



CONSULTATION DRAFT

South Australian Industry Participation Policy

Procedural Guidelines

March 2017

*Measuring Economic Benefit from
Procurement through Labour, Capital
Investment and Supply Inputs*

DOCUMENT CONTROL

Managed by Division:	Office of the Industry Advocate	Approved by:	Industry Participation Advocate	File number:	A883249
Contact position:	Director, Office of the Industry Advocate	Date effective:		Version No:	
Responsible position:	Director, Office of the Industry Advocate	Scheduled review date:	30 June 2022	Status:	DRAFT
				Security classification :	UNCLASSIFIED 'For Official Use Only'

APPROVED / / 2017

Signed:

Print Name:

Position:

Contact

Office of the Industry Advocate

Level 13, 99 Gawler Place, ADELAIDE SA 5001

T: +61 8 8226 8956

E: oia@sa.gov.au

Contents

1. Introduction	3
2. Roles and Responsibilities.....	3
2.1. Industry Advocate	3
2.2. Office of the Industry Advocate	4
2.3. Responsible Government Agencies	4
3. Industry Participation Requirements	4
3.1. All procurements.....	4
3.2. Minimum Weighting	4
3.3. Regional South Australia	4
3.4. Aboriginal businesses.....	4
3.5. Economic Contribution Test.....	4
3.6. Industry Participation Plan	5
3.7. Private projects receiving significant monetary support or value-in-kind.....	5
3.8. Design and Specifications.....	5
4. Tailored Plans – Expanded Opportunities.....	5
4.1. Contracts valued over \$50 million	6
4.2. Major Infrastructure.....	6
4.3. Special Economic Zones	6
4.4. Aboriginal Economic Participation.....	6
4.5. Other socio-economic objectives	7
4.6. Design in major and significant projects.....	7
4.7. Growth, innovation and investment attraction	7
5. Fabrication of structural steelwork	8
Contact.....	8
Table 1: Industry Participation Policy Requirements	9
Table 2: Summary of Roles and Responsibilities – Economic Contribution Test.....	11
Table 3: Summary of Roles and Responsibilities – Industry Participation Plans	12
Definitions	13
Appendix A.....	14

1. Introduction

These Procedural Guidelines provide the requirements on Responsible Government Agencies (“RGAs”) under the South Australian Industry Participation Policy (hereafter “the Policy”).

RGAs are also expected to actively seek to expand the economic opportunities for South Australia when applying the Policy. The Policy encourages RGAs to go further than the minimum requirements.

These Procedural Guidelines should be read with the Policy. They establish:

- the roles and responsibilities in implementing the Policy
- the requirement under various acquisition and procurement activities
- the thresholds and coverage at which each requirement will apply, and
- the steps and processes, the actions and requirements applying on businesses and government under any specific requirement.

Tendering requirements, templates and scoring assessment criteria will operate to further the Policy Framework.

A separate Guideline will set the benefit realisation requirements that apply including reporting obligations for business and RGAs.

2. Roles and Responsibilities

2.1. Industry Advocate

The Industry Advocate has the following role and responsibilities:

- To further the aims of the Policy to facilitate economic contribution and development from Government contracts
- To assist in building the capability and capacity of businesses based in South Australia to participate in Government contracts
- To ensure that capable businesses based in South Australia are given full, fair and reasonable opportunity to participate in Government contracts
- To receive and investigate complaints by and on behalf of business and their industry representatives about non-compliance with the Policy, other impediments to economic and industry participation in Government contracts or other matters as directed by the Minister
- To make recommendations to agencies to resolve complaints from business received by the Industry Advocate
- To investigate and keep under review the levels of compliance of businesses participating in Government contracts
- To require businesses participating in Government contracts to deliver on their commitments made under the Policy (including in an Industry Participation Plan (IPP)), and
- To issue notices to businesses participating in Government contracts to comply with their contractual obligations in respect of the Policy if that is required.

