated and you will be informed of the outcome.

CONSENT FORM

ETH22-7648 Exploring the Perceptions and Responses of Managers in Construction Firms to Government Social Procurement Policies for Government Projects

I _____ agree to participate in the research project being conducted by Rhonda Bell (m) _____ and Rhonda.bell@uts.edu.au .

I have read the Participant Information Sheet or someone has read it to me in language that I understand.

I understand the purposes, procedures and risks of the research as described in the Participant Information Sheet.

I have had an opportunity to ask questions and I am satisfied with the answers I have received.

I freely agree to participate in this research project as described and understand that I am free to withdraw at any time without affecting my relationship with the researchers or the University of Technology Sydney.

I understand that I will be given a signed copy of this document to keep.

I am aware that I can contact Rhonda Bell or Dr Alice Klettner if I have any concerns about the research.

Name and Signature [participant]

___/___/___
Date

Name and Signature [researcher]

____/____/____
Date

Appendix A3: Letter of Invitation

UTS Business School

INVITATION LETTER

Dear

Re: Research into Social Procurement Policies in Government Contracts

My name is Rhonda Bell, I am a PhD student in the Business School at the University of Technology Sydney.

I am conducting research into social procurement policies and social value requirements in government infrastructure contracts and would welcome your assistance. The research will involve an interview and should take no more than an hour of your time.

I have asked you to participate because the company you work for have been involved in responding to Government social procurement requirements in infrastructure projects. Your role as a manager / procurement officer / subcontractor is relevant to this response.

This research is part of my PhD on responses by construction firms to government social procurement requirements in the infrastructure project/

If you are interested in participating, I would be glad if you would contact me or my principal supervisor, contact details are listed below. My supervisor is Dr. Alice Klettner and her email is Alice.Klettner@uts.edu.au if you wish to contact her for any reason.

You are under no obligation to participate in this research.

Yours sincerely,

Rhonda Bell
PhD Candidate
Management Discipline Group
UTS BUSINESS SCHOOL

Email: rhonda.bell@uts.edu.au

Phone:

business.uts.edu.au

University of Technology Sydney
Dr Chau Chak Wing Building, CB08
14–28 Ultimo Rd, Ultimo
City Campus | PO Box 123 Broadway | NSW 2007

NOTE:

This study has been approved by the University of Technology, Sydney Human Research Ethics Committee. If you have any complaints or reservations about any aspect of your participation in this research which you cannot resolve with the researcher, you may contact the Ethics Committee through the Research Ethics Officer (ph: +61 2 9514 2478 Research.Ethics@uts.edu.au), and quote the UTS HREC reference number. Any complaint you make will be treated in confidence and investigated fully and you will be informed of the outcome.

Appendix A4: Interview Guide

Guide for semi-structured interviews with participants

ETH22-7648 Exploring the Perceptions and Responses of Managers in Construction Firms to Government Social Procurement Policies for Government Projects

The following questions are a guide for semi-structured interviews with managers of construction firms, procurement officers and other relevant stakeholders:

Social Procurement and Social Value Policies

1. What is your understanding or perception of government social procurement policies when tendering for government contracts?
2. What is your understanding or perception of the requirement to create social value when tendering for government contracts?
3. Generally, how has your firm and you in your role as responded to social procurement requirements when tendering for a government contract?
4. Generally, what is your understanding of how it responds to these policy requirements when tendering for a government contract?
5. What solutions do you suggest that may improve the framing and implementation of these policies?
6. How could they be better designed to consider the demanding and project-based nature of the construction industry?
7. How could they be better designed to assist those they are designed to help?

Third Party Intermediaries

Explain:

**Third-party intermediaries can be organisations or specific individuals from organisations who have facilitated finding people from various disadvantaged groups to fulfil the policy requirements.*

Third-party intermediaries may also be organisations that have provided training or support to people from disadvantaged groups as a result of these policies.

8. In your role ashave you used third-party intermediaries to assist implementation of social procurement or social value policies?
9. What role/function/role did they play in assisting you in your role as [...] implementation?
10. How was this coordinated?
11. Considering their role/function how effective were they in providing that assistance?
12. How could coordination with the third-party intermediary have been improved?

Further questions if appropriate

13. Has your firm not tendered for projects because it did not have the resources to comply with the social procurement or social value requirements?
14. Has your firm been involved in a tender and not responded to social procurement or social value requirements?
15. Apart from financial support at a practical level, what would help to coordinate responses to the social procurement requirements?
16. How do you assist subcontractors to comply with the social procurement employment requirements?
17. What would assist in enabling subcontractors to comply with social procurement employment policies?
18. What solutions do you suggest in the framing of these policies?

Further questions if appropriate:

**[If the construction firm or manager has responded positively social procurement requirements and /or social value requirements - these questions may explore the relationship between a firm's policy response and their underlying values and/or goal alignment with stakeholders]*

19. What influences your positive or underlying approach to the social procurement or social value requirements?

Appendix A5: Data Coding

.Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
<p>RQ1: What are the relevant social procurement policies that identify the employment and 'social value' requirements within the jurisdictions of New South Wales and Victoria? How do they operate in practice?</p> <p>Instructions for Researchers to repeat coding activities:</p> <p>Step 1 Review the key social procurement policies and associated public procurement documents for NSW (Appendix B) and Victoria (Appendix C)</p> <p>Step 2 Participant descriptions that outlined the requirements to employ individuals from disadvantaged backgrounds in government projects, as well as broader</p>	<p>Misalignment of written policy and implementation -Lack of Government commitment to social procurement policies (SPP)</p>	<p>Description of policies enabling government agencies to require firms to employ people from disadvantaged backgrounds and requirement to the create additional 'social value' in government projects in NSW and Victoria</p>	<p>Inconsistent interpretation, application, reporting and accountability by agencies</p>	<p>NSW: <i>'They can ask anything they want'</i></p> <p><i>'So, the client (government department) can ask for anything they want, and we say yes or no... They'll ask for maybe 15 or 20 more things on top of the policy'</i></p> <p>Victoria: <i>"Each department can use the framework however they want."</i></p> <p><i>"They [government agencies] all employ a full-time person that continually rewrites policies and changes them to the whims of different bureaucrats that are in there."</i></p>

.Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
social value obligations, were identified and coded.				
As broadly similar themes emerged across both New South Wales (NSW) and Victoria, the findings are presented collectively. However, the source of each data point remains clearly identifiable by state, allowing for				<i>“Reporting is challenging across the country there’s no consistent way of doing it... often we make up our own reporting tool and clients want it in different</i>

.Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
<p>differentiation between NSW and Victorian perspectives.</p> <p>Instruction to Researchers:</p> <p>Extract participants solutions to the barriers</p>				<p><i>formats and different ways”</i></p>
RQ1	Inconsistent commitment to successful implementation between Agencies	Inconsistent implementation and commitment between agencies	Inconsistent Application.	<p><i>‘So, there isn’t enough care factor in some departments is under ... if I say what departments do it well, I say xxxx infrastructure do it well and everyone else to a lesser degree lags.[in their commitment to implementation of ER]...’</i></p>
RQ1	Stretch targets.	Agencies suggest an increase of employment targets to firms in order to win bids	Negotiation not collaboration	<p>NSW:</p> <p><i>“Then they’ll say select three additional things you could do or bid back a higher percentage... you want to try and go above and beyond the bare minimum...”</i></p>

.Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
RQ1	Accountability Mechanisms	Participants describing financial consequences within the contract for non-compliance	Inconsistent financial consequences Lack of leverages	<p>NSW: [Agencies may ask us to] <i>“deliver on these things... above and beyond the policy and then they manage us to those they might put some Key Requirements around it”</i></p> <p><i>“These policies in place are ‘mandatory’, but they are not enforced and there is no accountability, if they don’t have it nothing actually happens”</i></p> <p><i>“Other policies in the construction industry have like real harsh consequences... they don’t have the same enforcement on social policy”</i></p> <p>VIC: <i>“The abatements are getting bigger and better”</i></p>

.Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
RQ1	Streamlining Employment Requirements	Participants' views on strategies to streamline social procurement policies across agencies and projects to reduce inconsistencies arising from differing agency approaches.	Increased accountability and reporting mechanisms in the contract	<i>It's like pick three, three groups from this list and create an impact, as opposed to you must have youth, you must have Aboriginal, you must have refugee, must have asylum seekers."</i>
RQ1	Strategies to assist Subcontractors	Participants' views on the role of education and training in supporting the understanding, implementation, and effectiveness of social procurement policies.	Education for firms, subcontractors and procurement officers Compressed timeframes Centralised information	<i>'it's not all about industry, but what's the agent's responsibility in all of this as well and education is a big one"</i> <i>"It needs to be services that are specifically to construction... the government needs to provide a central organisation separate to coordinate support"</i>

Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
What are construction	Social procurement	Firms' responses to	Best value	<i>"We achieved the higher percentage</i>

Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
<p>managers' and relevant actors' responses to policies requiring the employment of people from disadvantaged backgrounds and creating social value in government projects in the tender process in NSW and Victoria?</p> <p>Instructions to Researchers</p> <p>Participants views on responding to requirements in the tender process, separating participants from NSW and Victoria</p>	requirements used to strategic advantage	employment requirements in the tender process, including the use of social procurement policies to gain strategic or competitive advantage in securing government contracts.	Prioritising cheapest price	<i>of somebody like around 5.5% [employment requirements] on this project, we knew our competition was a lot stronger in this space... we knew we had to present a pretty strong submission."</i>
RQ2	Uncertainty of reward for firms in the tender process	Participants' perceptions that government contracts are primarily awarded based on price, with limited consideration	Contracts can be awarded on price Changing weight	<p>NSW: <i>"The government is still awarding on price you can do all this perfectly, and 99% of the time it will still come down to price"</i></p> <p>Victoria:</p>

Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
		given to social value or employment-related requirements.		<p><i>“But ultimately the reason they [firms] don’t put in as much effort as the [government]clients would like... is that they just do not see there is potentially benefit in doing that”</i></p> <p><i>“Often our clients [government .agencies]decide who wins the project on cost - on the bottom line”</i></p>
RQ2	Increased incentives	Participants’ views on the need to increase incentives for firms to effectively implement social procurement policies and to apply consistent weighting of these requirements in the tender process.	Leverages Clarification of best value Greater Support	<i>“If you incentivise or penalise enough it’s going to change behaviour”</i>
RQ2	Strategic non-compliance	Strategies adopted by firms not implementing policies	Too difficult Rather pay a fine than employ people from	<i>“They [construction managers] have weighed up the cost of a financial penalty, against</i>

Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
			disadvantaged backgrounds Tick a box Moral hazard	<i>what they can use the money for on the whole of the project... so they don't actually have to include social procurement at all"</i> <i>"If you're prepared to tick the box, and often lie, then that's what happens"</i> <i>"So, it was basically a tick a box exercise"</i>
RQ2	Unintended consequences	Participants' views on the unintended interactions between policies and the resulting or potential negative impacts on candidates from disadvantaged backgrounds.	Clash of Policies Negative impact on candidates Interconnected elements	<i>"Unless those people turn out to be exceptional at their work, they are going to be finished at the end of the project"</i> <i>"So they might be employed for a couple of months against tick a box... then dumped after a couple months"</i>

Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
<i>RQ3.How do relevant actors implement the</i>	Critical importance of	Participants' views from within projects	Support for candidates	<i>"Without external support,</i>

Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
<p><i>policies and interact with third-party organisations at the project level? How do third-party policy intermediaries assist firms in meeting employment requirements?</i></p> <p>Instructions to Researchers: Distinguish between the views of: 1) Participants employed within the project; and with 2) Participants employed outside the project.</p>	third-party intermediaries	on engaging with and managing third-party intermediaries involved in implementing social procurement requirements.	Building relationships Assist with locating candidates	employing people from disadvantaged backgrounds will fail” “The third party will identify the candidate and doing all that work around the pre-employment support”
RQ3	Internal policy intermediaries	Participants operating within projects whose primary responsibility is to implement social procurement policies. Participants’ experiences in	Policy implementation Interrelationships Leverages	“that’s where the social inclusion role comes in, is almost to prepare the ground for ... that cohort of people”

Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
		interacting with managers and sub-contractors to facilitate social procurement objectives.		
RQ3	Leveraging Financial Consequences	Internal policy intermediaries' use of financial penalties or incentives to encourage support for candidates from disadvantaged backgrounds.	Leverages Financial penalties Support at end of the project Social sustainability	<i>'I talk in terms of dollars if these people are not employed then we lose money.'</i> <i>(Nicholas Social Inclusion Manager, (IPI) Victoria)</i>
	Third Party policy Intermediates	Participants' views on third-party policy intermediaries and their engagement with firms in implementing social procurement requirements.	Connecting Educating Supporting candidates Pre-employment support Conduit	<i>"We are a conduit, where a third party helps to connect people together"</i> <i>"We provide support to the contractors in providing the pre-employment programs but also to supporting the engagement in the recruitment of those people"</i>

Research Question and Instruction	Theme	Coding Description	Sub-Codes within the Theme	Example of verbatim Response
				<i>for those programs ”</i> <i>“I do educate industry on the building equality policy ... and how they can meet those targets. and same [the] with social procurement frameworks”</i>
RQ3	Third Party policy intermediaries dealing with Managers	Participants’ views on their limited leverage or influence when engaging with construction managers in implementing social procurement requirements.	Lack of leverage Lack of commitment to implementing policies of some firms	<i>“We hand it to them on a platter... but they’re never willing to break up the project”</i>

Step 1

Review the key procurement and social procurement policy documents for NSW and Victoria provided in the Appendix.

Step 2

Identify and code participant descriptions, starting with NSW, followed by Victoria, that detail the requirement to employ individuals from disadvantaged backgrounds in government contracts.

Appendix A6: Submission

Submission
No 44

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

Name: Mrs RHONDA BELL

Date Received: 1 March 2024

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

Dear Dr Kaine,

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

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

Introduction

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

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

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

Brief Overview of the Research

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

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

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

Relevance to the Inquiry

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

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

- (iii) social, economic and labour market outcomes*
- (iv) subcontracting arrangements*

Perceived issues

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

Suggested solutions

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

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

Policy Design Issues

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

Other issues

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

Policy framework suggestions for improvement

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

The role of the Third-Party Policy Intermediaries

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

- (a) In the context of these policies individual **third party policy intermediaries assist to bring together firms and not for profit organisations** that might supply candidates together. Third-party policy intermediaries have been explored in developed areas of policy studies such as health⁵.

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

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

to the successful implementation of these policies ⁶. However, candidates require ongoing support from outside the project⁷. Generally, construction managers who operate under considerable time and cost pressures cannot assist candidates. It is **critical that there is an individual the candidates and ideally the on-sight construction managers can contact if any issues arise**. This role could be fulfilled by the organisation that has supplied the candidates or by a training institution.

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

Conclusion

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

References

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Appendix B: Extracts from Policy Documents – NSW

Appendix B1: NSW Procurement Policy Framework



NSW Government
**Procurement
Policy Framework**

December 2024

Procurement Policy Framework

What's covered in this document

Foundation legislation and policies 5

Section 1

· OBJECTIVES ·

7

Explore the goals

of NSW Government procurement, and the policies that support them.



01 Value for money



02 Fair and open competition



03 Easy to do business



04 Innovation



05 Economic development, social outcomes and sustainability

Section 2

· PLAN, SOURCE, MANAGE ·

36

Plan, Source, Manage process

is the best practice approach to procurement, and includes the relevant policies highlighted at every stage.



01 Plan



02 Source



03 Manage

Section 3

· GOVERNANCE AND FEEDBACK ·

144

Find out more

about the structures supporting NSW Government procurement.



01 Governance



02 Accreditation programs



03 Government procurement arrangements



04 Complaints and feedback



05 Procurement board directions

Section 4

· GLOSSARY ·

155

Document control

160

Section 1

.....

· OBJECTIVES ·



Value for money



Fair and open competition



Easy to do business



Innovation



Economic development, social outcomes and sustainability



Value for money

The overarching consideration for government procurement is ensuring best value for money in the procurement of goods, services, and construction.

Value for money is not necessarily the lowest price, nor the highest quality good or service. It requires a balanced assessment of a range of financial and non-financial factors, such as: quality, cost, fitness for purpose, capability, capacity, risk, total cost of ownership or other relevant factors.

References

Type	Reference	Status	Category	Value	Plan	Source	Manage
Legislation	Public Works and Procurement Act 1912			Any			
Legislation	Government Sector Finance Act 2018			Any			
Policy	TPP22-04 Submission of business cases			Risk based			
Policy	TPG23-08 NSW Government Guide to Cost Benefit Analysis			Risk based			
Guidance	Value for Money			Any			
Guidance	Market Approaches Guide			Any			
Guidance	Benefits Realisation Framework			Any			

Table 2 References: Value for money



Economic development, social outcomes and sustainability

Government procurement can help to support economic participation, social outcomes, develop skills and create jobs for the citizens of NSW.







By building a diverse supply base, government agencies can support businesses of all types to grow and encourage economic development across the state.

The government uses procurement to support *small and medium sized businesses, Aboriginal businesses, regional businesses, disability employment organisations and social enterprises*. It is also using its substantial infrastructure investments to support jobs and skills development for a range of workers including Aboriginal people, apprentices and young people aged under 25 years.

Sustainable procurement focuses on spending public money efficiently, economically, and ethically to deliver value for money on a whole of life basis. *Sustainable procurement* extends the assessment of value for money beyond the sourcing process, considering benefits and risks to the organisation, the community, the economy and impacts on the environment.











Sustainable procurement:

- Considers how procurement impacts society, the economy and the environment
- Provides all suppliers with full and fair opportunities to compete
- Respects stakeholders' interests, the rule of law and human rights, including modern slavery
- Seeks innovative solutions to address sustainability throughout the supply chain
- Buys only what is needed or seek sustainable alternatives
- Analyses all procurement costs, including benefits for society, environment and the economy
- Integrates sustainability into procurement practices.

Relating to	Status	Category	Value	Obligation	Reference
SME and regional businesses			< \$150,000 < \$3 million ≥ \$3 million	You must comply with the SME and Regional Procurement Policy to support the participation of SMEs and <i>regional businesses</i> in goods and services procurement.	SME and Regional Procurement Policy
Small businesses			Any	You must comply with the ICT/Digital SME procurement commitments and apply a target to increase participation of SMEs in government procurement of ICT goods and services.	ICT/Digital SME Procurement Commitments
			> \$3 million	For ICT procurements over \$3 million you must : <ul style="list-style-type: none"> • make suppliers aware of the SME indirect addressable spend target at time of tender • include SME indirect targets in the contract, of at least 25% of the total contract value of addressable spend • monitor suppliers are submitting quarterly reporting against their progress to achieve their SME contract target commitments. 	
			≤ \$150,000 \$150,001 to \$250,000	Up to \$250,000 you may use purchasing permissions to procure ICT directly from an SME (exemptions apply): <ul style="list-style-type: none"> • Up to \$150,000 (ex. GST), agencies may buy directly from an SME (regardless if on the ICT Services Scheme or a mandated ICT contract). • From \$150,001 and up to \$250,000 (ex. GST), agencies may buy directly from an SME on the ICT Services Scheme. This is regardless of whole-of-government contracts in place, except the Telecommunication Purchasing Arrangements. <p>When buying ICT consultancy services you must comply with the ICT Consultancy Framework. Agencies must complete a technical assessment when buying, to ensure solutions are compatible with ICT systems and infrastructure.</p>	



Relating to	Status	Category	Value	Obligation	Reference
Small businesses			≥ \$7.5 million	You must comply with the Small Business Shorter Payment Terms Policy to support cash flow for small businesses that are subcontracted on NSW Government goods and services contracts.	Small Business Shorter Payment Terms Policy
Employment of Aboriginal people			< \$250,000 ≥ \$7.5 million	You must comply with the Aboriginal Procurement Policy to support 3,000 FTE employment opportunities for Aboriginal people by the end of 2021 through government procurement activities.	Aboriginal Procurement Policy
Employment of people with a disability			Any	You may purchase goods and services of any value from an approved <i>disability employment organisation</i> via a single written quote, even if there is a whole of government arrangement in place.	Public Works and Procurement Regulation 2019 (PWP Regulation)
Social enterprises			Any	You are encouraged to procure from <i>social enterprises</i> to support economic and social change for disadvantaged people. Social enterprises may be small businesses, SMEs, Aboriginal businesses or Australian Disability Enterprises, and if so, qualify for the purchasing preferences and initiatives under the SME and Regional Procurement Policy , ICT/Digital SME Procurement Commitments , Aboriginal Procurement Policy or PWP Regulation .	SME and Regional Procurement Policy ICT/Digital SME Procurement Commitments Public Works and Procurement Regulation 2019 (PWP Regulation)
			Any	<i>Social enterprises</i> are businesses that trade to intentionally tackle social problems, improve communities, provide people access to employment and training, or help the environment. Procuring through social enterprises represents significant opportunity for social enterprise growth, and social change for disadvantaged Australians.	Aboriginal Procurement Policy

Relating to	Status	Category	Value	Obligation	Reference
Modern slavery		 	Any	<p>You must comply with the <i>Public Works and Procurement Act 1912</i>, including requirements to take reasonable steps to ensure that goods and services procured by and for the agency are not the product of modern slavery. This may lead to specific obligations imposed on suppliers for a particular procurement.</p> <p>You must comply with the <i>NSW Modern Slavery Act 2018</i>, including annual reporting requirements for agencies, commencing 1 July 2023 subject to Governor approval, and agency co-operation with the Anti-Slavery Commissioner.</p>	Public Works and Procurement Act 1912 NSW Modern Slavery Act 2018
		 	Any	<p>You should consider the NSW Anti-slavery Commissioner's guidance and embed responsible procurement principles into category management strategies for procurements where the risk of modern slavery is higher. Procurement activities should consider the potential for an agency to cause, contribute to, or be directly linked to modern slavery through its supply chains.</p>	NSW Anti-slavery Commissioner's Guidance on Reasonable Steps
Skills, training and diversity in construction			< \$10 million	<p>You, and any contractors you engage, are expected to commit to supporting skills development on construction projects.</p>	PBD 2023-01 Skills, Training and Diversity in Construction
			\$10 million – \$100 million	<p>You must require:</p> <ul style="list-style-type: none"> 20% of the trades workforce on the project to be apprentices, with the target included in tender documentation, contracts, and quarterly reporting requirements suppliers to comply with the Aboriginal participation requirements of the Aboriginal Procurement Policy suppliers to provide quarterly reports to Training Services NSW in the Department of Education against agreed targets. <p>From 1 July 2023, you must also</p> <ul style="list-style-type: none"> report on number of women in trade roles report on the number of women in non-traditional roles. <p>You may also adopt the additional Infrastructure Skills Legacy Program (ISLP) targets that apply to contracts over \$100 million (see below).</p>	Aboriginal Procurement Policy














