

South Australian Industry Participation Policy

Procedural Guidelines



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1. Introduction

These Procedural Guidelines provide the requirements for Public Authorities under the South Australian Industry Participation Policy (hereafter “the Policy”).

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

These Procedural Guidelines (hereafter “the 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
- the steps and processes, the actions and requirements applying on businesses and government under any specific requirement
- the benefit realisation requirement to apply including reporting requirements.

These Guidelines supersede earlier versions, although they will not apply retrospectively, and earlier versions apply if contracts or grants are made before this version is operating.

Appendix A of the Policy sets the principles and benefit realisation requirements that apply including reporting obligations for business and Public Authorities.

Public Authorities, businesses, private sector parties, universities and Not-for-Profits contracting to the Government of South Australia will be required to comply with the Policy and these supporting procedural guidelines, including the reporting obligations set out in Tables 1 and 2 as applicable.

2. Roles and Responsibilities

2.1. Industry Advocate

Established through the *Industry Advocate Act 2017*, the Industry Advocate has the following functions:

- to take action to further the objectives of the SAIPP (including, without limitation, by building the capability and capacity of businesses based in South Australia to participate in government contracts);
- to receive and investigate complaints by and on behalf of business and their industry representatives about the SAIPP;
- to make recommendations (taking into account requirements under any other law) to responsible officers for procurement and principal officers of public authorities to resolve complaints, remove impediments or improve procurement practices and processes;
- to refer unresolved complaints and issues to the Minister for consideration;
- to review, and assist in the negotiations for, