Australian Government



Payment Times Reporting Regulator

Regulator's Update

JANUARY 2024

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Letter from the Regulator

This year is the fourth year of operation for the Payment Times Reporting Scheme; this will be a year of reform and improvement as we implement the measures agreed by the Australian Government in response to the Statutory Review of the *Payment Times Reporting Act 2020*. Implementation of these measures will deliver better outcomes for small businesses and ensure continuous improvement of payment practices by large businesses operating in Australia.

This issue of the Regulator's Update includes the latest insights with a new Data Snapshot feature, information on developments in the compliance program and the steps the Regulator is taking in response to the Review to support the Government's commitment to ensure small businesses are paid on time.

The Government agreed with all recommendations of the Review and committed to overhauling the Scheme, including improving and streamlining payment times reporting. We identified two immediate and interim process changes to reduce regulatory burden on reporting entities and published updated guidance on the Payment Times Reporting Regulator's website in early December. See the Policy and Resources Update section for more information.

The next step involves Treasury developing legislative amendments to the *Payment Times Reporting Act* 2020.

Government also asked the Regulator to begin research and outreach initiatives after the Review acknowledged payment performances were unlikely to improve through reporting alone. In the coming months, we will be reaching out to industry and stakeholders to understand the industry standards and frameworks that can support the promotion of good payment times. The outreach will help create the tools to access, interpret and compare the payment performance of large businesses and identify best and worst payers.

While the overhaul process continues, I want to emphasise that all current reporting obligations remain unchanged until such time as legislative amendments take effect. Late last year and for the first time since the Scheme began, I published 'Failure to comply' notices on the Payment Times Reports Register. I will continue to use my regulatory powers to improve compliance outcomes where necessary.

Finally, our next virtual (online) liaison forum is planned for late February. This is an opportunity for reporting entities and stakeholders to ask questions, provide feedback and contribute to discussions. Previous forum attendees will receive an invitation in the coming weeks; if you have not attended before and would like to join our mailing list, please email us at support@paymenttimes.gov.au. Thank you for your ongoing support and interest in the Payment Times Reporting Scheme.

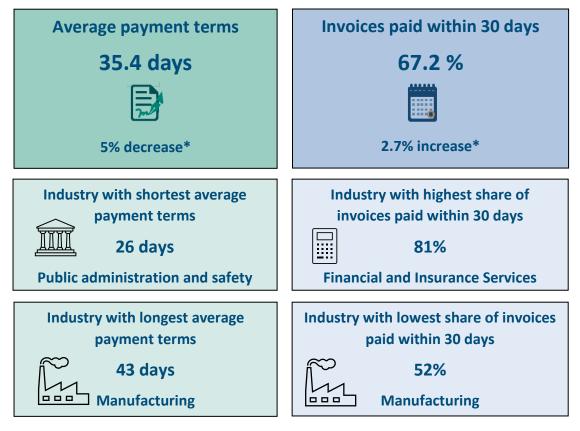
Kind regards

Mary Jeffries

Payment Times Reporting Regulator

Data Snapshot at June 2023

*Change since commencement of payment times reporting



73% of reporting entities make payments to small businesses and spend 30% of their total procurement value with small businesses

Construction

42%

Highest share of procurement with small business (by value)

Mining

20%

Lowest share of procurement with small business (by value)

Since January 2021...



49,669 reports have been lodged



60 volunteer reporting entities registered

Of the total 11,010 reporting entities that registered...



3,294 (30%) reported individually, and



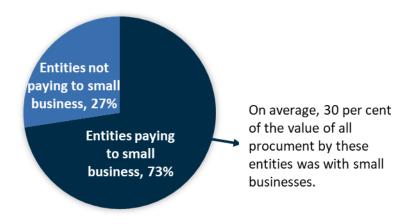
7,716 (70%) reported within a group.

Data and insights

Payments to small business

In the six months to 30 June 2023 there has been no material change in the proportion of procurement going to small businesses.