Relating to	Status	Category	Value	Obligation	Reference
Skills, training and diversity in construction			> \$100 million	For major construction projects over \$100 million, you must also require: <ul style="list-style-type: none"> • 20% of the total labour force to be learning workers • 20% of the total labour force to be apprentices • double the number of women in trade-related work (up from the NSW average of 1% to 2%) • 8% of total project workforce to be aged less than 25 years • report the employment and training outcomes for people from the local region (as defined in the contract). 	PBD 2023-01 Skills, Training and Diversity in Construction Aboriginal Procurement Policy
Resource efficiency and waste reduction		 	Any	You must comply with the Government Resource Efficiency Policy (GREP) by ensuring goods, services and construction projects meet minimum energy, water use and air emissions standards. An exception applies for agencies with fewer than 100 employees, when compliance is voluntary.	NSW Government Resource Efficiency Policy (GREP)
Resource efficiency and waste reduction		 	Any	You should purchase construction materials with recycled content; copy, stationery and print publication paper with post-consumer recycled content, and non-recycled paper from sustainable sources. Refer to the GREP for information on recognised standards and certification programs for recycled content and sustainable sources.	
			Any	You must use E10 and biodiesel blends where possible, unless there is a clear operational requirement that precludes the use of biofuels.	M2012-08 Use of Biofuels
		 	Any	You should consider the product lifecycle when conducting needs analysis and developing product specifications, including taking account of <i>circular economy</i> principles, so that use of recycled materials and disposal or repurposing of goods or assets is planned into the procurement process.	NSW Circular Economy Policy Statement

Table 9: Economic, social and sustainable procurement outcomes

Appendix B2: Industry Skills Legacy Program (ISLP)

PBD 2023-01 Skills, Training, and diversity in construction

The NSW Government Action Plan: A ten-point commitment to the construction sector requires all agencies to demonstrate a commitment to meet skills and diversity targets for the engagement of apprentices, learning workers, young people under 25 years, women and Aboriginal and Torres Strait Islander people on major construction projects. Agencies may also consider additional skills and diversity targets that reflect local demographic profiles.

Issued: 2 August 2023 by NSW Procurement Board

The NSW Government Action Plan: A ten-point commitment to the construction sector requires all agencies to demonstrate a commitment to meet skills and diversity targets for the engagement of apprentices, learning workers, young people under 25 years, women and Aboriginal and Torres Strait Islander people on major construction projects. Agencies may also consider additional skills and diversity targets that reflect local demographic profiles.

This direction applies to the procurement of construction services by a NSW Government Agency within the meaning of the [Public Works and Procurement Act 1912](#). **All values are exclusive of GST.**

The [NSW Government Action Plan: A ten point commitment to the construction sector](#) mandates minimum levels of training for all major Government construction projects consistent with targets in the [Infrastructure Skills Legacy Program](#) (ISLP).

This direction applies to all new construction project procurements and will be phased in from 1 July 2023 and become mandatory from 1 September 2023.

It applies to individual contracts not programs. Agencies are encouraged to comply if contracts are valued at \$10-100 million.

Targets

Construction contracts up to \$10 million

There are no specific skills and training targets, but there is an expectation that agencies and contractors commit to supporting skills development on construction projects.

- As a minimum, agencies must apply the relevant [Aboriginal Procurement Policy](#).

Construction contracts over \$10 million and up to \$100 million

To establish skills development objectives, agencies **must:**

- embed an apprenticeship target of 20% of the trades workforce
- include the above target in contract requirements and tender documentation provided to potential contractors

- include in contract requirements that contractors consider the capacity of subcontractors to contribute to skills and training targets
- consider the capacity of a potential contractor to meet these requirements when assessing proposals and awarding a contract, including a contractor's previous performance in meeting the requirements
- ensure contractors contractually commit to reporting on a quarterly basis on their achievement against the targets
- report on a quarterly basis to Training Services NSW in Department of Education against agreed targets
- apply the relevant Aboriginal Procurement Policy.

The following two additional requirements will apply to all new construction project procurements over \$10 million commenced from 1 July 2023:

- report on the number of women in trade roles
- report on the number of women in non-traditional roles (refer to Training Management Guidelines)

For contracts between \$10 million and \$100 million, the agency may also consider adopting the additional ISLP targets that apply to contracts over \$100 million.

Construction contracts over \$100 million

All requirements for construction contracts over \$10 million also apply to construction contracts over \$100 million (including additional reporting requirements for women in trades and women in non-traditional roles).

In addition, ISLP administered by Training Services NSW (TSNSW) sets training and employment targets, and reporting requirements, for major construction projects. All agencies **must** comply with the minimum requirements of the ISLP.

The minimum ISLP targets are:

- 20% of the total project workforce to be made up of 'learning workers' (defined as trainees and workers who need to update their qualifications to meet the needs of the infrastructure project)
- 20% of all trades workforce on a project to be made up of apprentices
- apply the relevant Aboriginal Procurement Policy
- doubling the number of women in trade-related work (up from the NSW average of 1% to 2%)
- ensuring at least 8% of the total project workforce is aged less than 25 years

- reporting the employment and training outcomes for people from the local region (local region to be defined in the contract).

Context

Infrastructure is a key priority for the NSW Government. It committed \$97 billion to government infrastructure in the 2019/20 budget.

The investment in infrastructure creates jobs and stimulates the economy. The ISLP provides an opportunity to create an on-going legacy for the people of NSW for employment, skills development and diversity in the construction workforce. The ISLP also contributes to improving productivity by building capability and capacity of the construction workforce.

The NSW Government has worked closely with industry and government agencies to establish the ISLP targets for major infrastructure projects. The targets will allow existing workers to learn new skills and increase the number of apprentices, young people, Aboriginal and Torres Strait Islander people and women in construction.

The ISLP targets are a commitment under the NSW Government Action Plan: A ten point commitment to the construction sector.

Training Services NSW (TSNSW), Department of Education, is the lead agency to support industry and government agencies to achieve the goals of the ISLP.

For further information on the ISLP targets, contact Training Services NSW at ISLP@det.nsw.edu.au or visit [Training Services NSW](#) website for information relating to ISLP, including the Training Management Guidelines.

**Appendix B3: Small and Medium Enterprise and Regional Procurement
Policy – Guidance to Weight**

NSW Government Small and Medium Enterprise and Regional Procurement Policy



Contents

MINISTER'S MESSAGE	4
STATISTICS	5
01.	
INTRODUCTION	
Introduction	6
Policy Objectives	6
Application	7
Definitions	7
02.	
REQUIREMENTS AND PERMISSIONS	
SME and Regional Supplier Exemption	8
SME First	8
SME and Sustainability Criteria	8
SME and Local Participation Plan and Reporting	8
03.	
MAKING SUPPLYING TO GOVERNMENT EASY FOR SMEs	
Advanced notice of opportunities	9
Briefings and feedback	9
Tendering and contract requirements	9
04.	
RESOURCES AND SUPPORT FOR SUPPLIERS AND BUYERS	10
05.	
REVIEW OF THE SME AND REGIONAL PROCUREMENT POLICY	11

02.

Requirements and Permissions



SME and Regional Supplier Exemption up to \$150,000

(PERMISSION)

2.1 SME and Regional Supplier Exemption

NSW Government agencies **may negotiate directly with and engage** an SME or regional supplier, for goods and services **up to \$150,000**, including where there is a whole-of-government arrangement in place.

We remain committed to making it easier to engage SMEs and regional businesses to support local economic growth through our direct purchasing arrangements.

- 10 percent allocated to SME participation; and
- 10 percent allocated to support for the NSW Government's economic, ethical, environmental and social priorities.

Where no weightings are used, SME participation and support for the NSW Government's economic, ethical, environmental and social priorities should be given appropriate qualitative consideration.

We ensure that SME participation is supported through major procurements. SMEs are considered for opportunities to work with government directly or through subcontracting.



SME First up to \$3 million

(REQUIREMENT)

2.2 SME First

NSW Government agencies **must first consider purchasing from an SME**, for procurements **up to \$3 million**, where the agency is permitted to directly purchase goods and/or services from a supplier, including from prequalification schemes and panels.

We put SMEs front-of-mind when agencies are considering which supplier to engage.

2.4 SME and Local Participation Plan and Reporting

For contracts **valued at \$3 million or more**, suppliers are **required to submit a SME and Local Participation Plan**, referencing SME and NSW specific content, consistent with International Procurement Agreement (IPA) obligations, and report on these commitments quarterly.

We ensure that major procurements consider their impact on SMEs and the NSW industry in their activities.



SME and Sustainability Criteria, SME Local Participation Plan and Reporting over \$3 million

(REQUIREMENT)

2.3 SME and Sustainability Criteria

For goods and services contracts **valued at \$3 million or more**, a NSW Government agency **must include in the non-price evaluation criteria** as a minimum:

Appendix B4: ISLP Reporting Templates and Guide

Infrastructure Skills Legacy Program Monthly Reporting

Agency	
Agency Contract Manager	
Head Contractor Name	
Contract ID	
Project Name	
Project Phase	
Contract Start Date	
Contract End Date	
Contract Value	
Author of report name and contact	

Reporting Requirements		Targets				Comments
Contracts over \$100M	Contracts over \$10M	Reference Number	Targets	Base ISLP / WIC Target	Project ISLP Targets	
Yes	Yes	A	Project workforce	Base measurement	Base measurement	Use hours or headcount base measurement as relevant. FTE will be calculated from hours as per APP
Yes	Yes	B	Trades workforce	Base measurement	Base measurement	Use hours or headcount base measurement as relevant.
Agreed Targeted Outcomes						
Yes	Yes	1	Apprentices	20%		Measured against Total Trades Workforce (i.e. Trades + Apprentices; use hours) - Ref B + Ref 1
Yes	Yes (No Target)	2	Women in Trades (Includes Women Apprentices)	Report Only (contracts over \$10M) 2% (contracts over \$100M)		Measured against Total Trades Workforce (i.e. Trades + Apprentices; use hours) - Ref B + Ref 1
Yes (No Target)	Yes (No Target)	3	Women in non Traditional roles	Report Only	No Target	Measured against Project Workforce (use hours) - Ref A
Yes		4	Learning workers (Target includes Apprentices & Trainees)	20%		Measured against Project Workforce (use headcount) - Ref A
Yes		5	Aboriginal people	2.5%		Measured against Project Workforce (use hours - please note FTE is used for APP reporting) - Ref A
Yes		6	Aged under 25 years	8%		Measured against Project workforce (use hours) - Ref A Includes all who are under 25 when they commence employment and include all hours for the duration of their employment.
Yes		7	Workforce living in Local area	As defined in the contract		Measured against Project Workforce (use hours) - Ref A

Appendix C: Extracts from Policy Documents – Victoria

Appendix C1: Victorian Procurement Framework 2023

Victoria's Social Procurement Framework

Building a fair, inclusive and sustainable Victoria through procurement

Introduction

Value for money is the key driver underpinning all Victorian Government procurement decisions. *Victoria's Social Procurement Framework* aims to ensure value-for-money considerations are not solely focused on price, but encompass opportunities to deliver social and sustainable outcomes that benefit the Victorian community.