2.2. Office of the Industry Advocate

The Office of the Industry Advocate (OIA) is responsible for the implementation of the Policy.

The OIA will be involved at various stages and to varying degrees throughout the entire procurement process for all contracts subject to the Policy.

See Tables 1, 2 and 3.

2.3. Responsible Government Agencies

RGAs conduct the implementation and application of the Policy within their own procurement processes.

RGAs include both the “public authorities” made or declared and the “prescribed public authorities” declared under the *State Procurement Act 2004* and accompanying regulations.

3. Industry Participation Requirements

The Policy applies to all procurement and importantly extends to subcontractor and supplier activity.

3.1. All procurements

All procurements will consider opportunities for small, start-up and Aboriginal businesses operating in South Australia with a view to involving South Australian business in the opportunity through provision of a quote or tender. The Government of South Australia may also focus on a particular region or special economic zone if a contract is to be performed in or near that area or for the express benefit of that area.

3.2. Minimum Weighting

The Policy identifies the minimum mandatory weighting to be applied to the IPP component of the evaluation criteria, with the option to lift the weighting based on the merit of the proposal. This means RGAs, Ministers or the Government have the discretion to increase the minimum mandatory weighting.

3.3. Regional South Australia

All procurement of goods, services or works which are predominantly Regional in character will focus on delivery of economic contribution to the Region and RGAs will need to consider if the weighting should be increased. This includes applying the:

- Regional Economic Contribution Test on procurements from \$33,000 up to \$1 million
- Regional IPP Plan from \$1 million and above.

Regional South Australia is defined as per the map set out in Appendix A.

3.4. Aboriginal businesses

If the procurement presents an opportunity for Aboriginal businesses, the RGA should also consider seeking a quote from an Aboriginal business (or directly engaging an Aboriginal business if the contract is less than \$220,000) (see 4.4 below).

3.5. Economic Contribution Test

RGAs must seek at least 1 quote or tender from a business based in South Australia (or a business based in the region in the case of a regional procurement) for any procurement from \$33,000 to IPP Plan thresholds and will apply an Economic Contribution Test (ECT).

The ECT will apply to both competitive procurements as well as direct negotiations or single sourcing as it provides decision makers with guidance on whether the purchase has achieved broader value-for-money.

The ECT will be applied with the minimum weighting (except in cases where it has been increased, or where the ECT will not help to differentiate between quotes or tenders – such as direct negotiations or single sourcing). In all cases the ECT should still be completed and the data reported.

Grants from \$500,000 will apply the ECT requirement.

See Tables 1 and 2 below.

3.6. Industry Participation Plan

An IPP Plan will apply to procurements and grants above \$4 million (\$1 million in Regional South Australia).

Where a managing contractor is appointed to manage a project that meets the above thresholds, the managing contractor is required to apply the South Australian Industry Participation Policy as if they were a RGA.

See Tables 1 and 3 below.

3.7. Private projects receiving significant monetary support or value-in-kind

Private projects which receive more than \$2.5 million in monetary support (or value-in-kind) from the Government of South Australia will need to apply the Policy. In most cases the IPP Plan will operate as an effective implementation; however, there are cases, such as large scale developments where a Tailored IPP Plan is better practice. The best approach will be determined by the RGA after advice from the Office of the Industry Advocate.

3.8. Design and Specifications

Design of technical specifications and project requirements should provide suppliers which have employed or invested in South Australia with an opportunity to win contracts and sub-contracts.

Design specifications should use Australian standards, or standards regularly used in Australia, to ensure that Australian suppliers are not 'designed out' of the contract.

4. Tailored Plans – Expanded Opportunities

RGAs should be looking for opportunities for further economic development for the State from procurement. The following are cases where a tailored approach to industry participation can deliver on this outcome.