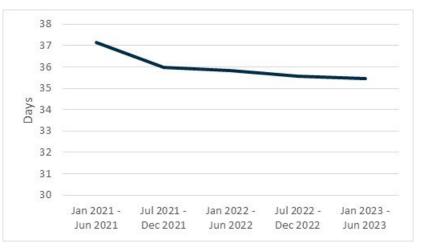
Figure 1: Proportion of reporting entities making payments to small businesses (Jan – Jun 2023)



Payment terms

At end June 2023, the average payment term offered to small businesses is **35.4 days**, this is a **5 per cent improvement** in the average payment term (or 1.7 days less than the average payment term of 37.1 days) on commencement of the Scheme. Figure 2 shows the gradual decline in average standard payment terms.

Figure 2: Average standard payment terms, Jan 2021-Jun 2023



The median payment term offered to small business is 30 days; this has not changed since the commencement of the Scheme.

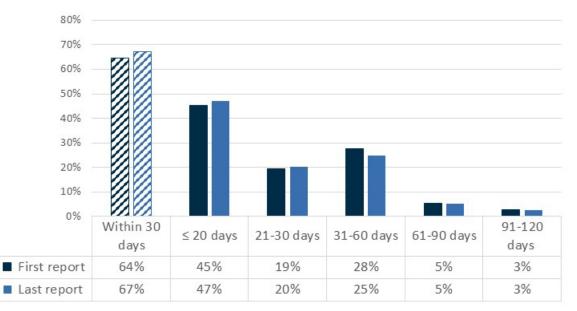
Payment times

Analysis to June 2023 reveals a **3 per cent improvement** in the percentage of small business invoices being paid within 30 days when comparing payment times in the first report by a reporting entity with the payment times in their latest report.

A notable shift is a **3 per cent decrease** in the share of invoices paid between 31 and 60 days. There is no change to the share of invoices paid between 61 and 90 days or between 91 and 120 days.

The chart below includes reporting entities that have provided at least two reports for reporting periods between January 2021 and June 2023.

Figure 3: Average payment times between an entity's first and latest report (Jan 2021 – Jun 2023)



Further analysis on industry averages for payment times within 30 days is at Appendix B, Table 7.

Reports by industry

The Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006 (ABS 2013) defines the 19 industry sectors used in payment times reporting analysis.

Reporting entities by industry

In the latest reporting period, almost half of the reporting entities making payments to small businesses sit within four industries: financial and insurance services (18 per cent), manufacturing (11 per cent), wholesale trade (10 per cent) and construction (9 per cent). **Figure 4** refers.

This representation is consistent with the previous reporting cycle.

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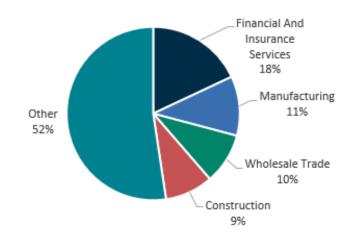


Figure 4: Industries with highest proportion of reporting entities (Jan – Jun 2023)

A breakdown of the industries grouped in Other is at Appendix B, Table 8.

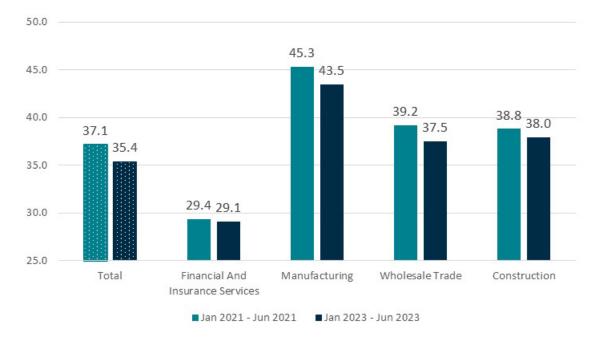
Average standard payment terms by industry

As noted earlier, the average standard payment term to small businesses has **fallen by 5 per cent** since the Scheme commenced (**37.1 days** to **35.4 days**).

Analysis of movements in the average standard payment terms offered by the four largest industries over this same period are in **Figure 5** below.

- <u>Construction</u>: **improved** by 0.8 days from 38.8 days to **38.0 days**. Even with the slight decrease, the construction industry's average payment term is still 2.6 days longer than the all-industry average of 35.4 days.
- <u>Financial and insurance services</u>: **improved slightly**, from 29.4 days to **29.1 days**.
- Manufacturing: improved by 1.8 days, from 45.3 days to 43.5 days
- <u>Wholesale trade:</u> improved by 1.7 days, from 39.2 days to **37.5 days**.

