

SOUTH AUSTRALIAN
INDUSTRY PARTICIPATION POLICY

DRAFT

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1. INTRODUCTION

The South Australian Government is committed to sustained economic growth resulting in rising living standards. This is achieved through providing a competitive business climate that attracts high levels of investment and the generation of highly skilled and sustainable jobs.

Increasing globalisation and competition has led to many projects being undertaken by national and international companies which frequently have their own supply chain arrangements. Local competitive suppliers may be overlooked resulting in reduced flow on effects from employment and industry participation.

The State Government is committed to ensuring that competitive local industry is given full, fair and reasonable opportunity to be considered for major work being undertaken in South Australia in both the public and private sectors. The development of an industry participation policy addresses this commitment.

The South Australian Industry Participation Policy was originally released in June 2005. A review of the policy in 2009 has resulted in this amended policy.

The South Australian Government support for South Australian business is provided by:

- Encouraging major project proponents to seek out appropriate and competitive local suppliers;
- Assisting South Australian businesses to become more competitive and capable of taking advantage of opportunities in the global supply chain;
- Ensuring an ongoing commitment to local industry participation and the establishment of a cooperative approach involving project proponents, industry and key service providers;
- Promoting the use of Australian Standards in project specifications wherever possible; and
- Promoting the role of the Industry Capability Network South Australia (ICNSA) in working with government, local industry and project proponents.

Whilst recognising that investment decisions are made in a competitive global market place, it is desirable to achieve the maximum level of local industry participation in goods and services that are competitive in price, quality and delivery requirements.

As a key element of developing competitive local business, the State Government will continue to work with local industry to promote innovation, flexibility and best practice through ongoing implementation of manufacturing and services sector industry development initiatives and ensuring that employment, training and skills development programs are aligned to the needs of industry.

2. SAIPP OBJECTIVE

The key objective of the South Australian Industry Participation Policy is

“to ensure that competitive local contractors and suppliers are given full, fair and reasonable opportunity to tender and participate in significant public and private sector projects”.

In achieving this outcome, additional benefits for South Australian business and the State’s economy will also be realised. These benefits include:

- Building industry capability and capacity;
- Employment creation and workforce development;
- Encouraging value adding activities and supply chain development; and
- Supporting regional development.

Compliance with the policy is not intended to impact on the prime consideration of value for money in the evaluation of tender bids for Government contracts.

3. NATIONAL AND INTERNATIONAL AGREEMENTS

The South Australian Industry Participation Policy operates within the context of relevant national and international agreements and procurement policies. These include:

- *Australia United States Free Trade Agreement (AUSFTA)*
The AUSFTA applies to the procurement of goods and services over A\$679,000 and for procurement of construction services over A\$9,514,000. Under the AUSFTA, the South Australian Government is required to ensure there is no discrimination against United States suppliers in government procurement. Specific exemptions apply to health and medical devices and the Agreement excludes SMEs.
- *Australia Chile - Free Trade Agreement (ACIFTA)*
The ACIFTA came into effect in March 2009 and applies the same principles as the AUSFTA. The South Australian Government has agreed to comply with the obligations under this Agreement.
- *Australia New Zealand Government Procurement Agreement (ANZGPA)*
Under the ANZGPA the South Australian Government is required to ensure that all suppliers across Australia and New Zealand are able to compete on an equal and transparent basis for government contracts, and there are no interstate or trans-Tasman preference schemes or other forms of discrimination on the basis of place of origin applied in government procurement.
- *Australian Industry Participation (AIP) National Framework*
The South Australian Government has committed to the principles of providing full, fair and reasonable opportunity for Australia industry participation in investment projects, free of interstate preferences and consistent with Australia’s international obligations.

4. DEFINITIONS

- **Local** is defined in accordance with national agreements and procurement policies as encompassing South Australia, Australia and New Zealand.
- In the term “full, fair and reasonable” these words have the following meanings:
 - **Full:** Local 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:** Local 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;
 - **Reasonable:** Tenders are free from technical requirements that might rule out local industry and are structured in such a way as to provide local industries the opportunity to participate in investment projects.
- **Small and Medium Enterprises (SMEs)** are defined under the Australian ABS definition as being non-agricultural businesses employing less than 200.
- **Value add** is defined as the cost of local goods or services, less the cost of the imported components.
- **Projects** include SA Government infrastructure and construction initiatives undertaken by government agencies, Commonwealth infrastructure and construction projects managed by the SA Government, public-private partnerships and private sector projects receiving significant government support and other significant procurements declared by Cabinet to be ‘Strategic Projects’. Projects may be segmented over multiple contracts.
- **Capital Value** of a project is defined as the upfront cost that is capitalised as an asset and may be an aggregation of the value of multiple contracts.

5. SOUTH AUSTRALIAN INDUSTRY CAPABILITY NETWORK

The Industry Capability Network South Australia (ICNSA) is the State Government’s key agency for maximising local industry participation. ICNSA is responsible for supporting and promoting South Australian businesses in participating in major public and private sector projects.

ICNSA is part of an Australian-wide network that provides capability information on Australian manufacturing and service companies.