Does the procurement include potential for;

- ***major infrastructure?***
- ***the purchase of steel or steelwork?***
- ***development of a special economic zone?***
- ***Aboriginal business opportunities?***
- ***investment attraction or generating innovation and growth?***
- ***other socio-economic objectives?***

If so:

- Consider lifting the weighting above minimum requirement
- Apply the higher minimum 20% weighting if purchasing steel or steelwork, and
- OIA will develop a Tailored IPP Plan.

4.1. Contracts valued over \$50 million

All contracts over \$50 million will have a Tailored IPP Plan. The OIA has a range of precedents in place, such as:

- Contracts for Northern Economic Plan region
- Health Industries
- Information Economy and Advanced Technology
- Major Infrastructure
- Design and architectural services
- Contracts delivered in APY Lands

The OIA can work with RGAs to design and implement a Tailored IPP Plan in any area of expenditure that will benefit from this regardless of value.

4.2. Major Infrastructure

Tailored IPP Plans will focus on employment and sub-contracting opportunities specific to the building and roads construction sectors and will include implementation of the Steel Policy and delivery of Workforce Participation Policy commitments.

In major infrastructure the OIA has a strong set of precedents for a wide range of projects, including building and roads construction.

4.3. Special Economic Zones

The Government of South Australia has already established Northern Adelaide as a special economic zone for industry participation. This zone carries a minimum 20 per cent weighting with a focus on economic contribution to the Northern Economic Plan area.

There are specific templates applying to this zone. Separate guidelines have been set.

Further areas may be established from time to time. When a zone is established, key features can include that projects and procurements within the zone should expressly be designed to benefit the zone, for example the contract can be designed to:

- a) look to source the contracts from businesses within the Special Economic Zone, that is when seeking quotes or tender short lists, the RGA will look for options from within the Special Economic Zone
- b) carry an increased industry participation weighting; This weighting assesses economic contribution to the region as a critical criteria in selection of contractors to perform government contracts, and
- c) ensure that wherever possible, the RGA uses panel contracts, prequalification lists and existing contract arrangements in a manner that promotes activity in the Special Economic Zone.

4.4. Aboriginal Economic Participation

Responsible Government Agencies should consider their forward procurement program for opportunities that are suitable for Aboriginal economic participation.

Opportunities up to \$220,000

Aboriginal Economic Participation through Procurement is focused on developing whole-of-government procurement practices which use the existing Industry Participation Policy and Aboriginal Business Procurement Policy as the primary frameworks.

Under the Policies, government agencies can procure directly from an Aboriginal business to the value of \$220,000 where that business is listed on South Australia's online register of Aboriginal businesses, Aboriginal Business Connect, and provides a value for money quote.

Contracts above \$220,000 and tailoring the IPP to Aboriginal economic participation

The industry participation weighting can be increased above the minimum of 15% and accompanied by tailored measures for Aboriginal participation which are directly relevant to raising economic participation for Aboriginal businesses and employees. Relevant considerations on when to apply this include:

- Contracts performed in Aboriginal lands or for communities with a significant Aboriginal population
- Contracts which have demonstrated Aboriginal businesses performing within it or in the supply-chain
- Contracts where the Workforce Participation Policy sets requirements for use of Aboriginal labour and raising the use of Aboriginal businesses can assist with achieving those targets

The increased weighting would measure the amount of Aboriginal employment or labour hours associated with the contract directly and indirectly through subcontractors and suppliers.

Where there are opportunities, then the industry participation weighting should be increased and a tailored ECT or IPP Plan developed with reference to raising Aboriginal economic participation.

Major projects - use of Aboriginal businesses and target group employment

Projects such as the Northern Connector have identified how a specific set of industry participation initiatives around Aboriginal economic participation can assist with the Workforce Participation Policy to deliver significant new opportunities for Aboriginal businesses in the construction industry.

Projects in Aboriginal Lands

A Tailored Industry Participation Plan has been developed for large contracts in the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands. This plan sets out the new approach of the South Australian Government to meet the minimum requirement of 30% total on-site labour hours filled by Anangu personnel (and in some cases can be lifted even further to 35% or more).