Figure 5: Average standard payment terms in days (for all industries and top 4 industries by share)



Average proportion of invoices paid within 30 days by industry

As noted earlier, across all 19 industry divisions, the average proportion of small business invoices paid within 30 days has **increased by 2.7 per cent** since the Scheme commenced in January 2021 (**67.2 per cent**, up from **64.5 per cent**).

Figure 6 below shows the movements in the average proportion of small business invoices paid within 30 days by the four largest industries over this same period. (Also refer Appendix B, Table 7).

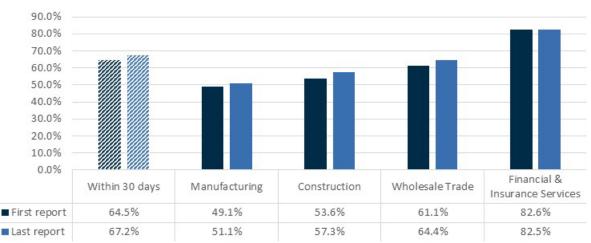


Figure 6: Average proportion of invoices paid within 30 days (by all industries, and by top four industries)

Analysis shows:

- <u>Construction</u>: **noticeable improvement** from 53.6 per cent to **57.3 per cent**, although almost 10 per cent lower than the industry average of 67.2 percent within 30 days.
- <u>Financial and insurance services</u>: **consistent**, from 82.6 per cent to **82.5 per cent**.
- <u>Manufacturing</u>: **improved** from 49.1 per cent to **51.1 per cent**, but still 16 percent lower than the industry average. However, their industry average payment terms are the longest at 42 days.
- <u>Wholesale trade: noticeable improvement from 61.1 per cent to 64.4 per cent.</u>

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Policy and resources update

Government response to the Statutory Review of the *Payment Times Reporting Act 2020*

On 5 December 2023, the Government published its response to the Hon Dr Craig Emerson's independent review of the *Payment Times Reporting Act 2020* (the Act), agreeing with all recommendations.

The Government's response commits to overhauling the Payment Times Reporting Scheme by implementing a range of measures to put pressure on large businesses to pay promptly and improve outcomes for small businesses.

Measures include overhauling the Act, naming best and worst payers, prohibiting unfair payment practices and supporting small business to identify and act against unfair contract terms, developing a strategy to increase the take-up of elnvoicing, and elevating the importance of prompt payment in the Commonwealth procurement supply chain. The Government will also strengthen advocacy channels to promote prompt payment as an environmental, social and governance (ESG) obligation.

The commitment to overhaul the Act includes updating its objects to better align them with the intended outcomes of the Scheme, consolidating reporting under Australian Accounting Standards, simplifying and streamlining reporting requirements, additional regulatory powers and changes to address inefficiencies with current reporting requirements and processes.

Implementing changes to payment times reporting is a priority for the Government. The Treasury is implementing these changes, including preparing draft legislation for consultation with key stakeholders. The Regulator will use its website (www.paymenttimes.gov.au) and other communication channels to keep reporting entities abreast of developments in the proposed reforms.

Updates to regulatory resources and website information

As an immediate and interim action following the Government's response, on 11 December 2023 the Regulator published updates to guidance material to action two review recommendations. These changes did not require legislative change and the Regulator acted swiftly to reduce the administrative burden with reporting credit card transactions and simplifying the process for correcting the Small Business Identification (SBI) Tool.

These guidance documents explain the key changes:

- Information sheet 6: Small Business Identification (SBI) Tool
- Information sheet 8: Reporting credit card transactions

These Guidance Notes reflect the changes:

- GN1: Key concepts
- GN2: Preparing a payment times report
- GN2.1: Payment times reporting template instructions

The Regulator has committed to update the SBI Tool within 28 days of being provided sufficient information to make the correction. This is an initial service commitment; the Regulator is preparing

for a shorter turnaround period in the near future. The next Regulator's Update in July 2024 will report on performance against the 28-day commitment.