The framework sets out a whole of government scalable and consistent approach to social procurement for all Government departments and agencies. For suppliers, whether they be major businesses or small to medium enterprises (SMEs), the framework advises how to incorporate social value when competing for government procurement opportunities.

Purpose

The framework seeks to streamline and embed social procurement within ordinary government processes. The framework is informed by the following guiding principles:

- a standard and consistent approach across the Victorian Government;
- easy to understand and adopt with minimal administrative burden for all businesses, especially small to medium enterprises;
- simple for government to embed in everyday business;
- scalable for all sizes and types of businesses and suppliers;
- user-friendly and supported with guidance, education, tools and templates;
- able to be effectively measured and reported; and
- demonstrates Government leadership in promoting the use of social procurement across Victoria.

Approach

The framework – and accompanying guidance materials – applies to procurement of all goods, services and construction undertaken by, or on behalf of, departments and agencies subject to the Standing Directions. Other Victorian public bodies are encouraged to adopt the framework.

The framework establishes:

- the Victorian Government’s social and sustainable procurement objectives;
- framework requirements and expectations, for individual procurement activities and for department and agency procurement planning; and
- measurement and reporting requirements.

1. Victorian Government’s social and sustainable procurement objectives

The Government seeks to increase the value of procuring goods, services, and construction. The Government’s social procurement objectives are outlined in Table 1 and sustainable procurement objectives in Table 2.

Table 1: Victorian Government’s social procurement objectives

Social procurement objectives	Outcomes sought
Opportunities for Victorian Aboriginal people	<ul style="list-style-type: none"> Purchasing from Victorian Aboriginal businesses Employment of Victorian Aboriginal people by suppliers to the Victorian Government
Opportunities for Victorians with disability	<ul style="list-style-type: none"> Purchasing from Victorian social enterprises and Australian Disability Enterprises Employment of Victorians with disability by suppliers to the Victorian Government
Women’s equality and safety*	<ul style="list-style-type: none"> Gender equality within Victorian Government suppliers
Opportunities for Victorian priority jobseekers	<ul style="list-style-type: none"> Purchasing from Victorian social enterprises Job readiness and employment for Victorian priority jobseekers by suppliers to the Victorian Government
Supporting safe and fair workplaces	<ul style="list-style-type: none"> Purchasing from suppliers that comply with industrial relations laws and promote secure employment
Sustainable Victorian social enterprise and Aboriginal business sectors	<ul style="list-style-type: none"> Purchasing from Victorian social enterprises and Aboriginal businesses
Sustainable Victorian regions	<ul style="list-style-type: none"> Job readiness and employment for people in regions with entrenched disadvantage

* Updates:

*The [Building Equality Policy \(BEP\)](#) is applicable to all publicly funded construction projects valued at \$20 million or more. For further information, see the [Building Equality Policy guidance](#).

*Under the [National Employment Standards](#), all employees can access 10 days of paid family and domestic violence leave each year. Therefore, the ‘Adoption of family violence leave by Victorian Government suppliers’ outcome no longer applies for this objective. Buyers are advised to consider whether use of this objective is appropriate. The remit of this objective is covered by the Fair Jobs Code and the Supplier Code of Conduct – see [Safe and fair workplaces: social procurement guide](#).

Table 2: Victorian Government’s sustainable procurement objectives

Sustainable procurement objectives	Outcomes sought
------------------------------------	-----------------

Environmentally sustainable outputs	<ul style="list-style-type: none"> • Project-specific requirements to use sustainable resources and to manage waste and pollution • Use of recycled content in construction
Environmentally sustainable business practices	<ul style="list-style-type: none"> • Adoption of sustainable business practices by suppliers to the Victorian Government
Implementation of the Climate Change Policy Objectives	<ul style="list-style-type: none"> • Project-specific requirements to minimise greenhouse gas emissions • Procurement of outputs that are resilient against the impacts of climate change

2. Social procurement

Social procurement is when organisations use their buying power to generate social value above and beyond the value of the goods, services, or construction being procured.

In the Victorian Government context, social value means the benefits that accrue to all Victorians when the social and sustainable outcomes in this Framework are achieved.

Social procurement can be grouped into two broad approaches:

1. Direct – Purchasing of goods, services or construction (by government) from:
 - a. Victorian social enterprises;
 - b. Victorian Aboriginal businesses;
 - c. or other social benefit suppliers, including Victorian Australian Disability Enterprises.
2. Indirect – Using the invitation to supply process and clauses in contracts with the private sector to seek social and sustainable outcomes for Victorians.

Victoria's Social Procurement Framework supports the expansion and standardisation of social procurement practice across all government procurement activities through both direct and indirect methods.

The Government acknowledges that regional SMEs play a critical role in the sustainability of regional economies and communities. In applying this framework, government departments and agencies are encouraged to consider how they can use place-based approaches to address entrenched disadvantage and support regional SMEs.

2.1 Purchasing from social enterprises

Social enterprises are businesses that trade to intentionally tackle social problems, improve communities, provide people access to employment and training, or help the environment. They derive most of their income from trade (not donations or grants) and use the majority of their profits (at least 50 per cent) to contribute to their social mission.

Among other benefits, social enterprises play an important role in providing transitional employment for Victorian priority job seekers as a pathway to employment in mainstream businesses. Social enterprises can also provide ongoing employment options for job seekers who may not be well placed to sustain mainstream employment over the longer term.

2.2 Purchasing from Aboriginal businesses

The Victorian Government defines an Aboriginal business as:

- at least 50 per cent Aboriginal and/or Torres Strait Islander-owned;
- undertaking commercial activity; and
- operates and has business premises in Victoria.

2.3 Purchasing from Australian Disability Enterprises

Australian Disability Enterprises (ADEs) are Commonwealth-funded and generally not-for-profit organisations operating in a commercial context, specifically to provide supportive employment opportunities to people with moderate to severe disability. Some ADEs also operate as social

enterprises. Under this framework, the Government encourages engagement with Victorian ADEs that offer award-based pay rates for all staff.

2.4 Suppliers that provide inclusive opportunities

This framework seeks to incentivise all suppliers and supply chains to adopt and maintain fair, inclusive and sustainable business practices. The private sector plays a vital role in providing direct employment for Victorian priority jobseekers , and in providing employment opportunities that are gender equitable and inclusive of people with disability.

Jobs Victoria is a strategic mechanism through which suppliers can leverage from existing Government programs to support more job seekers at risk of being left behind into work.

3. Sustainable procurement

In addition to the social outcomes described in the previous section, the Government is committed to achieving positive environmental outcomes through sustainable procurement practices, which achieves value for money while minimising impact to the environment.

Sustainable procurement practices may include:

- maximising recyclable/recovered content;
- minimising waste and greenhouse gas emissions;
- conserving energy and water;
- minimising habitat destruction and environmental degradation; and
- providing non-toxic solutions.

Under this framework, the Victorian Government promotes sustainable practices that go beyond compliance requirements to both minimise adverse environmental impact and deliver positive environmental outcomes.

4. Framework requirements and expectations

The framework is to be applied to procurement of all goods, services and construction, based on a scalable approach linked to procurement activity expenditure. The thresholds outlined are consistent with those used across government to determine requirements under policies such as Local Jobs First - Victorian Industry Participation Policy (VIPP) and the Local Jobs First - Major Projects Skills Guarantee (MPSG). Two tables are provided:

- Individual procurement activity requirements – Table 3 outlines buyer requirements and the recommended approach for the inclusion of social and sustainable objectives into procurement planning processes within each expenditure threshold.
- Government department and agency requirements – Table 4 outlines the requirements for each department and agency to be consistent with the framework’s objectives.

The Government does not expect every procurement to pursue all of the recommended actions in Table 5.

Government buyers are expected to decide which social and sustainable objectives are to be pursued and prioritised in each procurement. While this permits flexibility for government buyers, the recommended approaches are expected to achieve greater commonality across government.

The framework is supported by guidance, tools and templates for the benefit of government buyers and suppliers.

Table 3: Individual procurement activity requirements for government buyers

Victoria’s Social Procurement Framework Individual procurement activity requirements				
	Below threshold	Lower band	Middle band	Upper band
	Regional under \$1 million Metro or State-wide under \$3 million	Regional \$1 to \$20 million Metro or State-wide \$3 to \$20 million	\$20 to \$50 million	Over \$50 million
<i>Planning requirement for government buyers</i>	Incorporate SPF objectives and outcomes into regular procurement planning		Complete a Social Procurement Plan during procurement planning	
<i>Described approach</i>	Encouraged Seek opportunities where available to directly or indirectly procure from	Proportionate Use evaluation criteria (5 to 10 per cent weighting) to favour businesses whose practices support social and	Targeted Include performance standards and contract requirements that pursue	Strategic Include targets and contract requirements that pursue social and sustainable

	social enterprises, ADEs or Aboriginal businesses	sustainable procurement objectives	social and sustainable procurement objectives	procurement objectives
Recommended actions for government buyers				
<i>Social Enterprises, ADEs and Aboriginal businesses</i>	Seek opportunities to directly or indirectly procure from social enterprises, ADEs or Aboriginal businesses	Consider whether part of the procurement can be unbundled for delivery from social enterprises, ADEs or Aboriginal businesses	Set targets for supplier expenditure with social enterprises, ADEs or Aboriginal businesses and ask suppliers to demonstrate how they will meet targets	
<i>Priority jobseekers and jobseekers in regions experiencing entrenched disadvantage</i>			Set supplier targets for employment and training for Victorian priority jobseekers and jobseekers in regions with entrenched disadvantage	
<i>Gender*</i>		Ask suppliers to demonstrate gender equitable employment practices in weighted framework criteria	Include performance standards on labour hours performed by women	Include industry-appropriate targets for labour hours to be performed by women
<i>Disability</i>		Ask suppliers to demonstrate inclusive employment practices for Victorians with disability in weighted framework criteria	Include performance standards on labour hours performed by Victorians with disability	Include targets for labour hours to be performed by Victorians with disability
<i>Fair and safe workplaces†</i>		Ask suppliers to demonstrate compliance with industrial relations laws		

<i>Environmental sustainability</i>		Ask suppliers to demonstrate environmentally sustainable business practices in weighted framework criteria	Include requirements as relevant on recycled content, waste management and energy consumption.
<i>Climate change</i>			Where procurement includes a design component, include requirements on greenhouse gas emissions and climate change resilience

Buyers are advised to consider whether use of this objective is appropriate. See [Safe and fair workplaces: social procurement guide](#).