The Office of the Industry Advocate can provide advice on the application and use of this plan.

4.5. Other socio-economic objectives

Where there are other socio-economic opportunities, consideration should be given to increasing the industry participation weighting and a tailored ECT or IPP Plan should be developed with reference to addressing the particular socio-economic objectives.

4.6. Design in major and significant projects

Even though design services, such as architectural services may be of modest value in a larger project, the influence of design on the outcomes for industry participation and economic contribution is significant.

Where services such as these are critical to how a project will be delivered, this is a trigger for whether the industry participation requirements should be tailored for the procurement.

4.7. Growth, innovation and investment attraction

Responsible Government Agencies should work with the Office of the Industry Advocate at the early stage of business case planning and acquisition planning to realise the benefits of growth, innovation and investment attraction. The following is a guide or key criteria for when this should occur:

- Can the contract contribute significantly to developing and/or growing a high value industry in the State? If not, what would need to change to create these outcomes?
- If the business case was implemented, how could it be leveraged to generate employment outside of the contract for South Australia?

When the tender is issued, the Tailored IPP Plan would measure areas such as:

- Do the likely companies selected have an investment strategy in South Australia? What is the evidence for this?

- What type of presence do the relevant businesses currently have in South Australia (i.e. head office/national office/branch office/none etc.) and what is potential impact (if any) from the implementation of the business case on their SA presence (i.e. enhanced/maintained etc.)
- Do the likely companies selected have any intention to produce products or services in South Australia that are part of a value-chain? What is the evidence for this?
- Do the likely companies selected have any intention to distribute products or services from South Australia? What is the evidence for this?
- Do the likely companies selected have any intention to build or develop plant and equipment in South Australia? What is the potential total value of investment to be permanently located in South Australia?
- Are the likely companies selected capable of conducting research and development (including product or service development) with South Australian institutes or the private sector?
- Are the likely companies selected capable of new research and development collaborations in South Australia in the next 12-24 months? What is the evidence for this? What is the likelihood of this?
- Are the likely companies selected capable of conducting any product or service trials in South Australia prior to launching them? What is the likelihood of this?

Tailored IPP Plan templates are available for:

- Health Industries
- Information Economy and Advanced Technology

Templates can be established on a once off opportunity basis to attract investment to South Australia as well.

5. Fabrication of structural steelwork

With regard to section 5.2 of the Policy: As an interim measure, until sufficient South Australian steel fabrication businesses have achieved certification to the project Construction Category level, a steel fabricator who has applied for and is in the process of certification may be engaged to conduct work.

Contact

Director, Office of the Industry Advocate

Telephone

08 8226 8956

Email

oja@sa.gov.au

For more information visit

www.industryadvocate.sa.gov.au

Table 1: Industry Participation Policy Requirements

Category	Tender Requirement	Reporting Requirement
	<i>Note that the IPP Requirements below are to include sub-contracting arrangements where they are proposed/exist</i>	
All procurements	All procurements will consider opportunities for small businesses and start-up businesses operating in South Australia with a view to involving these businesses in the opportunity through provision of a quote or tender	Contractor No reporting requirements RGA No reporting requirements
Procurements in Regional South Australia	The relevant Regional IPP requirement applies and RGA will seek at least 1 quote from the Region	Contractor No reporting requirements RGA No reporting requirements
Procurements where an Aboriginal business is tender ready and represents good value	RGAs should actively promote Aboriginal economic participation RGAs should consider the option to single source under \$220,000 RGAs should consider whether to raise IPP weighting above \$220,000 with focus on Aboriginal participation	Contractor No reporting requirements RGA Agencies to set targets and report quarterly to the Office of the Industry Advocate
Government procurement where tender value is between \$33,000 and under IPP Plan threshold	One quote or tender must be from an SA business (or the region) where possible. ECT to be completed and forms a minimum 15% of overall evaluation.	Contractor No reporting requirements RGA Annual reporting on contracting activity including ECT details
Grants from \$500,000	ECT will apply to grants from \$500,000 and an IPP Plan is required to be completed if greater than \$1 million in regional areas or \$4 million in metropolitan Adelaide	Contractor Reporting requirements will be determined based on the IPP requirements for submission RGA Reporting requirements will be determined based on the IPP requirements for the submission
Private projects receiving \$2.5 million in monetary support or value-in-kind	IPP requirement determined by the RGA after advice from the Office of the Industry Advocate.	Contractor To be agreed between OIA and RGA on a case by case basis RGA To be agreed between OIA and RGA on a case by case basis