The reforms to the Act proposed in the Government's response will trigger an overhaul of guidance material. The Regulator will engage as early as possible with reporting entities and stakeholders on major updates to guidance.

Planned improvements to the submission portal and register

In addition to streamlining and amending reporting content, the Government has committed to improve the submission portal to reduce the regulatory burden of reporting and make the user experience as simple and efficient as possible.

Register improvements are also in development, including the changes required to align with any legislative amendments and new functionality to compare and rank entities to support identification of best and worst payment practices.

Compliance and enforcement

The Regulator continues to monitor and enforce compliance with the Act.

This is the fourth year of the Payment Times Reporting Scheme. The Regulator expects reporting entities regulated under the Act to have implemented and embedded their internal processes to comply with their statutory reporting obligations.

Update on compliance activities

As a result of compliance activity since the Regulator's Update in July 2023:

- 211 reporting entities submitted a payment times report for the first time, and
- 997 previously outstanding reports now submitted.

In December 2023, the Regulator published 'Failure to comply' notices for entities that failed to comply with the Act. This is the first time the Regulator has published details of non-compliance since the commencement of the Act.

Compliance activities are ongoing, in line with the Regulator's objective of ensuring continued compliance with reporting requirements under the Act, and deterring non-compliance.

Late payment times reports

The Regulator is continuing to focus on late payment times reports in its compliance activities. Late reports are those not given to the Regulator within three months of the end of a reporting period. Since the previous Update, the Regulator continues to observe a high incidence of late reports.

Entities with obligations under the Act must take those obligations seriously. Reporting entities that fail to submit reports within the required period may face compliance and enforcement action by the Regulator.

Applications

The Regulator received 1,752 applications since the previous Regulator's Update.

Application Type	1 Jul – 31 Dec 2023	1 Jan – 30 Jun 2023	Change
Notifications from volunteering entities	8	5	60%
Extension of time	309	148	109%
Cease to be a reporting entity	29	16	81%
Reconsideration of reviewable decisions	2	0	200%
Revised report	1,404	1,032	36%
Total	1,752	1,201	46%

Table 1: Applications received by the Payment Times Reporting Regulator

Extension of time applications

There has been a rise in the number of applications for an extension of time to report made after the due date. The Regulator cannot grant an extension of time to report if the application is made more than 3 months after the end of the relevant reporting period.

Reporting entities should review Guidance note 3: Applications and notifications before making an application and use **Table 1 of the Guidance Note** as a template for their application. Using the template approach ensures applications contain all the required information for the Regulator to make a timely decision.

Cease being a reporting entity applications

Reporting entities considering making an application to the Regulator for a determination to cease being a reporting entity should review Guidance note 3: Applications and notifications before doing so, and use **Table 2 of the Guidance Note** to determine their eligibility for a determination.

To avoid delays in processing, applications for a determination should include a cover letter plus all relevant content outlined in **Table 3 of the Guidance Note.**

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Appendix A – Insights: methodology and assumptions

Reporting cycles

Insights reported refer to **reporting cycles**. A reporting cycle is a fixed period based on the commencement of the Act:

Reporting cycle 1	Reporting cycle 2	Reporting cycle 3	Reporting cycle 10	
1/01/2021 - 30/06/2021	1/07/2021 - 31/12/2021	1/01/2022 - 30/06/2022	1/07/2025 - 31/12/2025	

Reports assigned to a reporting cycle based on the **reporting period start date**. For example, a report with a reporting period start date of 15 March 2022 will be categorised as reporting cycle 3 for the purpose of payment times reporting.

For the purposes of assigning data to a reporting cycle, we assign other assumptions to several **reporting period start date** values which are either formatted as MM/DD/YYYY or occur prior to the commencement of the scheme, i.e., 1 January 2021. For dates 07/01/YYYY with a reporting period end date of 31/12/YYYY or 12/31/YYYY, a reporting period start date of 1 July YYYY is assumed. Where a reporting period start date is prior to 1 January 2021, if any of the reporting period falls after the commencement of the scheme, a date of 1 January 2021 is applied. If all of the reporting period falls prior to the commencement of the scheme, the report is excluded from reporting cycle analysis (4 reports result in being excluded).

