

Building Local Industry Policy

Procedural Guidelines



Policy

The Government will maximise the opportunities for local businesses in major development projects and Government procurement in Western Australia for the benefit of the State.

May 2009

CONTENTS

1. Introduction

Key policy initiatives
Definitions

2. Policy Procedures

Enhanced Project By-Law Scheme Projects
Government Projects
Private sector Projects with significant Government contribution
Other Projects

3. Industry Participation Plan

Objectives
Content
Overview
Implementation reports

4. Sources of Assistance

Local Content Unit
Industry Capability Network WA
ProjectConnect

1. INTRODUCTION

The Western Australian Government has a critical leadership role to play in actively championing and assisting the capability of local businesses to participate in major development projects in this State and to be as competitive as possible.

The Building Local Industry Policy is a clear and unequivocal statement of the Government's commitment to maximise the opportunities for local businesses through facilitation of major development projects in Western Australia and its own purchasing power to achieve positive economic outcomes for the State.

Local businesses have a legitimate expectation that they will be given a full, fair and reasonable opportunity to be considered for major work being undertaken in Western Australia in both the public and private sector.

The Government is committed to maximising these opportunities for Western Australian businesses through:

- encouraging and supporting major project proponents to seek out appropriate and competitive local suppliers;
- identifying the benefits of purchasing from Western Australian businesses; and;
- assisting local businesses to become more competitive and capable of taking advantage of opportunities in global supply chains.

The Government's approach to promoting a higher proportion of local participation in major development projects is not a stand-alone initiative. It is part of the Government's broad and comprehensive agenda for long-term industry and regional development to create a strong and diversified economy, high quality jobs and a superior quality of lifestyle for all Western Australians.

The Building Local Industry Policy must also be read in conjunction with the Government's Buy Local Policy and the Australian Industry Participation National Framework. These policies represent a comprehensive framework to provide local businesses with the opportunity to participate in both private and public sector projects and procurement in a manner that is consistent with the Government's wider policy objectives.

These Procedural Guidelines have been developed to enable project proponents develop a consistent approach to the application of the Building Local Industry Policy and the development of Industry Participation Plans.

KEY POLICY INITIATIVES

1. Development and promotion of Procedural Guidelines.
2. Ongoing support for the Industry Capability Network WA and ProjectConnect in its role of working with project proponents, local industry and Government to maximise the opportunities for local industry participation in major development projects in Western Australia.
3. Introduction of a requirement for Industry Participation Plans for:
 - all Government-funded projects or contracts meeting benchmark criteria;
 - all private sector projects where the Government makes a significant contribution; and;
 - all projects which intend utilising the Enhanced Project By-Law Scheme administered by AusIndustry.

Developers of projects outside of the above criteria will also be encouraged to prepare an Industry Participation Plan where a significant opportunity for Western Australian participation has been identified.

4. Ensure that Industry Participation Plan requirements under this Policy, for private sector projects, are consistent with, and do not duplicate, Industry Participation Plan requirements for the Commonwealth's Enhanced Project By-Law Scheme (EPBS).
5. Government Trading Enterprises and statutory corporations will ensure that Industry Participation Plans are prepared for all eligible projects. They will also be required to report on a Plan's implementation and outcome to the Department of Commerce on a regular basis and provide annual updates on the level of local industry participation in their projects.
6. A broadened focus on promoting increased opportunities for local companies in the provision of goods and services to the public and private sectors, beyond the traditional focus on the construction of resource projects.
7. Strategies to enhance business and industry capability through training, skills development and technology transfer.
8. Government provision of infrastructure to support increased local industry capability.
9. Ensure application of the Buy Local Policy in all public sector procurement contracts.
10. Special focus will be paid to promoting the participation of local Indigenous enterprises in public sector projects and contracts.
11. Establishment of an Oil and Gas Industry Coordinating Council.
12. Establishment of a Local Content Unit in the Department of Commerce.
13. Encourage the private sector to consider local content in their qualitative contract evaluation criteria.