*The [Building Equality Policy \(BEP\)](#) is applicable to all publicly funded construction projects valued at \$20 million or more. For further information, see the [Building Equality Policy guidance](#).

*Under the [National Employment Standards](#), all employees can access 10 days of paid family and domestic violence leave each year. Therefore, the 'Adoption of family violence leave by Victorian Government suppliers' outcome no longer applies for this objective.

Table 4: Government department and agency planning requirements

Victoria's Social Procurement Framework department and agency planning requirement	
Social Procurement Strategy	Each department and agency is to prepare a Social Procurement Strategy, which includes consideration of the following areas:
Planning	<ul style="list-style-type: none"> • Leadership and governance <ul style="list-style-type: none"> ○ Key priorities and objectives. ○ Roles and responsibilities. ○ Consideration of department or agency targets, such as: <ol style="list-style-type: none"> a. expenditure with Aboriginal business target (percentage or amount); b. social enterprise expenditure target (percentage or amount); c. targets for gender equality and employment of Victorians with disability;

	<ul style="list-style-type: none"> d. targets for job creation for Victorian priority jobseekers and in regions facing entrenched disadvantage; and e. target for proportion of suppliers with environmentally sustainable business practices. <ul style="list-style-type: none"> • Policy and process <ul style="list-style-type: none"> ○ Integration into policy, processes, documentation, tools, and templates. • Planning and opportunity analysis <ul style="list-style-type: none"> ○ Integration into forward procurement planning. ○ Completion of an opportunity and risk analysis. ○ Prioritisation of activities. • Action plan <ul style="list-style-type: none"> ○ Key actions, timeframes, and owners.
Staff and stakeholder communication and education	<ul style="list-style-type: none"> • Communication and education for staff and key stakeholders in delivering against the framework, including: <ul style="list-style-type: none"> ○ targeted awareness and training programs (e.g. procurement teams, project managers, buyers); and ○ provision of access to expertise.
Supplier communication, education, and development	<ul style="list-style-type: none"> • Supplier development and education, including: <ul style="list-style-type: none"> ○ targeted communication to suppliers on expectations and opportunities under the framework; ○ targeted awareness sessions for key suppliers and access to training programs as required; and ○ proposed supplier development activities, including engagement with social enterprises, ADEs and Aboriginal businesses.
Measurement and reporting	<ul style="list-style-type: none"> • Development of a reporting and management framework that includes: <ul style="list-style-type: none"> ○ a data collection model to track against government requirements and the targets and measures outlined in the Social Procurement Strategy; ○ tools and methods for data collection and analysis; and ○ reporting on achievements against the strategy and organisational targets.

5. Embedding social procurement

5.1 State purchase contracts and pre-qualification registers

A substantial proportion of Victorian Government procurement is undertaken under State Purchase Contracts (SPCs) and through supplier pre-qualification registers. SPCs and registers are being adapted to embed the framework's objectives. Some opportunities exist under existing contracts. Others are considered when contracts are renewed.

While opportunities vary for each SPC and register, actions include:

- increasing the number of targeted suppliers on panels and registers, and making it easy for buyers to identify them;
- incorporating questions into panel rules and response templates that incentivise gender-balanced and regionally located teams on individual engagements; and
- working with suppliers on workforce development and environmental sustainability.

5.2 Supplier code of conduct

The Victorian Government is committed to ethical, sustainable and socially responsible procurement, and expects the same high standards from Suppliers.

From 1 April 2025, the Supplier Code of Conduct sets mandatory minimum standards that Suppliers must meet when doing business with the Government.

The Code sets standards in the areas of:

- integrity, ethics and conduct
- conflict of interest; gifts, benefits and hospitality
- corporate governance
- labour and human rights
- health and safety
- environmental management

The Supplier Code of Conduct and this framework are complementary policies. The Supplier Code of Conduct sets minimum standards aimed at strengthening the Government's commitment to ethical procurement, whereas this framework encourages inclusive practices aimed at value creation.

The Supplier Code of Conduct is available at <https://www.buyingfor.vic.gov.au/supplier-code-conduct>

6. Social procurement planning and tactics

This framework establishes a requirement for departments and agencies to develop organisation-wide Social Procurement Strategies. These need to support policy, practice and capability development for staff, suppliers and supply chains. The flexible application of this framework within existing procurement practice seeks to ensure that social procurement is embedded in ordinary government business, with minimal burden on buyers or suppliers.

The framework also promotes the use of best practice sourcing tactics to drive social procurement. Depending on the size, expenditure category, and level of opportunity and risk, there are several tactics that can be applied. Some of the more common approaches are highlighted in Table 5.

Table 5: Social procurement sourcing tactics

Social procurement sourcing tactics	Description
Bundle	Increasing the size and scope of a procurement to enable a social or sustainable solution.
Unbundle	Decreasing the size and scope of a project/contract where social enterprises, ADEs or Aboriginal businesses in the supply market do not have the capacity to meet scope.
Evaluation criteria or targets for delivering social value	Asking all businesses to demonstrate impact, while communicating to the market the importance placed on social value.
Evaluation criteria or targets for subcontracting	Higher value contracts can require or encourage suppliers to incorporate social enterprises, ADEs or Aboriginal businesses in their supply chain.
Expressions of interest	When there is limited knowledge of how social impact could be addressed or there is a desire to encourage innovation from the supply market.
Partnerships	Creates long-term opportunities for innovation around shared social and sustainable objectives, including partnering with private sector and support organisations or strategic matching of social enterprise, ADE or Aboriginal business supplier capability with a pipeline of work.
Supplier relationship management (SRM)	Relationships and structured SRM processes enabling engagement with existing long-term

	suppliers to explore opportunities to strengthen the delivery of social objectives.
Targeted panels	Using panels as an opportunity to encourage and enable market participation by social enterprises, ADEs and Aboriginal businesses.
Targeted sourcing	Allowing direct sourcing from known social enterprises, ADEs and Aboriginal businesses with demonstrated capability. Initially, this might apply to lower value procurements as sector capability develops.

6.1 Partners and support agencies

The Victorian Government works collaboratively with partners and supporting agencies to:

- develop buyer and supplier capability;
- support suppliers with recruiting, pre-employment, on-the-job training and mentoring; and
- connect buyers to certified social enterprises and certified Aboriginal businesses.

The Victorian Government's current social procurement partnerships include:

- Kinaway – the Victorian Aboriginal Chamber of Commerce supports Aboriginal businesses and entrepreneurs. Through policy, advocacy, and representation services, Kinaway seeks to grow the capacity of the Aboriginal business sector, entrepreneurs, and Aboriginal business leadership in Victoria. In doing so, it aims to have a positive and direct influence in increasing economic participation by the Aboriginal community and its contribution to the Victorian economy. Kinaway is developing and will maintain a directory of Victorian Aboriginal businesses to further support and promote the sector.
- Social Traders – Australia's leading organisation that connects social enterprise with social procurement opportunities. Through certification and an annual buyer membership, Social Traders links business and government buyers with social enterprise and aims to create 1,500 jobs for disadvantaged Australians by 2021.

6.2 Support and development for Victorian priority jobseekers

The Government's existing employment, inclusion and training programs will help support suppliers to find, employ and train Victorian priority jobseekers.

The Government established Jobs Victoria to provide a comprehensive approach to supporting job seekers at risk of being left behind. Jobs Victoria is supported by arrangements with leading organisations in the community sector and private sector employers.

Social enterprises, TAFEs and other training providers play a significant role in offering Victorians who need the most support the skills they need to be job-ready now and in the future. The Government will seek to ensure that training and skills gaps are identified and addressed on an

ongoing basis and the training and TAFE system's role to deliver government and community benefits are acknowledged.

The Government recognises the distinct role that TAFEs have, as public providers who partner with industry and Government on key economic priorities, in leading the training system in excellence and innovation, providing essential life skills and support services, and helping disadvantaged students and communities.

7. Implementation and reporting

7.1 Measurement and reporting

It is important that processes exist to measure the costs and benefits of social procurement to ensure value for money is achieved and substantiated. Sound measurement and reporting will enable evaluation of the framework over time, and inform future consideration as to the framework objectives and recommended approaches.

Government departments and agencies subject to the Standing Directions are required to report on their social procurement activities in their annual reports under this framework.

Reporting against the framework and delivery against the outcome priorities is required against individual contracts and at the department or agency level.

Table 6: Department and agency measurement for reporting

Level	Measures
Contract	Measuring supplier performance, such as: <ul style="list-style-type: none">• employment and training opportunities for Victorian priority jobseekers;• the proportion of supplier personnel by gender and people with disability.
Department or agency	Aggregated outputs, such as: <ul style="list-style-type: none">• the number of social enterprises, ADEs and Aboriginal businesses engaged and total spend;• the proportion of suppliers with environmentally sustainable practices.



Government
Services

Appendix C2: Victoria's Social Procurement Reporting Framework

Overview of reporting requirements



Overview

- Each month, a nominated person from the lead contractor on a project has to report data on two Victorian Government policies: Local Jobs First policy (LJF) and Social Procurement Framework (SPF)
- The Victorian Management Centre (VMC) is the mandatory reporting system for all government projects and is used to report, track and maintain outcomes
- VMC opens for reporting on the 25th of every month, is due on the 4th business day of each month, with local content due every quarter at the same time.
- All subcontractors and suppliers working on the project are required to submit data to contractors to allow them to meet their reporting requirement



Reporting requirements

Local Content:

- The report must account for all expenditure to date (i.e., the contractor must accumulate the data)

Aboriginal employment:

- The report must include all hours worked Aboriginal and/or Torres Strait Islander people employed by the contractor or by subcontractors and suppliers during that month

MPSG:

- The report must include all hours worked by apprentices, trainees and cadets employed by the contractor or by subcontractors and suppliers
- Reporting is required 6 monthly in March and September each year
- The qualifications of each apprentice, trainee and cadet must be included in the report, as well as training numbers and educational institutions

Social procurement and employment data:

- The report must include all expenditure with Social Benefit Suppliers during that month.