ICNSA maximises local industry participation and import replacement through:

- Identifying and documenting local business capabilities
- Matching buyer requirements with supplier capabilities
- Improving local competitiveness through collaborative business structures
- Identifying capability gaps and technology transfer opportunities

ICNSA will promote awareness of the South Australian Industry Participation Policy to government agencies and private sector proponents and provide government project information to the market place.

In its ongoing role of working with project proponents, government and local industry to maximise the opportunities for South Australian businesses, ICNSA will liaise with contractors during the implementation of projects.

6. USE OF STANDARDS IN SPECIFICATIONS

Australia's free trade agreements require technical specifications to be specified wherever appropriate, in terms of performance and functional requirements, rather than design of descriptive characteristics. The specifications are to be based on international standards where such exist and are applicable to the procuring entity, except when such use would fail to meet the procuring entity's program requirements or would impose greater burdens than use of a recognised national standard.

Where it is not possible or appropriate to specify international standards, Australian Standards should be specified to ensure that local suppliers are not disadvantaged by design specifications.

7. POLICY IMPLEMENTATION

7.1 SCOPE

The South Australian Industry Participation Policy (SAIPP) focuses on South Australian Government contracts with a capital value of \$5 million or greater and private sector projects where significant Government support or endorsement is required.

The Policy will be embedded into Government procurement policies and procedures and the 5 Step Planning and Delivery Framework.

A tiered approach has been developed to ensure that the costs of compliance are appropriate to the opportunity for local industry participation and minimise the impact of red tape requirements for business and Government.

The key implementation tool of the Policy is the development of an Industry Participation Plan (discussed further in section 7.2.). The objective of the Industry Participation Plan is to build a project wide procurement strategy that maximises and provides full, fair and reasonable opportunity for local industry participation in a project's development and operational phases.

The requirement to complete an Industry Participation Plan relates to contracts with a capital value of \$20 million or greater in the following categories:

- Government infrastructure and construction projects
- Projects deemed Strategic Projects by Cabinet (discussed further below)
- Public Private Partnership projects

- Federally funded infrastructure and construction projects managed by State Government
- Private sector projects receiving significant South Australian Government support, such as a grant (over \$2.5 million) or an indenture agreement
- Projects declared Major Developments under Section 46 of the *Development Act 1993*

There are no specific requirements for the contracts in these categories with a capital value of less than \$5 million, however government agency procurement policies should encourage successful tenderers to consider utilising local industry wherever possible.

Contracts in the above categories with a capital value of between \$5 million and less than \$20 million are required to have a Statement of Intent completed by short listed tenderers acknowledging the IPP and indicating their commitment to engage with local suppliers and to work with ICNSA post contract award. Annual reporting on actual local industry participation will be required annually and at completion of the contract.

Contracts in the above categories with a capital value of between \$20 million and less than \$100 million are required to have an Industry Participation Plan template completed with basic anticipated local industry participation information. Short listed tenderers are required to engage with ICNSA to complete the Plan and successful tenderers are encouraged to engage with ICNSA post contract award.

Contracts in the above categories with a capital value of \$100 million and over are to have a contract specific Industry Participation Plan completed with more detailed anticipated local industry participation information. Large projects may be segmented into a number of contracts. Short listed tenderers are required to engage with ICNSA in the development of the Plan and successful tenderers are to consult and work with ICNSA during implementation of the contract.

7.1.1 Strategic Projects

Cabinet may declare projects of strategic significance to the South Australian economy to be “Strategic Projects”.

Projects declared to be Strategic Projects will be subject to the provisions of the South Australian Industry Participation Policy applying to contracts with a capital value of \$100 million or over. Only short listed tenderers will be required to complete a project specific Industry Participation Plan. These plans shall be completed in consultation with ICNSA.

Projects that fit one or more of the following criteria should be considered for declaration to be Strategic Projects:

- provide significant opportunities for job creation in the SA economy
- contribute to the diversification of the SA economy
- significantly expand the productive capacity of SA
- require the adoption of new technologies
- have a high degree of contestability related to their value add component

This may include any significant Government project including ICT projects.

Project proponents will be required to refer projects with a capital value of \$20 million and over to ICNSA during the project inception stage. ICNSA will assess projects against the key criteria for Strategic Projects and where appropriate request a recommendation be made to Cabinet that the project be declared a Strategic Project.

7.2 INDUSTRY PARTICIPATION PLANS

7.2.1 Requirements

Eligible contracts with a capital value of \$20 million or over are to have an Industry Participation Plan completed by short listed tenderers who are required to engage with the Industry Capability Network SA (ICNSA) in the development of the Plan.

The table below identifies the South Australian Industry Participation Policy requirements under each tier threshold.

Contract Value	SAIPP Requirement
Between \$5m and less than \$20m	Completion of a Statement of Intent acknowledging the SAIPP by short listed tenderers ¹ and a commitment to engage with local suppliers and consult and work with ICNSA pre and post contract award.
Between \$20m and less than \$100m	Completion of an IPP Plan template with basic local industry participation information by short listed tenderers ² and a commitment to consult and work with ICNSA pre and post contract award.
\$100m and over, and Strategic Projects	Completion of a contract specific IPP Plan with detailed local industry participation information by short listed tenderers ³ and a commitment to consult and work with ICNSA pre and post contract award.

