

## MINUTE TO THE SECRETARY

**To:** Caroline Edwards

**SUBJECT** Revocation of approval to apply the human health protection exemption of the Commonwealth Procurement Rules for COVID-19 related procurement expenditure

### Purpose

To provide you the opportunity to revoke your previous approval to apply the human health protection exemption (paragraph 2.6) in the Commonwealth Procurement Rules (CPRs), for procurements undertaken by departmental officials in response to the COVID-19 global pandemic.

### Issues/Sensitivities

CPR paragraph 2.6 provides a range of broad exemptions from the CPRs. It states relevantly:

These CPRs do not apply to the extent that an *official* applies measures determined by their *Accountable Authority* to be necessary... to protect human health...

On 10 March 2020, you approved (**Attachment A**) the application of the human health protection exemption specifically in relation to procurement activity being undertaken by departmental officials in support of the establishment of GP-led respiratory clinics, which was announced by Government as part of the initial \$2.4 billion Health response to COVID-19 on 11 March 2020.

Subsequently, on 18 March 2020, you approved (**Attachment B**) the broad application of that same exemption in relation to all procurement activity being undertaken by departmental officials to support the broader Health response to COVID-19, with the exemption remaining in force until revoked.

In all cases, departmental officials undertaking exempt procurement activities are still required to meet *Public Governance Performance and Accountability Act 2013* (PGPA Act) obligations such as to undertake a value for money assessment; to document the procurement process, to obtain the necessary financial approvals, and to meet reporting obligations outside the CPRs such as Senate Orders (e.g. Senate Order 13, also known as the "Murray Motion").

This exemption increased the Department's ability to promptly and effectively respond to the rapidly evolving situation, and particularly to secure essential medical supplies and equipment in the face of severe supply constraints and intense international competition for the limited supplies. As the Department has successfully procured significant medical supplies, goods, and services to protect human health, and the COVID-19 emergency appears to have stabilised in Australia, the urgency of further procurement has reduced.

As indicated in the 18 March minute Financial Management Division (FMD) has monitored this exemption's use. Utilising this exemption, as at 26 June 2020, the Department had entered into 183 contracts, with a total value of **\$2.9 billion**.

Contract/Agreement Description	Sum of Contract Value (\$, GST Inc.)	Number
COVID-19 Stockpile	2,623,642,183.11	34
COVID-19 Stockpile/Respiratory Equipment	110,078,000.00	4
COVID-19 Respiratory Clinics for Assessment of Patients	86,394,000.00	130
COVID-19 Pathology Testing	64,938,500.00	3
COVID-19 Testing Equipment	20,817,500.00	2
COVID-19 Health Research Services	6,895,328.83	3
COVID-19 Health Services	21,654,499.20	3
COVID-19 National Incident Response Data System	490,600.00	1
COVID-19 Departmental Supplies	678,295.31	3
<b>Grand Total</b>	<b>2,935,588,906.45</b>	<b>183</b>

A list of contracts that have been, or will be, reported on AusTender claiming the exemption is attached (Attachment C refers).

These contracts do not represent total COVID-19 expenditure, as a number of procurements did not utilise the human health protection exemption, instead utilising panel arrangements or applying the full CPR requirements.

#### Consultation

The Department's Chief Financial Officer.

#### Recommendation

Financial Management Division recommends you revoke your previous approval to apply the human health protection exemption (paragraph 2.6) in the CPRs, for procurements undertaken by departmental officials in response to the COVID-19 global pandemic, with effect from date of revocation.

Revoked / Not Revoked / Please Discuss / Noted

Caroline Edwards

9/09/2020

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Attachment A. Approval Minute GP Respiratory Clinics 10 March

Attachment B. Approval Minute 18 March

Attachment C. Contract listing