DEFINITIONS

Full Fair and Reasonable

The terms 'full', 'fair' and 'reasonable' are defined as follows:

Full: Australian industry has the same opportunity afforded to other global supply chain partners to participate in all aspects of an investment project (for example, design, engineering, project management, professional services, IT architecture).

Fair: Australian industry is provided the same opportunity as global suppliers to compete on investment projects on an equal and transparent basis, including being given reasonable time in which to tender; and

Reasonable: tenders are free from non-market burdens that might rule out Australian industry and are structured in such a way as to provide Australian industries the opportunity to participate in investment projects. (Non-market burdens do not refer to safety or environmental criteria)

Local Content

Local content in public sector major projects includes all value-added activities undertaken in Australia and/or New Zealand (in accordance with the ANZ Government Procurement Agreement). Local content in private sector major projects, that require a significant contribution by Government, includes all value-added activities undertaken in Western Australia and Australia.

Local content also applies to activities undertaken by all suppliers in the supply chain who are required to give consideration to the intent of the policy

Industry Participation Plan

The Industry Participation Plan (IPP) is defined as a clear statement of the project proponent's commitment to the Building Local Industry Policy and an indication of how local industry participation will be maximised. The objective of the IPP is to demonstrate how the project proponent intends to provide full, fair and reasonable opportunity to Western Australian and Australian industry to supply goods and services to the project and endeavour to maximise Western Australian and Australian industry participation in the project.

Project Proponent

The project proponent is the entity responsible for the overall development of the project. Where another public or private sector entity is contracted as project or operational manager, that entity may be contracted to develop the Industry Participation Plan for the project proponent. Nevertheless, the project proponent remains responsible for the development and implementation of the Industry Participation Plan to the expectations of Government.

Reporting on project outcomes is the responsibility of the project proponent.

Significant contribution

For the purposes of the Building Local Industry Policy the Government contribution may include direct financial outgoings, access to or the provision of infrastructure and revenues forgone as incentives to facilitate the project proposal

2. POLICY PROCEDURES

The Building Local Industry Policy covers projects in four categories. The specific policy requirements and procedures for each category of project vary and are set out below. If a project is covered by more than one category only one set of procedures will apply.

The four categories are:

1. *Enhanced Project By-Law Scheme (EPBS) projects* – The EPBS is a Commonwealth Government scheme which provides an avenue for duty concessions in certain circumstances for imported eligible goods, including machinery, equipment and their components, for projects approved under the Scheme. AusIndustry administers the Scheme. If an EPBS project also falls into categories 2 or 3 only the procedures detailed for EPBS projects will apply.
2. *State Government projects* – Projects funded by the State Government through Government departments, agencies and Government Trading Enterprises and usually involve contracts for goods, services, housing, works or infrastructure.
3. *Private sector projects with a significant State Government contribution* – Projects funded by a private sector proponent but which are able to proceed because the state Government makes a significant contribution which may take the form of direct financial outgoings, access to or the provision of infrastructure, or revenues forgone as incentives to facilitate the project proposal.
4. *Other projects* – Projects which do not fall into the three previous categories.

1. Enhanced Project By-Law Scheme Projects

The Enhanced Project By-Law Scheme (EPBS) is a Commonwealth Government program, that provides for tariff concessions on imported capital goods. To be eligible, projects must have a total project expenditure on eligible goods of \$10 million or more for use in any of the following industries:

- mining;
- resource processing;
- agriculture;
- food processing;
- food packaging;
- manufacturing (within the meaning of the Australian and New Zealand Standard Industry Classification (ANZSIC));
- gas supply.

To obtain a concession under the EPBS, project proponents are required to submit a mandatory Australian Industry Participation Plan for AusIndustry approval.