In conjunction with Government agencies, ICNSA will develop templates for Industry Participation Plans and reporting requirements and work with Government agencies to prepare project specific information required for Industry Participation Plans for Strategic Projects and contracts with a capital value of \$100 million or over.

¹ If there is no short listing process required, a Statement of Intent will be required from the successful tenderer prior to contract award.

^{2 & 3} If there is no short listing process required, an Industry Participation Plan will be required from the successful tenderer prior to contract award.

ICNSA will assist tenderers with the preparation of Industry Participation Plans and provide capability information on local suppliers throughout the duration of a project.

An Industry Participation Plan applies to all contracting arrangements for contracts above the threshold. Where sub-contracting occurs it is the responsibility of the lead contractor to monitor the application of the South Australian Industry Participation Policy over the entire contract term.

All tenderers shall be advised of the requirements of the South Australian Industry Participation Policy at the initial invitation stage.

Request for Tender (RFT) or Request for Proposal (RFP) documentation shall notify tenderers of the requirements of the Industry Participation Policy including the following:

- Short listed tenderers will be required to complete an Industry Participation Plan;
- The Industry Participation Plan will require information on the anticipated degree of local value added activities;
- ICNSA can provide assistance in the development of Industry Participation Plans and tenderers are required to consult and work with ICNSA both pre and post award;
- The successful tenderer's Industry Participation Plan commitments will be included as reportable conditions of the contract; and
- Reporting on Industry Participation Plan outcomes is required by the successful tenderer annually and on completion of the contract. For contracts with a capital value over \$100 million and Strategic Projects, reporting will be determined in contract negotiations with the successful tenderer.

In contracts where Industry Participation Plans are completed, lead contractors are required to undertake information sessions in the area in which the project will occur. The sessions will inform local business of the requirements and specifications of aspects of a project, contract terms and provide an opportunity for local industry to tender for sub-contract work.

The Industry Participation Plan will provide a clear statement of the tenderer's commitment to the Policy and identify the measures and approach a contractor will undertake to identify opportunities for the optimal use of local industry in the performance of the contract. Inclusion of local SME participation is encouraged.

Successful tenderers are required to commit to providing local industry with full, fair and reasonable opportunity to provide services and supplies by:

- Ensuring that local industry is provided with information in an equitable and timely manner;
- Undertaking appropriate design and procurement strategies to provide equitable access for local industry;
- Providing local industry with the opportunity to provide services and supplies under the same terms, standards and conditions as existing supply chain partners;
- Assessing local industry capability and capacity to supply; and
- Identifying contestable items.

7.2.2 Assessment

The Industry Participation Plan will be assessed on the **methodology** proposed in the Plan to identify opportunities for the optimal use of local industry and value adding activity.

IPP Plans prepared by short listed tenderers shall include:

- A methodology for identification of opportunities for competitive local suppliers;
- The anticipated level of local value added activity in the performance of the contract;
- Identification of contestable and imported items; and
- A methodology for identification of opportunities for local small business participation;

Plans will be assessed as complying/non-complying by the proponent in regard to the methodology put forward in the Plan to demonstrate a willingness and commitment by the tenderer to identify opportunities for local industry participation.

Non-complying plans will preclude a tenderer from contract award. Tender documentation shall include a statement to this effect.

7.2.3 Compliance after Contract Award

Tender documentation and contracts shall include the following statement:

“Procurement of goods and services by a contractor, as required to perform its contract for a procuring entity, remains the responsibility of the contractor. Where the contractor has chosen to utilise local industry in the performance of the contract, nothing in this policy entitles a contractor to charge additional costs over and above the price agreed in the contract, depart from the performance standards applicable to the goods and services required by the contract, or depart from any other requirement or obligation set out in the contract, unless otherwise agreed with the procuring entity.”

A successful tenderer’s Industry Participation Plan commitments will be included as reportable conditions in the contract awarded.

Ongoing monitoring of Industry Participation Plan commitments will be undertaken by the proponent through regular project meetings and engagement with the proponent and ICNSA.

8. MEASUREMENT AND REPORTING

Industry Participation Plan commitments will form part of contract reporting requirements. The successful tenderer will be required to report on Industry Participation Plan outcomes against commitments.

Reporting on Industry Participation Plan outcomes for contracts with a value of \$5 million or greater and less than \$100 million will be required at the end of the financial year in which the contract is awarded, annually thereafter for the duration of the contract, and on completion of the contract.

Reporting on contracts with a value of \$100 million or over and Strategic Projects will be required at least annually and on completion of the contract. The frequency of reporting requirements will be negotiated in the contract requirements between the proponent and successful tenderer.

Informative reporting templates will be provided to successful tenderers to assist with the reporting requirements and reduce the compliance cost.

ICNSA will provide an annual report to Cabinet on South Australian Industry Participation Policy outcomes.

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