Reporting instances (i.e., an entity's first report, second report and so on) and reporting cycles do not reconcile because of the timing of reports. For example, the first instance of reporting for an entity may occur in reporting cycle 2 or 3.

Historic report statistics will also change as entities continue to submit reports for prior reporting cycles and revisions are made to reports.

Insights are at a point-in-time

Data is subject to revision. Reports are received on a continuous basis, including for historical reporting cycles. Previous reports can also be updated by submissions of revised reports.

Insights provided in this Update are based on reports received by 31 December 2023 and subsequently registered. The insights are subject to change as additional reports received after this date are registered by the Regulator or revised by reporting entities.

Analysis on payment times

The Regulator receives payment times data relating to 2 categories:

- The percentage of the total number of payments to small businesses
- The percentage of the total value of payments to small businesses.

Insights in this Update are based on the percentage (or proportion) of the total number of small business payments. Insights reporting the changes in the payment times for entities are based on a comparison between an entity's first submitted report (containing small business payments) and its last submitted report (containing small business payments). Reports superseded by a revised report and 'nil' reports (refer to assumptions below) are excluded from analysis on payment times.

Assumptions

Unless otherwise stated, the following assumptions apply.

- **Nil reports** are excluded from calculations for standard payment terms and payment times. Nil reports either:
 - contain zero payment terms and payment times because the entity does not procure from small business, or
 - report zero as the percentage of their total procurement with small business.
- **Superseded reports** are excluded from calculations. A superseded report is where an original or revised report has been replaced by a subsequent revised report. Only the most recent revised report is used.
- Change in standard payment period is the standard payment term reported at the end of a reporting period. It is the most contemporary standard payment term reported and is used, unless otherwise stated, when calculating summary statistics such as averages and medians. This field can be incorrectly reported, so to address the inconsistencies the following assumptions are applied.
 - If the change in standard payment period is a positive number, the reported figure is used.
 - If the change in standard payment period is a negative number, the absolute value is subtracted from the standard payment period (at the start of the reporting period).
 Where this calculation results in:
 - : a positive number, the resulting figure is used
 - : a negative number, the report is excluded from analysis.
 - If the change in standard payment period is zero, the standard payment period (at the start of the reporting period) is used.
- An entity is **reporting as part of a group** by applying the following assumptions:
 - classification is based on the most recent report received from an entity
 - if no ABN or ACN is provided for a head entity or controlling corporation, then it is treated as a null value for these fields
 - if multiple entities report the same head entity, all entities reporting the same head entity are made a single group
 - if an entity reports a controlling corporation and no head entity, that entity and the controlling corporation is a single group
 - if an entity reports a head entity with no controlling corporation, and is the only entity to report under that head entity, it is treated as an individual reporter
 - if an entity does not report a controlling corporation or head entity, it is treated as an individual reporter.

Appendix B – Data tables

All data tables reflect payment times reports **received** by 31 December 2023, reflecting payment activity up to and including **Reporting Cycle 5**.

Reporting Cycle	Cycle range	Standard payment Payment terms			Proportion of reports with small business	Proportion of total procurement	
		reports	Average	Median	procurement (average)	with small business (by value)	
		no.	days	days	%	%	
Cycle 1	1 Jan 2021 - 30 Jun 2021	9,081	36.5	30	76%	29%	
Cycle 2	1 Jul 2021 - 31 Dec 2021	9,369	35.8	30	75%	30%	
Cycle 3	1 Jan 2022 - 30 Jun 2022	9,767	35.7	30	75%	30%	
Cycle 4	1 Jul 2022 - 31 Dec 2022	9,900	35.5	30	74%	30%	
Cycle 5	1 Jan 2023 - 30 Jun 2023	9,669	35.4	30	73%	30%	
Cycle 6	1 Jul 2023 - 31 Dec 2023	-	-	-	-	-	
Total		47,786	35.8	30	78%	30%	
Superseded reports ¹ Total reports on register ²		1,879					
		49,669					

Table 2: Payment time reports received by 31 December 2023

Table 3: Average standard payment terms at start and end of reporting cycles

	Average Standard payment terms				
Reporting Cycle	Start of reporting period	End of reporting period ³			
	days	days			
Cycle 1	37.1	36.5			
Cycle 2	36.2	35.8			
Cycle 3	36.1	35.7			
Cycle 4	35.7	35.5			
Cycle 5	35.5	35.4			

¹ Superseded reports are those replaced by a revised report. Superseded reports are published to the register for transparency of reporting history but excluded from calculations. For multiple revised reports, the most recent revised report is used.