The State does not want to duplicate IPP processes for those projects. Accordingly, for projects accessing the EPBS the State expects that project proponents seeking tariff exemption through the EPBS will:

- liaise directly with AusIndustry and the Industry Capability Network WA to produce an Australian Industry Participation Plan (AIPP) in accordance with AusIndustry requirements;
- Advise the Department of Commerce that an AIPP is being developed with AusIndustry;

- Provide a copy of the AusIndustry approved AIPP to the Department of Commerce; and
- Provide copies of reports required under the approved AIPP to the Department of Commerce.

These actions fulfil the obligation to produce an IPP for that project under Western Australia's Building Local Industry Policy.

For further information on AusIndustry requirements please contact:

State Manager, WA
 AusIndustry
 Level 8, BGC Building
 28 The Esplanade
 Perth, Western Australia, 6000
 Ph: (+61 8) 9327 9510
 Fax: (+61 8) 9327 9520

The EPBS Policy and Administrative Guidelines and Australian Industry Participation Plan Customer Guidelines are available from the AusIndustry website at www.ausindustry.gov.au.

2. State Government Projects

Public sector agencies, including Government Trading Enterprises (GTE's) and statutory corporations, are major players in large-scale projects providing public infrastructure, major works as well as goods and services contracts.

Accordingly, the State Government will ensure that local industry is given full, fair and reasonable opportunity to participate in all significant public sector projects or contracts. This requires the following mandatory actions for all State Government departments, agencies and GTEs:

- Include a statement clearly identifying opportunities for local industry participation in all Procurement Plans for tenders.
- Advise the Department of Commerce that a project requiring an IPP has been initiated.
- Ensure the Policy requirement of providing full, fair and reasonable opportunity to local businesses is transferred throughout the project's supply chain.
- Require prime contractors to develop an IPP for all Government-funded projects or contracts with a total value in excess of \$20 million or where the value of capital equipment exceeds \$1million.

An IPP developed for this category of project will be based on the guidance provided in Section 3 of these Guidelines. In some circumstances projects with a lower total value may require an IPP.

Circumstances which may trigger this requirement include projects where:

- there is potential for low levels of local industry participation because the requirement will involve a company new to the Western Australian market or where the supply chain used by the head contractor does not include Western Australian suppliers;
- the project involves skills or knowledge sets which the State has set as priority areas for

development;

- the project is located in a region targeted for development opportunities;
 - there is potential for regional employment impact.
- Apply the Buy Local Policy to **all** state Government purchasing including the use of a local content selection criterion comprising a minimum 20% of the qualitative tender evaluation criteria in all public sector procurement contracts valued at \$750,000 or more.
 - Provide regular updates on an IPP's implementation and outcomes to the Local Content Unit in the Department of Commerce.
 - Pay special attention to promoting the participation of local Indigenous enterprises in public sector projects and contracts.

If the project is one where the EPBS will be applied to the importation of capital equipment an AIPP will be developed under the auspices of AusIndustry.

Government Trading Enterprises

The objective of commercialisation and corporatisation of Government owned businesses has been to enable those businesses to operate in a competitively neutral basis with the private sector. However, as Government organisations, it is fundamental that their actions should complement, rather than contradict, the objectives of Government, and they must therefore respond to Government priorities for local participation.

Accordingly, GTE's and statutory corporations, in addition to the requirements outlined above, are required to:

- ensure that IPPs are prepared for all projects as detailed above and table those IPPs in Parliament;
- report annually to their responsible portfolio Minister on the level of local industry involvement in projects where an industry participation plan has been prepared; and;
- provide, within their Annual Statements of Corporate Intent, details on how opportunities for local producers to compete in the provision of goods and services for projects will be maximised.

Government contract processes

Government departments, agencies, GTEs and statutory corporations should ensure that these procedures are integrated into existing project and procurement practices and documentation. These complement the practices that should already exist to meet the requirements of the Buy Local Policy.

Contract Planning

At the earliest practicable stage, Government departments, agencies and GTEs should endeavour to identify opportunities for local industry participation. These opportunities, and strategies to address them, should be identified in the project business case, contract procurement plans and expressions of interest, tender and contractual documents.