Female Participation:

- The report must include all hours worked by females employed by the contractor or by subcontractors during that month as defined by the Building Equality Policy

Data required - employment

Contractors will require all subcontractors and suppliers to provide them with a certain amount of data to allow them to fulfil their reporting requirements:

Employee Number	Use a unique identification number for each employee within the same organisation
Occupation	The profession / trade of an employee. Select the value from the standard picklist values or use the closest available option
Employee name & address	Self-explanatory
Gender	Options are Female, Male, Non binary and Prefer not to say.
Role, employment & contractor type	The position of an employee in their organisational hierarchy, whether it's Direct or Labour Hire and whether it's Casual, Fixed Term, Part Time, Permanent / Full Time
Employer & employer ABN	The purchaser / employer for labour hire and their ADN if applicable.
Created / retained	Created - Employees who are hired specifically for the project. Retained - Existing employees who will be engaged in the project.
Apprentice / Trainee / Cadet	Select Apprentice, Trainee, Cadet and Standard
Training Contact Number	This is the Victorian Registration and Qualification Authority (VRQA) employee training contract number. A VQRA number is a number given to each Victoria apprentice or trainees undertaking a certified qualification. The number is made up of 8 digits.
Unique Student ID	Student ID for cadets if available
Qualification	This is the qualification related to the employee. Format for the qualification should be in format 1. certificate level and 2. certificate name e.g. Certificate III in Carpentry.
University / Education institution	This is the university related to the employee
Attribute	These are social attributes of the employees related to the SPF framework. Please select the value from the standard picklist.
Age Group	This is identification of the age group of the employee from ranges of: 15-24, 25-44, 45-49, 50+.
Start & End Date	Start & end date of employment (if needed)
Date worked	The date the employee worked in the reporting period. If the employee worked mutiple days in a reporting period, the employee will be listed mutiple times

Data required – supplier spend

Contractors will require all subcontractors and suppliers to provide them with a certain amount of data to allow them to fulfil their reporting requirements:

ABN	This is the Australian Business Number (ABN) of the supplier
Address & postcode – HQ & Victorian	Address & postcode of the main office of the Supplier as well as their postcode in Victoria
Business Type	Relates to the social attributes of the supplier and includes: <ul style="list-style-type: none"> • Aboriginal controlled organisation • Aboriginal owned business • Australian Disability Enterprise • Business in regions of entrenched disadvantage • Employer of disadvantaged Victorians • Government employment service provider • Non-profit employment provider • Social enterprise • Training / educational provider
Certification	Each supplier must have a certification – you can choose from a standard picklist
Main goods or services purchased	The main category of the goods or services purchased. Select the value from the standard picklist.
Sub goods or services purchased	The sub-category of the goods or services purchased. Select the value from the standard picklist.
Social Benefit	The social benefit of the supplier – there is a long picklist of options
Purchase Type	Select if the spend was DIRECT or INDIRECT Direct - if purchased by the Alliance / Lead Contractor INDIRECT - if purchased by subcontractor or organisation in the supply chain
Purchaser organisation name & ABN	If the spend was indirect, this is the purchaser ABN and organisation name
Spend GST Exclusive	Self-explanatory
Comments	Comments regarding any spend (if any

Appendix C3: Victoria's Social Procurement - Buyers Guide – Individual Procurement Activities

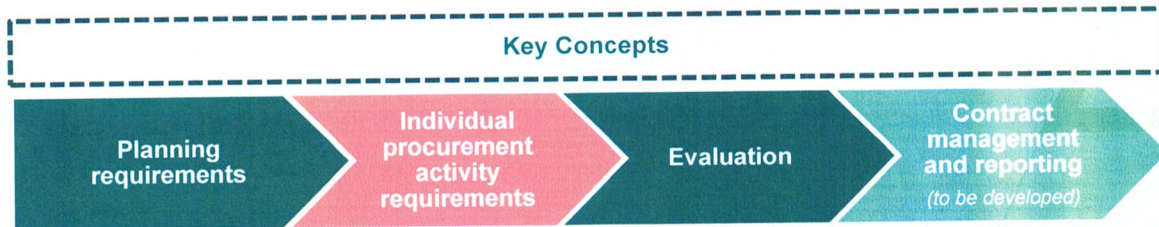
Victoria's Social Procurement Framework

Buyer Guidance: Guide to individual procurement activity requirements

IMPORTANT: On 1 July 2023, the Social Procurement Framework objective 'Opportunities for Victorian priority jobseekers' replaced 'Opportunities for disadvantaged Victorians'. The Social Procurement and Assurance Team at the Department of Government Services is currently updating this guidance. If you need help with the new objective, please contact socialprocurement@ecodev.vic.gov.au

Victoria’s Social Procurement Framework – Buyer Guidance

Guide to individual procurement activity requirements



Purpose of this guide








Victoria’s Social Procurement Framework (SPF) imposes mandatory individual procurement activity requirements on **government buyers** to:¹

1. incorporate social procurement into regular procurement planning, or prepare a Social Procurement Plan during procurement planning; and
2. consider opportunities to deliver social and sustainable outcomes in every individual procurement activity. Table 3 of the SPF sets out ‘described approaches’ and ‘recommended actions’ that establish minimum expectations and are designed to guide government buyers in considering social procurement opportunities.

The purpose of this guide is to provide practical direction to government buyers in relation to the second requirement.

Practical direction to government buyers in relation to the first requirement is provided in the SPF *Guide to planning requirements* available online at www.procurement.vic.gov.au.

The focus of this guide is on embedding SPF requirements and considerations within existing processes involved in the sourcing phase of the procurement lifecycle. It emphasises the importance of incorporating social and sustainable outcomes into the market approach.²

	This guide explains how government buyers can incorporate social and sustainable outcomes into their approaches to market for individual procurement activities.
	Government buyers must consider opportunities to deliver social and sustainable outcomes in every individual procurement activity.
	A strategic approach to the sourcing phase of the procurement lifecycle is fundamental to social procurement success.
	The described approaches and recommended actions in Table 3 of the SPF establish minimum expectations for government buyers.
	The SPF’s scalable and flexible approach empowers government buyers to set proportionate and achievable requirements to deliver social and sustainable outcomes, with a view to maximising social value and achieving optimal value for money.
	This guide includes model approaches to help government buyers identify and pursue opportunities to advance each SPF objective and outcome.
	This guide also includes model clauses for inclusion within invitations to supply and subsequent contracts.

¹ For the purposes of the SPF, ‘government buyer’ means the individual(s) responsible for planning, sourcing and/or approving the goods, services or construction being procured by, or on behalf of, a department or agency. Note that this definition includes end users, project control boards and financial delegates.

² The ‘market approach’ is the process undertaken by an organisation to inform the market of an organisation’s procurement requirements, to obtain offers from potential suppliers that meet those requirements. There are a range of market approaches, such as expression of interest, quotation, tender and registers.

Using this guide

This guide is issued by the Department of Treasury and Finance to provide further information to support departments and agencies in implementing the SPF.

The approaches detailed in the guide are **not prescriptive** and are provided for reference only. The guide complements the existing legislative and policy framework applicable to Victorian Government procurement.

To the extent of any inconsistencies, the Supply Policies issued by the Victorian Government Purchasing Board under the *Financial Management Act 1994 (Vic)*, Supply Policies issued by Health Purchasing Victoria under the *Health Services Act 1998 (Vic)* and the Ministerial Directions for Public Construction Procurement in Victoria issued under the *Project Development and Construction Management Act 1994 (Vic)* take precedence over this guide.

This guide is current as of 1 September 2018. The suite of SPF guidance materials will be periodically reviewed and updated to reflect user feedback and any changes to the legislative and policy landscape.

Contents of this guide

This guide contains the following sections:

- **Section 1** provides a high-level overview of the sourcing phase of the procurement lifecycle
- **Section 2** provides guidance for government buyers on incorporating social and sustainable outcomes into the sourcing phase of the procurement lifecycle
- **Appendix A** provides model clauses for inclusion in invitations to supply and subsequent contracts between Government and preferred supplier(s)
- **Appendices B1 to B10** provides detailed guidance in relation to each social and sustainable procurement objective, including the benefits for Victorians, model approaches to delivering the outcomes sought, and further information for government buyers

Appendix B4: Social Procurement Information Schedule

Detailed guidance for opportunities for disadvantaged Victorians

Introduction

This objective is one of seven social procurement objectives included in the SPF.

Corresponding social outcomes

The SPF identifies two social outcomes corresponding to this social procurement objective:

1. Purchasing from Victorian social enterprises; and
2. Job readiness and employment for:
 - long-term unemployed people;
 - disengaged youth;
 - single parents;
 - migrants and refugees; and
 - workers in transition.

These outcomes are addressed separately below.

SPF Table 3 recommended actions

For individual procurement activities that are 'below threshold', the SPF recommends that government buyers seek opportunities to directly or indirectly procure from relevant Victorian social enterprises (i.e. those that create job readiness and employment opportunities for disadvantaged Victorians).

For individual procurement activities that fall within the 'lower band', the SPF recommends that government buyers consider whether part of the procurement can be unbundled for delivery by relevant Victorian social enterprises.

For individual procurement activities that fall within the 'middle band' or 'upper band', the SPF recommends that government buyers:

- set supplier targets for employment and training for disadvantaged Victorians; or
- set targets for supplier expenditure with relevant Victorian social enterprises and ask suppliers to demonstrate how they will meet such targets.

Outcome 1: Purchasing from Victorian social enterprises

Benefits for Victorians

Social enterprises play an important role in providing transitional employment for disadvantaged job seekers as a pathway to employment in mainstream businesses.

Social enterprises can also provide ongoing employment options for disadvantaged job seekers who may not be well placed to sustain mainstream employment over the longer term.

Model approach for government buyers

There are two model approaches to delivering this outcome:

- *Direct approach to social procurement* – selectively target relevant Victorian social enterprises or, alternatively, ensure that relevant Victorian social enterprises are included in any market approach.

AND/OR

- *Indirect approach to social procurement* – require mainstream suppliers to include relevant Victorian social enterprises within their supply chain (e.g. by way of subcontracting).

Where appropriate, government buyers may also require suppliers to evidence their status, or the status of suppliers in their supply chain, as a relevant Victorian social enterprise.

Further information for buyers

See further information provided in relation to Outcome 1 in Appendix B2 to help government buyers identify Victorian social enterprises.

Outcome 2: Job readiness and employment for disadvantaged Victorians

Benefits for Victorians

Victoria is the fastest growing state in Australia, moving rapidly towards a knowledge economy. Within this dynamic environment, it is important to support jobseekers at risk of being left behind.

Employment has a wealth of positive outcomes for individuals, from building confidence and self-esteem, to enabling more independent and stable lifestyles and providing opportunities for social interaction and community engagement.

Model approach for government buyers

The model approach to delivering this outcome involves two components:

- require suppliers to commit to targets for employment and/or training outcomes for disadvantaged Victorians (note: the government buyer may select one or more disadvantaged cohorts or include all disadvantaged cohorts); and
- require suppliers to explain how they will identify disadvantaged Victorians and support them to achieve and maintain employment and training outcomes (see sample table in Schedule 1 to this appendix.)

Further information for government buyers

In considering such opportunities it is recommended that the focus be on responding to demonstrated employer/industry workforce needs and providing pathways to employment that are likely to be sustained over time. The information below provides definitions for the cohorts of disadvantaged Victorians identified in the SPF and refers to various government funded services and programs to help suppliers create training and employment opportunities for disadvantaged Victorians.

Cohorts of disadvantaged Victorians

In the SPF context, **disadvantaged Victorians** means 'Victorian people or groups that are in unfavourable circumstances or considered to be vulnerable, especially in relation to financial, employment or social opportunities. This may include, but is not limited to, youth, long-term unemployed, people with disability, refugees, migrants and persons needing to develop skills to become work ready'.

Outcome 2 identifies five groups or 'cohorts' of disadvantaged Victorians as its focus (note: migrants and refugees are defined separately below), namely:

- **long-term unemployed people** – people who have not been employed for 12 months or more excluding people undertaking studies
- **disengaged youth** – people aged 15 to 24 years not studying and seeking full-time work
- **single parents** – sole parents that are responsible for dependent or non-dependent children of any age (either living in the household or outside the household) and not sustainably employed for a period of 12 months or more
- **migrants** – people who leave their country voluntarily to commence living in Australia and not in sustainable employment for period of 12 months or more
- **refugees** – people subject to persecution in their home country and who now reside outside

their home country and have resettled in Victoria, Australia and not sustainably employed for a period of 12 months or more

- **workers in transition** – jobseekers who are recently retrenched or facing pending retrenchment due to business closure or industry transition, who require further training or on-the-job support to transition to new employment

Employment access and support services

See further information provided in relation to Outcome 2 in Appendix B1 in relation to jobactive and Jobs Victoria.

