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Submission from the Synod of Victoria and Tasmania, Uniting Church in Australia on increasing the integrity of Government procurement

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The Synod of Victoria and Tasmania, Uniting Church in Australia welcomes this opportunity to provide comment on the Commonwealth Government's proposal to improve the integrity of its procurement process. The Synod is disappointed at the limited requirements that are proposed for entities to show they have a satisfactory tax record in order to bid for contracts of \$4 million or more. It is difficult to see that many entities will be blocked from tendering for Commonwealth contracts, even where they are involved in significant shadow economy activities. The entity will not even need to be fully compliant with its tax obligations to still be able to bid for Commonwealth contracts, with only 90% of all income tax returns, Fringe Benefit Tax returns and Business Activity Statements having to be filed in last four years. So a business that has failed to lodge multiple such requirements and then files up to the 90% mark just prior to bidding for the contract will be able to participate in the tendering process.

A business will have been able to engage in significant wage theft and may have even been prosecuted by the Fair Work Ombudsman and this will only impact on their ability to bid for the contract to the extent that it would currently impact on their ability to bid for the contract.

The Synod looks forward to additional criteria being added by the Commonwealth over time, as suggested on page 2 of the consultation paper.

The Synod has been in discussion with an Australian business owner who sold his business to a multinational corporation because he could not compete with multinational competitors who paid much less tax than his company did, as a proportion of revenue. The new multinational corporate owner now pays much less tax on the business than the Australian owner previously did. The policy and process above will do little to address the situation where businesses not engaged in aggressive profit shifting and shadow economy activities find themselves at a competitive disadvantage for acting ethically in full compliance with Australian law.

The proposed measures around the Statement of Tax Record on page 5 seem reasonable and should not be weakened through this consultation process.

The process for new and foreign tenderers on page 6 is welcome. It would be desirable that some checks are done to ensure that the statement by directors, partners, trustees or appropriate officers is accurate and truthful. If these people have engaged in criminal activity then they may have little concern about lying to the Commonwealth Government to be able to bid for the government contract. The requirement not to have tax related and/or criminal convictions in the last four years should apply to the directors, partners and trustees of the entity in addition to the entity itself. Otherwise people who have been involved in criminal shadow economy activity can get around this process by simply setting up a new legal entity with no criminal record.

The Synod welcomes that the rules will apply to subcontractors. However, the proposed requirements will be easily circumvented if not applied to all tiers of subcontracting. Corporation A wants to use Corporation B as a subcontractor, but Corporation B has been involved in serious tax evasion in the last four years. So the directors of Corporation A set up Corporation C with nominee directors. The bid says that Corporation C with the clean record is the first tier subcontractor and will comply with the process for a new company in the rules. Corporation C then subcontracts to Corporation B and as a second tier subcontractor Corporation B does not need to provide a STR.

The Synod welcomes that each partner in a partnership will need a satisfactory STR.

The Synod welcomes that each trustee in a trust will be required to have a satisfactory STR.

The Synod welcomes that the policy will be reviewed annually.

The Synod is also of the view that the Commonwealth Government should have included in this requirement measures to ensure that suppliers have addressed modern slavery risks, to meet the Commonwealth Government's obligations under the *Modern Slavery Act*. At a minimum, entities tendering for contracts worth \$4 million or more should be required to have submitted a compliant modern slavery statement under the Act.

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