² 4 payment time reports were submitted for periods prior to the commencement of the Scheme on 1 January 2021 and were omitted from calculations (these are also published on the register).

³ Assumptions are applied to the standard payment terms reported at the end of a reporting period. Refer to **Assumptions** in <u>Appendix A</u>.

Table 4: Payment time reports by reporting instance

Reporting instance Payment time repo		
	no.	
First report	11,010	
Second report	10,317	
Third report	9,690	
Fourth report	8,970	
Fifth report	7,789	
Sixth report	14	
Total reports	47,790	
Superseded reports	1,879	
Total reports on the register	49,669	

Table 5: Payment times by day ranges for an entity's first and last report⁴

Payment times	First report	Last report
within 30 days	64%	67%
≤ 20 days	45%	47%
21-30 days	19%	20%
31-60 days	28%	25%
61-90 days	5%	5%
91-120 days	3%	3%
> 120 days	0%	0%

Table 6: Share of small business invoices paid within 30 days

Report with small	Small business invoices paid within 30 days				
business payments	100% of invoices paid	80% or more of invoices paid	50% or more of invoices paid		
First report	7.8%	38.1%	68.0%		
Last report	8.3%	43.3%	71.6%		

⁴ Only reporting entities which had submitted at least 2 reports were used to evaluate payment times for an entity's own first and last report.

 Table 7: Percentage of number invoices paid within 30 days by industry

	Industry (alphabetical)	First report	Last report	% change
1	Accommodation & Food Services	73.3%	79.2%	5.9%
2	Administrative & Support Services	78.0%	78.9%	0.9%
3	Agriculture, Forestry & Fishing	59.2%	60.7%	1.5%
4	Arts & Recreation Services	74.8%	80.7%	6.0%
5	Construction	53.6%	57.3%	3.8%
6	Education and Training	81.8%	78.3%	-3.5%
7	Electricity, Gas, Water & Waste Services	75.4%	78.9%	3.5%
8	Financial & Insurance Services	82.6%	82.5%	-0.1%
9	Health Care & Social Assistance	70.6%	74.3%	3.7%
10	Information Media & Telecommunications	72.8%	78.2%	5.4%
11	Manufacturing	49.1%	51.1%	2.0%
12	Mining	60.1%	65.7%	5.6%
13	Other Services	57.7%	62.7%	5.0%
14	Professional, Scientific & Technical Services	66.4%	68.8%	2.4%
15	Public Administration & Safety	80.1%	79.8%	-0.3%
16	Rental, Hiring & Real Estate Services	69.3%	71.9%	2.6%
17	Retail Trade	59.1%	62.7%	3.6%
18	Transport, Postal & Warehousing	63.3%	66.9%	3.6%
19	Wholesale Trade	61.1%	64.4%	3.3%
Total		64.5%	67.2%	2.9%

Table 8: Reporting entities on the register by industry ⁵, January 2023 – June 2023 a'Other' industries grouped in Figure 4 are in **bold text**

	Industry (alphabetical)	Reporting entities	Proportion of total	Proportion of total procurement with small business (by value)	Average standard payment terms	Average proportion of invoices paid within 30 days
		(No.)	(%)	(%)	(days)	(%)
1	Accommodation & Food Services	130	1.3%	34%	33	81%
2	Administrative & Support Services	258	2.7%	40%	30	79%
3	Agriculture, Forestry & Fishing	166	1.7%	39%	36	61%
4	Arts & Recreation Services	119	1.2%	35%	31	80%
5	Construction	869	9.0%	42%	38	58%
6	Education & Training	37	0.4%	36%	27	79%
7	Electricity, Gas, Water & Waste Services	447	4.6%	26%	32	79%
8	Financial & Insurance Services	1,741	18.0%	29%	29	81%
9	Health Care & Social Assistance	351	3.6%	38%	27	74%
10	Information Media & Telecommunications	271	2.8%	29%	29	78%
11	Manufacturing	1,073	11.1%	26%	43	52%
12	Mining	813	8.4%	20%	40	67%
13	Other Services	84	0.9%	36%	35	65%
14	Professional, Scientific & Technical Services	744	7.7%	34%	34	71%
15	Public Administration & Safety	58	0.6%	36%	26	79%
16	Rental, Hiring & Real Estate Services	303	3.1%	37%	34	73%
17	Retail Trade	748	7.7%	26%	37	64%
18	Transport, Postal & Warehousing	531	5.5%	27%	37	68%
19	Wholesale Trade	918	9.5%	24%	38	64%
Tota	al	9,661	100%	30%	35	68%