Appendix C4: Victoria's Social Procurement – Buyers Guide – Guide to Evaluation

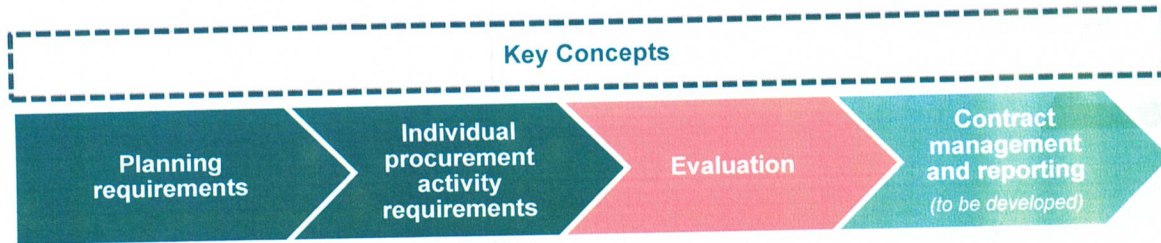
Victoria's Social Procurement Framework – Buyer Guidance

Guide to evaluation

IMPORTANT: On 1 July 2023, the Social Procurement Framework objective 'Opportunities for Victorian priority jobseekers' replaced 'Opportunities for disadvantaged Victorians'. The Social Procurement and Assurance Team at the Department of Government Services is currently updating this guidance. If you need help with the new objective, please contact socialprocurement@ecodev.vic.gov.au

Victoria’s Social Procurement Framework – Buyer Guidance

Guide to evaluation



Purpose of this guide





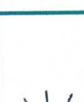
The purpose of this guide is to provide practical direction to **government buyers**¹ in relation to incorporating Social Procurement Framework (SPF) objectives and outcomes into the evaluation, negotiation and selection processes for individual procurement activities.² These processes form part of the sourcing phase of the procurement lifecycle and involve identifying the supplier(s) that delivers an optimal value-for-money outcome for the department or agency.

The focus of this guide is on embedding requirements to deliver social and sustainable outcomes within existing evaluation processes, through weighted evaluation criteria. It also provides an example approach to scoring supplier responses against weighted SPF criteria.

Using this guide

This guide is issued by the Department of Treasury and Finance to provide further information to support departments and agencies in implementing the SPF.

The approaches detailed in the guide are **not prescriptive** and are provided for reference only. The guide complements the existing legislative and policy framework applicable to Victorian Government procurement.

	This guide explains how government buyers can incorporate SPF objectives and outcomes into evaluation processes for individual procurement activities.
	This guide focuses on evaluation processes for individual procurement activities that involve invitations to supply
	It is strongly recommended that any social and sustainable outcomes are specified as mandatory requirements and designated as weighted selection criteria
	The SPF recommends that a minimum weighting of 5 to 10 percent be allocated to SPF-related evaluation criteria, depending on the scale and complexity of the individual procurement activity
	Table 1 provides an example approach to incorporating social and sustainable outcomes into an evaluation process. It is up to the government buyer to determine the most appropriate approach to take in the circumstances of an individual procurement activity.

¹ For the purposes of the SPF, ‘government buyer’ means the individual(s) responsible for planning, sourcing and/or approving the goods, services or construction being procured by, or on behalf of, a department or agency. Note that this definition includes end users, project control boards and financial delegates.

² Evaluation, negotiation and selection (ENS) are important complementary processes that underpin selection of the most appropriate submission in response to an invitation to supply. The structure of the ENS processes should reflect the complexity and scope of the individual procurement activity, as well as the method of market approach used in the circumstances.

To the extent of any inconsistencies, the Supply Policies issued by the Victorian Government Purchasing Board under the *Financial Management Act 1994* (Vic), Supply Policies issued by Health Purchasing Victoria under the *Health Services Act 1998* (Vic) and the Ministerial Directions for Public Construction Procurement in Victoria issued under the *Project Development and Construction Management Act 1994* (Vic) take precedence over this guide.

This guide is current as at 1 September 2018. The suite of SPF guidance materials will be periodically reviewed and updated to reflect user feedback and any changes to the legislative and policy landscape.

Contents of this guide

This guide contains the following sections:

- Section 1 provides guidance on incorporating SPF-related evaluation criteria and weightings
- Section 2 provides an example approach to incorporating SPF-related evaluation criteria
- Section 3 provides an example approach to scoring against SPF-related evaluation criteria, based on the example approach in Section 2
- Appendix A provides a summary of evaluation criteria, weighting and scoring for each SPF objective, based on the examples approaches in Sections 2 and 3

Section 3 – Scoring against SPF evaluation criteria

Table 2 below examines weightings and scoring against SPF-related evaluation criteria, based on the example approach set out in Table 1 of this guide. This example approach is not prescriptive – it is up to the government buyer to determine the most appropriate approach based on the circumstances of the individual procurement activity.

Table 2 – Example approach to scoring against SPF evaluation criteria

Criteria	Weighting	Supplier responses	Scoring
Direct approach to social procurement <i>(Supplier attribute)</i>	<ul style="list-style-type: none"> For individual procurement activities valued under \$20 million, the total available weighted score for the social procurement component of the evaluation matrix For individual procurement activities valued at or above \$20 million, half of the total available weighted score for the social procurement component of the evaluation matrix 	Supplier must meet the definition of a social benefit supplier	<ul style="list-style-type: none"> If the supplier’s response demonstrates that they meet the definition of a social benefit supplier, then the maximum score can be given against this criterion

Criteria	Weighting	Supplier responses	Scoring
Suppliers demonstrate social or sustainable business practice (Social or sustainable business practices)	<ul style="list-style-type: none"> ● Social or sustainable business practices are a focus in seven SPF objectives: <ul style="list-style-type: none"> ○ opportunities for Victorian Aboriginal people; and ○ opportunities for Victorians with disability; ○ women's equality and safety; ○ supporting safe and fair workplaces; ○ opportunities for disadvantaged Victorians ○ sustainable Victorian regions ○ environmentally sustainable business practices. ● For individual procurement activities that fall within the 'lower band', up to half of the total available weighted score for the social procurement component of the evaluation matrix ● For individual procurement activities that fall within the 'middle band' or 'upper band', up to one quarter of the total available weighted score for the social procurement component of the evaluation matrix 	<ul style="list-style-type: none"> ● Suppliers need to submit self-assessment checklists and other information schedules contained in the invitation to supply ● Suppliers may need to submit relevant documentation and data to evidence that desired practices are in place / commitments have been made to adopt desired practices 	<ul style="list-style-type: none"> ● For 'lower band' activities, if the supplier has included a social benefit supplier within their supply chain and attained half of the total available weighted score, they can achieve a maximum weighted score by attaining a maximum score for whichever one of the social and/or sustainable business practices is addressed in the supplier's response ● For 'middle band' or 'upper band' activities, a supplier can achieve half of the total available weighted score by attaining the maximum score for each of two social and/or sustainable business practices addressed in the supplier's response ● For 'middle band' or 'upper band' activities, if the supplier has included a social benefit supplier within their supply chain and attained a quarter of the total available weighted score, they can achieve a maximum weighted score by attaining a maximum score for whichever one of the social or sustainable business practices is addressed in the supplier's response as well as maximum scores for each of two social and/or sustainable outputs addressed in the supplier's response

Criteria	Weighting	Supplier responses	Scoring
Delivering a sustainable output	<p>SPF objectives in which sustainable outputs can be sought include:</p> <ul style="list-style-type: none"> environmentally sustainable outputs; and implementation of the Climate Change Policy Objectives. <p>For each of these SPF objectives, there are two approaches identified for seeking the sustainable outputs:</p> <p>Environmental sustainability</p> <ul style="list-style-type: none"> Project-specific requirements to use sustainable resources and to manage waste and pollution; and Use of recycled content in construction. <p>Climate change</p> <ul style="list-style-type: none"> Project-specific requirements to minimise greenhouse gas emissions; and Procurement of outputs that are resilient against the impacts of climate change. 	<p>All criteria</p> <ul style="list-style-type: none"> The supplier will need to demonstrate that an output can be achieved and how this will occur The supplier will need to provide appropriate evidence that it can achieve any outputs 	<ul style="list-style-type: none"> For 'middle band' or 'upper band' activities: <ul style="list-style-type: none"> A social benefit supplier can achieve the total available weighted score for the social procurement component of the evaluation matrix by attaining a maximum score for each of two social and/or sustainable outputs addressed in the supplier's response a mainstream supplier can achieve half of the total available weighted score by attaining a maximum score for each of two social and/or sustainable outputs addressed in the supplier's response To obtain a maximum weighted score for these bands, a mainstream supplier would need to rely on additional scoring available for demonstrating social and/or sustainable business practices or involving a social benefit supplier in the supply chain to achieve a maximum weighted score for the social procurement component of the evaluation matrix

Appendix C5: Victoria's Social Procurement – Buyers Guide – Contract Management, Reporting

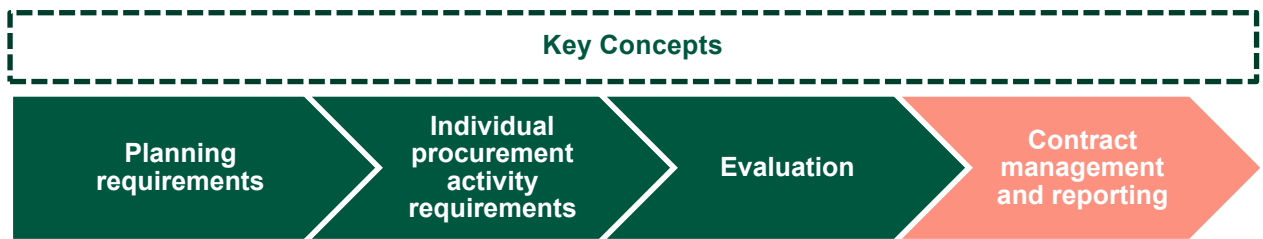
Victoria's Social Procurement Framework – Buyer Guidance

Guide to contract management and reporting

IMPORTANT: On 1 July 2023, the Social Procurement Framework objective 'Opportunities for Victorian priority jobseekers' replaced 'Opportunities for disadvantaged Victorians'. The Social Procurement and Assurance Team at the Department of Government Services is currently updating this guidance. If you need help with the new objective, please contact socialprocurement@ecodev.vic.gov.au

Victoria’s Social Procurement Framework – Buyer Guidance

Guide to contract management and reporting



Purpose of this guide

The purpose of this guide is to provide practical direction to **government buyers**¹ and **contract managers**² on how to manage, monitor and report on social procurement commitments – that is, commitments made by suppliers to deliver social and sustainable outcomes through an individual procurement activity.