Category	Tender Requirement	Reporting Requirement
	<i>Note that the IPP Requirements below are to include sub-contracting arrangements where they are proposed/exist</i>	
Government procurement subject to IPP Plan.	Submission of an IPP Plan is required for the tender to be considered compliant. IPP Plan has a minimum 15% weighting	Contractor Minimum of <u>annual</u> reporting against IPP commitments to the RGA RGA Annual reporting on contracting activity including IPP details
Government procurement where tender value is \$50 million and over.	Completing a Tailored IPP Plan is required. The OIA will work with the RGA to develop an IPP Plan template tailored to the contract or project. IPP Plan has a minimum 15% weighting	Contractor Minimum of <u>bi-annual</u> reporting against IPP commitments to the RGA RGA Annual reporting on contracting activity including IPP details
Opportunities for Expanded Economic Opportunity	Completing a Tailored IPP Plan is required. The OIA will work with the RGA to develop an IPP Plan template tailored to the contract or project. IPP Plan has a minimum 15% weighting	Contractor Minimum of <u>bi-annual</u> reporting against IPP commitments to the RGA RGA Annual reporting on contracting activity including IPP details
Panel contracts with secondary procurements	*TBC - Awaiting recommendations from the Procurement Working Group	*TBC - Awaiting recommendations from the Procurement Working Group
Panel contracts with limited number of suppliers and expected volumes for use above \$50m	*TBC - Awaiting recommendations from the Procurement Working Group	*TBC - Awaiting recommendations from the Procurement Working Group

Table 2: Summary of Roles and Responsibilities – Economic Contribution Test

This table provides an overview of the roles and responsibilities of the RGA, Tenderer and the OIA at each step of the procurement process, specific to the Employment Contribution Test. This table is to be used as a guide only and needs to be read in conjunction with the relevant sections of these guidelines.

	Responsible Government Agency	Tenderer	Office of the Industry Advocate
Project Inception	<ul style="list-style-type: none"> Check SA IPP to see if ECT applies – Yes/No Is this a Regional SA procurement – if so apply Regional ECT Consider if the minimum weighting should be increased. 		<ul style="list-style-type: none"> Assist RGA to determine appropriate application of ECT if required Provide assistance and advice to RGA on raising minimum weightings.
Tender Preparation	<ul style="list-style-type: none"> Include ECT weighting in tender evaluation plan (for procurements above \$33,000) 		<ul style="list-style-type: none"> Provide advice to agencies on how to include ECT weighting in tender evaluation plan.
Tender Release	<ul style="list-style-type: none"> Assist tenderers to complete ECT or direct them to the OIA if required. 	<ul style="list-style-type: none"> Complete ECT and include with tender 	<ul style="list-style-type: none"> Provide assistance to tenderer with regards to completing ECT where required
Tender Assessment	<ul style="list-style-type: none"> Assess ECT and incorporate result into tender assessment 		<ul style="list-style-type: none"> Provide assistance to RGA if required
Contract Award	<ul style="list-style-type: none"> Record details of ECT and tender as required to meet IPP reporting requirements 	<ul style="list-style-type: none"> Comply with ECT commitments 	
Ongoing Contract Management			<ul style="list-style-type: none"> Benefits realisation framework

Table 3: Summary of Roles and Responsibilities – Industry Participation Plans

This table provides an overview of the roles and responsibilities of the RGA, Tenderer and the OIA at each step of the procurement process specific to Industry Participation Plans. This table is to be used as a guide only and needs to be read in conjunction with the relevant sections of these guidelines.