⁵ Industries are defined by the Australian and New Zealand Standard Industrial Classification (ANZSIC) (Australian Bureau of Statistics 2013).

Table 9: Number of reporting entities making payments to small businesses by industry and proportion of total procurement with small business (by value) January 2023 – June 2023

	Industry (alphabetical)	Reporting entities ^a	Proportion of total procurement with small business (by value)
		no.	%
1	Accommodation & Food Services	107	34
2	Administrative & Support Services	205	40
3	Agriculture, Forestry & Fishing	141	39
4	Arts & Recreation Services	74	35
5	Construction	698	42
6	Education & Training	27	36
7	Electricity, Gas, Water & Waste Services	319	26
8	Financial & Insurance Services	895	29
9	Health Care & Social Assistance	294	38
10	Information Media & Telecommunications	193	29
11	Manufacturing	837	26
12	Mining	515	20
13	Other Services	70	36
14	Professional, Scientific & Technical Services	587	34
15	Public Administration & Safety	48	36
16	Rental, Hiring & Real Estate Services	228	37
17	Retail Trade	599	26
18	Transport, Postal & Warehousing	423	27
19	Wholesale Trade	757	24
Tota	al	7,017	30

a

Excludes reporting entities that do not have small business procurement

	Industry (alphabetical)	1 Jan 2021 to 30 Jun 2021	1 Jul 2021 to 31 Dec 2021	1 Jan 2022 to 30 Jun 2022	1 Jul 2022 to 31 Dec 2022	1 Jan 2023 to 30 Jun 2023
		Cycle 1	Cycle 2	Cycle 3	Cycle 4	Cycle 5
		%	%	%	%	%
1	Accommodation & Food Services	71.9	76.6	78.4	80.3	80.6
2	Administrative & Support Services	77.6	75.9	79.7	79.6	78.8
3	Agriculture, Forestry & Fishing	58.5	59.7	61.6	61.0	60.5
4	Arts & Recreation Services	71.6	79.6	77.9	81.6	80.2
5	Construction	52.6	55.0	55.9	57.5	58.2
6	Education & Training	78.9	82.1	78.8	77.6	78.7
7	Electricity, Gas, Water & Waste Services	76.2	76.8	77.0	79.4	79.0
8	Financial & Insurance Services	81.4	83.9	82.5	82.8	81.4
9	Health Care & Social Assistance	71.5	73.6	72.8	74.9	74.1
10	Information Media & Telecommunications	72.3	76.3	76.3	76.9	78.2
11	Manufacturing	48.8	50.1	50.1	51.6	51.7
12	Mining	59.6	63.8	64.7	66.9	67.4
13	Other Services	55.3	59.7	59.0	63.5	65.4
14	Professional, Scientific & Technical Services	64.6	67.1	67.0	70.1	70.9
15	Public Administration & Safety	78.7	81.8	79.2	79.8	79.1
16	Rental, Hiring & Real Estate Services	67.5	72.3	72.5	73.9	73.4
17	Retail Trade	58.2	60.5	60.7	61.6	64.0
18	Transport, Postal & Warehousing	62.0	65.2	66.1	66.3	67.8
19	Wholesale Trade	60.6	62.3	63.3	64.1	63.9
Tota	al	63.4	66.0	66.3	67.7	68.0

Table 10: Average percentage of invoices paid within 30 days by industry, Jan 2021 – Jun 2023