The government buyer ensures that social procurement commitments are identified and agreed with the supplier during the sourcing phase of the procurement lifecycle. The contract manager is then responsible for managing, monitoring and reporting on the social procurement commitments for the remainder of the procurement activity.

This guide also provides an overview of the social procurement reporting requirements for departments and agencies, required under Victoria’s Social Procurement Framework (SPF).

Using this guide

This guide is issued by the Department of Treasury and Finance to provide further information to support departments and agencies in implementing the SPF.

The approaches detailed in this guide are **not prescriptive** and are provided for reference only. The guide complements the existing legislative and policy framework applicable to Victorian government procurement.

To the extent of any inconsistencies, the Supply Policies issued by the Victorian Government Purchasing Board (VGPB) under the *Financial Management Act 1994* (Vic), Supply Policies issued by Health Purchasing Victoria under the *Health Services Act 1998* (Vic) and the Ministerial Directions for Public Construction Procurement in Victoria issued under the *Project Development and Construction Management Act 1994* (Vic) take precedence over this guide.

	This guide explains how contract managers can manage, monitor and report on their social procurement commitments.
	Social procurement commitments are like any other contractual commitment and require management, monitoring and reporting.
	This guide covers key activities and information that government buyers need to communicate to suppliers to enable effective contract management of social procurement commitments.
	Sample tools are provided for the management of social procurement commitments.
	The department and agency minimum SPF reporting requirements are detailed.

¹ For the purposes of the SPF, ‘government buyer’ means the individual(s) responsible for planning, sourcing and/or approving the goods, services or construction being procured by, or on behalf of, a department or agency. Note that this definition includes end users, project control boards and financial delegates.

² For the purposes of this guide, ‘contract manager’ means the person nominated in the contract as responsible for managing the day-to-day matters of the contract.

The VGPB sets the policies that govern procurement of non-construction goods and services across all Victorian Government departments and some specified entities. Among other things, these policies outline steps to 'Manage the contract', which are supplemented by templates and tools to help government buyers and contract managers effectively manage problems.³ For construction related procurement, guidance on effective contract management is provided as part of the 'Implement' stage of the 'Investment Lifecycle and High Value/High Risk Guidelines'.⁴ Social procurement commitments form part of the contractual obligations and deliverables between Government and the supplier. As such, where applicable, they should be managed consistent with the VGPB contract management and disclosure policy and the above construction guideline. This guide offers supplementary guidance for government buyers, specifically in relation to contract management of social procurement commitments.

This guide is current as of February 2019. The suite of SPF guidance materials will be periodically reviewed and updated to reflect stakeholder feedback and changes to the legislative and policy landscape.

Contents of this guide

This guide contains the following sections:

- **Section 1** explains how government buyers and contract managers work together in relation to suppliers' social procurement commitments throughout the procurement lifecycle;
- **Section 2** outlines key activities and information that government buyers need to communicate to suppliers to ensure that contract managers can effectively manage, monitor and report on social procurement commitments;
- **Section 3** provides a high-level overview of social procurement reporting requirements for departments and agencies under the SPF;
- **Appendix A1** provides a sample Social Procurement Commitment Response Form;
- **Appendix A2** provides a sample Social Procurement Performance Report template that contract managers can use and provide to suppliers;
- **Appendix A3** provides a sample Contract Manager Master Social Procurement Performance Spreadsheet for monitoring and reporting suppliers' achievements against social procurement commitments; and
- **Appendix A4** provides a template Statutory Declaration form.

³ See information available online at <https://buyingfor.vic.gov.au/manage-contract>.

⁴ See information available online at <https://www.dtf.vic.gov.au/investment-lifecycle-and-high-value-high-risk-guidelines/stage-4-implement>

Appendix A1 – (Sample) Social Procurement Commitment Response Form

Reach agreement on social procurement commitments and measures

Following the evaluation of supplier responses, government buyers will engage with potential suppliers to discuss their Social Procurement Commitment Proposal (or other form of response to SPF-related requirements included in the invitation to supply) through the clarification and negotiation process, with a view to reaching agreement on social procurement commitments that will form part of the contract. This agreed position will be recorded in a Social Procurement Commitment Response Form, and the preferred supplier(s) will be required to achieve the social procurement commitments detailed in the form.

This form is a sample only. The sample template is based on a procurement activity including direct and subcontracting approaches to deliver the following social outcomes:

- employment for Victorian Aboriginal people;
- employment for Victorians with disability;
- employment of disadvantaged Victorians;
- spend with social benefit suppliers; and
- providing job readiness support for disadvantaged Victorians.

If other social or sustainable outcomes are involved, the sample template should be amended accordingly. This example approach is not prescriptive – it is up to the government buyer to determine the most appropriate approach based on the circumstances of the individual procurement activity.

SOCIAL PROCUREMENT COMMITMENT RESPONSE FORM

The Tenderer agrees that if it is awarded the contract, it will achieve the Social Procurement Commitments set out in this Social Procurement Commitment Response Form when performing the works under the contract.

The Tenderer agrees to achieve the following Social Procurement Commitments as part of its contract:

- a) the Tenderer will employ, either through direct or indirect employment through its supply chain, or through labour hire arrangements, Aboriginal people (Table 1), people with disability and disadvantaged Victorians (Table 2) to deliver the work under the contract;
- b) the Tenderer will purchase goods and services from Social Benefits Suppliers as described in the Table 3; and
- c) the Tenderer will provide job readiness activities for disadvantaged Victorians as described in Table 4.

Contractor / Supplier	
ABN	
Type of Activity	

Table 4. Job readiness activities provided for cohorts

GROUP	NUMBER (people)	NUMBER (hours)
People with disability		
Workers in transition (such as retrenched automotive worker)		
Refugee		
Migrant		
Long-term unemployed people		
Disengaged Youth		
Single parents		

Glossary

The definitions in the table below are for the purposes of the SPF only.

TERM	DEFINITION
Aboriginal person	A person of Aboriginal and Torres Strait Islander descent who identifies as an Aboriginal or Torres Strait Islander and is accepted as such by the community in which he or she lives.
Victorian Aboriginal business	A business that is at least 50 per cent Aboriginal and/or Torres Strait Islander owned, undertaking commercial activity, and operates and has business premises in Victoria.
Verified Aboriginal Business	A Victorian Aboriginal business that is verified by Kinaway or Supply Nation.
People with disability	People with disability who are living in Victoria.
Job Readiness activities	Providing the training, mentoring, social and cultural support to equip individuals with the technical and learning skills and attributes needed to successfully gain, maintain and participate in work. These skills will also be transferable to other contexts – as an employee, volunteer or self-employed.
Long-term unemployed	People who have not been employed for 12 months or more, excluding people undertaking studies.
Disengaged youth	People aged 15 to 24 years not studying or seeking full-time work.
Single parents	Sole parents that are responsible for dependent or non-dependent children of any age (either living in the household or outside the household) and not employed for a period of 12 months or more.
Migrants	Migrants have been defined as people who leave their country voluntarily to commence living in Australia and are not in sustainable employment for a period of 12 months or more. For this purpose, 'sustainable employment' means that they have (a) had casual or intermittent employment for a period of 12 months or more and (b) are at risk of long-term unemployment.
Refugees	Refugees have been defined as people subject to persecution in their home country, who now reside in Victoria and have not been employed for a period of 12 months or more.
Workers in transition	People who are recently retrenched or facing pending retrenchment due to business closure or industry transition.

Verified Social
Enterprise

Social Enterprises that are verified by Social Traders.

Australian Disability
Enterprise

Commonwealth funded and generally not-for-profit entity operating in a commercial context, specifically to provide supportive employment opportunities to people with a moderate to severe disability. The Australian Disability Enterprises are found online at BuyAbility <https://buyability.org.au/>.

Appendix C6: Social Procurement Model Clauses

MODEL CLAUSES FOR AGREEMENTS

DRAFTING NOTE:

These model clauses are designed to form a separate Schedule to the Agreement, to ensure that agreed Social Procurement Commitments and reporting requirements are contractually binding.

The clauses use generic language to minimise the need to align them with the language / terminology in the Agreement.

Key steps:

1. Insert a clause in the Agreement, in the appropriate place, stating that this Schedule applies and forms part of the Agreement.

Example: 'Schedule X forms part of the terms and conditions of this Agreement. The Supplier, in performing its obligations under this Agreement, must comply with Schedule X.'

2. Ensure that the words or phrases used in this Schedule are consistent with the words or phrases used in the Agreement. For example, the words or phrases 'Agency', 'Agreement', 'Contract Manager', 'Supplier', and 'term' may need to be changed.
3. Ensure that the clauses in this Schedule are consistent with the clauses in the Agreement (i.e. to avoid any clauses in this Schedule being rendered inoperative by an order of precedence interpretation clause in the Agreement).
4. Remove all drafting notes from the model clauses.
5. Insert the agreed version of the Social Procurement Commitment Proposal (including any Social Procurement Commitments) at Attachment 1 to this Schedule.

Schedule [X] – Social Procurement Framework

1. Definitions

In this Schedule:

Agency means the organisation with which the Supplier has entered into this Agreement.

Agreed Social Procurement Commitment Proposal means the agreed proposal between the Agency and the Supplier establishing the Social Procurement Commitments set out at Attachment 1 to this Schedule.

ICN means Industry Capability Network (Victoria) Limited of Level 11, 10 Queens Road, Melbourne VIC 3004 ACN 007 058 120.

Social Procurement Commitment means an obligation required to be performed by the Supplier, as set out in the Agreed Social Procurement Commitment Proposal, in relation to delivering a Social Procurement Framework Outcome.

VMC (formerly Victorian Management Centre) means the information management platform that collects data to support government and industry with the Social Procurement Framework and Local Jobs First policy, project delivery and performance, administered by the ICN.

2. Agreed Social Procurement Commitment Proposal

- (a) The Supplier will, in performing its obligations under this Agreement:
 - (i) comply with the Agreed Social Procurement Commitment Proposal;
 - (ii) perform all Social Procurement Commitments by the due date for performance as set out in the Agreed Social Procurement Commitment Proposal or otherwise agreed between the parties in writing.
- (b) The Supplier acknowledges and agrees that the Agreed Social Procurement Commitment Proposal (including the Social Procurement Commitments) applies during the term of this Agreement and any extensions to the term and until all obligations under clause 4 of this Schedule are fulfilled.

DRAFTING NOTE:

The Social Procurement Framework does not contain measures to address a Supplier's non-compliance with the Agreed Social Procurement Commitment Proposal.

Each department and agency will need to determine (and contractually negotiate) what consequences will apply if a Supplier fails to perform its Social Procurement Commitments. For example, Agreements may include financial or other disincentives that apply if the Social Procurement Commitments are not met.

Each Agency will determine whether there has been a valid reason for non-compliance (such as an unavoidable change of Supplier). Where no valid reason can be identified, the Agency may determine that this represents a breach of Agreement and take appropriate action under the Agreement. A Supplier's non-compliance with the Social Procurement Commitments as reported may also be considered in the assessment or review of the Supplier's eligibility to tender for future Victorian Government Contracts.

- (c) The Supplier's failure to comply with clause 2 may constitute a breach of this Agreement.