	Responsible Government Agency	Tenderer	Office of the Industry Advocate
Project Inception	<ul style="list-style-type: none"> Check if project is within the scope of SA IPP Advise the OIA if project is over \$4m (\$1m Regional). Forward draft acquisition plan to OIA for review for all projects over \$4m (\$1m Regional). If Regional – apply Regional IPP Plan. <u>Consider if the minimum weighting should be increased, and complete expanded economic opportunity assessment.</u> If Cabinet Submission is required, note that OIA must be consulted 		<ul style="list-style-type: none"> Meet with RGA to discuss application of SA IPP. <u>Review acquisition plan for expanded economic opportunities.</u> Provide assistance and advice to RGA on raising minimum weightings and any tailored requirements.
Tender Preparation	<ul style="list-style-type: none"> Ensure wording in tender documentation refers to SA IPP Include IPP weighting in tender evaluation plan. Inform OIA of tender open and close dates and likely tender assessment timeframes. 		<ul style="list-style-type: none"> For tenders over \$50 million (or being of a kind to generate economic opportunities), prepare a template for a Tailored IPP Plan. Provide advice to RGA on how to reference the IPP in tender documents and include IPP weighting in tender evaluation plan.
Tender Release	<ul style="list-style-type: none"> Encourage tenderers to contact OIA for assistance to identify capable local suppliers and for assistance with IPP Plan preparation. 	<ul style="list-style-type: none"> Complete IPP Plan and include with tender. Contact OIA with regard to project if unable to locate competitive local suppliers. 	<ul style="list-style-type: none"> Provide assistance to tenderer with regards to local supplier identification and completing IPP Plan where required.
Tender Assessment	<ul style="list-style-type: none"> Provide copy of signed IPP Plans to OIA for assessment Preclude tenders that have not submitted IPP Plans from contract award (on advice from OIA). 		<ul style="list-style-type: none"> Assess IPP Plans and advise RGA on compliance status and score.
Contract Award	<ul style="list-style-type: none"> Inform OIA of successful tenderer and contract term. 	<ul style="list-style-type: none"> Comply with IPP Plan obligations. Contact OIA with regard to project if unable to locate competitive local suppliers. 	<ul style="list-style-type: none"> Assist successful business with finding capable local suppliers where required.
Ongoing Contract Management	<ul style="list-style-type: none"> Request IPP Plan report from contractor in line with contract conditions. Assess IPP Plan report and forward copy of IPP report and assessment to OIA. 	<ul style="list-style-type: none"> Comply with IPP Plan obligations. Submit IPP Plan report to RGA in line with contract conditions. 	<ul style="list-style-type: none"> Implement benefits realisation and reporting framework.

Definitions

Metropolitan Adelaide is the State Government regions of Western Adelaide, Northern Adelaide, Eastern Adelaide and Southern Adelaide. A map of these regions can be found at [South Australian Government Regions](#).

Region is the relevant State Government region.

Regional South Australia is defined as those parts of South Australia not included as Metropolitan Adelaide.

Responsible Government Agency (RGA)

RGAs include both the “public authorities” made or declared and the “prescribed public authorities” declared under the *State Procurement Act 2004* and accompanying regulations.

- For government procurement, the agency responsible for awarding the contract.
- For government support, the agency responsible for administering the support package.

Appendix A

Regions Map

Regional South Australia is defined as those parts depicted in the map above but excluding Western Adelaide, Northern Adelaide, Eastern Adelaide and Southern Adelaide.

http://www.sa.gov.au/_data/assets/pdf_file/0019/9442/SA_Government_regions_State_map.pdf