The Local Content Unit within the Department of Commerce has been established to provide advice on application of the Building Local industry Policy and should be contacted for assistance early in the contract planning stage.

Early Advice

Potential tenders should be advised at the earliest practicable stage of the approach being taken to maximise local industry participation. Potential tenderers should be provided with access to the Australian Industry Participation National Framework, Building Local Industry Policy, these Procedural Guidelines and the Buy Local Policy.

Tender Clauses

The following clause should be inserted as a special condition of contract in Request for Tender and Request for Proposal documents for those contracts where an Industry Participation Plan will be required .

(Clause #) Industry Participation Plan

(Project Proponent) is committed to work constructively with Western Australian and Australian industry to identify and develop options for increasing local content in the (Project Name) project.

To help achieve this objective, (Project Proponent) will develop and implement an Industry Participation Plan (IPP) which will list and explain the strategies that will be undertaken to ensure Western Australian industry is provided a full, fair and reasonable opportunity to participate in all aspects of the project.

As part of the IPP implementation process (Project Proponent) will require contractors proposing to use any overseas suppliers to be able to demonstrate and provide sufficient documentation, on request, that they have given Western Australian and Australian industry a full, fair, and reasonable opportunity to participate in the Project, defined as:

- Full: Australian industry has the same opportunity afforded to other global supply chain partners to participate in all aspects of an investment project (eg. design, engineering, project management, professional services, IT architecture);
- Fair: Australian industry is provided the same opportunity as global suppliers to compete on investment projects on an equal and transparent basis, including being given reasonable time in which to tender; and
- Reasonable: tenders are free from non-market burdens that might rule out Western Australian industry and are structured in such a way as to provide Australian industries the opportunity to participate in investment projects. has enlisted the assistance of the Industry Capability Network WA to maximise opportunities for local companies to participate in the development of the Project.

(Project Proponent) will give consideration to enlisting the assistance of the Industry Capability Network of Western Australia (ICNWA) and ProjectConnect to assist contractors to maximise opportunities for Western Australian and Australian businesses. ICNWA will provide a free and confidential Australian vendor identification service to contractors interested in sourcing from competitive local business. ProjectConnect provides an on-line database service that matches projects and potential suppliers.

To obtain the ICNWA service, contractors should contact:

The Manager
Industry Capability Network (Western Australia)
180 Hay Street
EAST PERTH WA 6004
Telephone: +61 8 9365 7629
Fax: +61 8 9365 7550
Email: ICN@cciwa.com
Web: www.icnwa.org.au

For further information on ProjectConnect, contractors should contact:

The Manager
ProjectConnect
180 Hay Street
EAST PERTH WA 6004
Telephone: +61 8 9365 7555
Fax: +61 8 9365 7550
Email: david.kobelke@cciwa.com
Web: www.projectconnect.com.au

Appropriate provisions for breach of contract where the contractor does not deliver on Industry Participation Plan commitments should also be included as a condition of contract.

Local Content Selection Criterion

To comply with the Buy Local Policy all Government contracts above \$750 000 must include a local content qualitative selection criterion weighted at a minimum of 20%. This criterion will typically identify the types of local industry participation, which could be used in the fulfilment of the contract requirements. Government agencies wishing to reduce the criterion, or use an alternate strategy, must obtain approval prior to the endorsement of the procurement plan by application to the Local Content Advisory Committee, Local Content Unit, Department of Commerce.

Due Diligence and Negotiation

Once the preferred tenderer for a contract is chosen the detailed IPP can be developed by the proposed contractor in consultation with the proponent and the Department of Commerce. The responses made by the tenderer to the local content selection criterion should be clearly identified in the IPP.

Contract management

The contract management plan should include reference to the IPP implementation requirements and reporting requirements. Contract management plans should be structured, where possible, so that reporting for IPP aligns with other contract reporting to avoid duplication.

Exemption from the requirement for an Industry Participation Plan

Government departments wishing to exempt a project from the requirement for an Industry Participation Plan must discuss the requirement with the Local Content Unit in the Department of Commerce.

3. Private sector projects with significant government contribution

For those projects where the Government makes a significant contribution an Industry Participation Plan prepared in accordance with these Guidelines will be a condition of the contribution. If the project is one where the EPBS will be applied the IPP will be developed according to the Policy Procedures for EPBS Projects detailed above.

Where a Government department, agency, GTE or statutory corporation is considering providing a contribution to a private sector project the Government entity should:

- advise the project proponent of the requirement of the Building Local Industry Policy; and;
- advise the Local Content Unit that the project is being considered.

The Department of Commerce will make the final determination on whether an IPP is required.

4. Other private sector projects

Developers of projects outside of the above categories will be encouraged to prepare an Industry Participation Plan where a significant opportunity for Western Australian participation has been identified.

3. INDUSTRY PARTICIPATION PLAN

Objective of the IPP

The objective of the Industry Participation Plan (IPP) is to build a project-wide procurement strategy to include Western Australian industry and provide full, fair and reasonable opportunity for it to supply goods and services to the project's development and operational stages.

The IPP should endeavor to ensure all project participants gain a greater knowledge of Western Australian capabilities by brokering linkages between project proponents, the contractors involved in the project, domestic and global supply chains and Western Australian industry.

The IPP needs to support longer-term industry development objectives by encouraging consortia building and strategic partnering among local firms, and by facilitating the integration of Australian industry into domestic and global supply chains.

In addition the IPP should also address the economic impact of the project.

Content of the Plan

It is intended that the IPP be an integral part of the procurement plan for the project. The information required for a project's IPP is dependent on the category, complexity and size of the project, the potential for Australian sourcing and Governmental requirements. Without limiting or prescribing the content of an IPP it should:

- Describe the project including the direct economic impacts of the project on Australian industry, in terms of employment, skills transfer, strategic alliances and regional development.
- Describe the type number of and size of procurement packages and/or Eligible Goods.
- Provide a clear statement on how the proponent will maximise the use of competitive local business in goods, services and works purchased.
- Include a communication strategy for the project and its supply chain which provides:
 - early identification of opportunities for Australian participation; and;
 - transfer of information on opportunities for Australian industry participation through all tiers of supply (e.g. along sub-contracting chains).
- Describe strategies to incorporate Australian industry through all tiers of supply (i.e. through design, procurement, construction, operation and whole-of-life support).
- Describe how the proponent will:
 - facilitate strategic partnering and consortia building;
 - support the integration of Australian industry into global supply chains; and,
 - encourage suppliers to adopt worlds' best practice standards.
- Describe the procedures and resources that will be employed to implement the above engagement and communication strategies.
- Provide an overview of where the work will be substantially undertaken.
- State the proposed arrangements and frequency for monitoring and reporting.

The IPP Plan Overview

Economic Impact of the project

The IPP Plan should include a summary of available information about the economic impacts of the project on Australian industry. This information may be extracted from the Public Environment Review or similar documentation that may have been previously prepared for the project and could include information about:

- Employment;
- skills transfer, through appropriate in house training, TAFE courses, other recognised training schemes;
- strategic alliances, global and domestic supply chain accreditation and industrial clusters; and
- regional development.

Where the proponent undertakes project related Australian R&D and innovation, information may also be provided.

The Procurement Practices

Project proponents need to demonstrate how they will provide full, fair and reasonable opportunity to Australian industry to participate in their project. In considering the procurement practices that will affect this, project proponents could:

- develop strategies to incorporate Western Australian and Australian industry through all tiers of supply;
- provide a statement on how the proponent will maximise competitive Western Australian and Australian participation in the supply of goods and services;
- include a communication strategy for the project;
- structure tender documents to ensure that local suppliers are provided the same opportunity as existing supply chain partners to participate in the project;
- ensure that where Western Australian and Australian suppliers are identified as capable of producing components for procurement packages goods, these suppliers are given the opportunity to tender for work; and
- describe the procedures and resources that will be employed to implement the above Western Australian and Australian involvement and communication strategies.

Identification of Opportunities

At the earliest practicable stage, project proponents should endeavour to identify opportunities for capable Australian industry participation in established supply chains. The IPP could include:

- How the proponent will:
 - facilitate strategic partnering and consortia building;
 - support the integration of Western Australian and Australian industry into global supply chains; and
 - encourage suppliers to adopt world's best practice standards.

- The arrangements the proponent (and contractors/sub-contractors) will/have put in place to introduce world competitive Western Australian and Australian suppliers to established alliances for the purpose of exploring opportunities for these suppliers in the global supply chains of established alliances.

Implementation Reports

For projects, other than those accessing the EPBS, the reporting frequency and requirement on the implementation of an IPP should be determined in consultation with the Local Content Unit in the Department of Commerce and detailed within the IPP. Where variations to the IPP are needed these should be agreed between the parties.

4: SOURCES OF ASSISTANCE

LOCAL CONTENT UNIT

A Local Content Unit has been established within the Department of Commerce to oversee and drive the Government's approach to promoting local industry participation.

The Unit works in a cooperative relationship with developers, local industry, other Government agencies, the Industry Capability Network WA and ProjectConnect to maximise opportunities for Western Australian industry.

Government departments, agencies, GTEs and statutory corporations are advised to contact the Unit early in the initiation of projects to discuss local industry participation issues.

For further information on the Building Local Industry Policy and the Procedural Guidelines please contact:

Ms Sandra Daly
Manager, Industry Participation
Department of Commerce
1 Adelaide Terrace
EAST PERTH WA 6004
Ph: 08 9263 8025
Fax: 08 9263 8100
Email: sandra.daly@commerce.wa.gov.au

THE INDUSTRY CAPABILITY NETWORK (WA)

ICNWA is a specialist Western Australian and Australian vendor identification service provided as a joint industry-Government initiative. ICNWA is also part of the Australia-wide ICN network assisting project proponents ensure they are not paying a premium on imported equipment, spare parts and services that can be obtained at a more competitive life-cycle cost from local suppliers.

ICNWA's vendor identification service is aimed at enhancing the global competitiveness of purchasers and their projects while at the same time supporting local industry participation.

The ICNWA is available to support project proponents as follows:

- link to major project proponents and public sector agencies with companies that can provide appropriate goods and services to major projects;
- identify to major project proponents the potential for Western Australia and Australian industry for the uptake of overseas technology;
- identify where appropriate the needs for Western Australian industry to undertake innovation, research and development of technology required in major projects, and provide the appropriate referrals;

- provide assistance to major project proponents and relevant stakeholders on the development of local industry participation plans;
- provide services of ICNWA specialist staff to major projects teams to pre-qualify Western Australian and Australian industry capabilities against specific project requirements;
- provide advice to senior Government staff and their agents on their capabilities and competitiveness of Western Australian industry for the supply of goods, equipment and services;
- represent the principles and benefits of the Building Local Industry Policy; and;
- evaluate the outcomes of local Industry Participation Plans and report to the Department of Commerce the benefits to Western Australia from the Building Local Industry Policy.

Industry Capability Network

Mr Linus O'Brien
Manager
ICNWA
180 Hay Street
EAST PERTH WA 6004
Ph: 08 9365 7629
Fax: 08 9365 7550

PROJECTCONNECT

ProjectConnect is an on-line database which provides information on major project opportunities and supplier capabilities. Project proponents are encouraged to list details of their projects on the ProjectConnect database to maximize the opportunity for Western Australian and Australian businesses to participate.

For further information on ProjectConnect, please contact:

The Manager
ProjectConnect
180 Hay Street
EAST PERTH WA 6004
Telephone: +61 8 9365 7555
Fax: +61 8 9365 7550
Email: david.kobelke@cciwa.com
Web: www.projectconnect.com.au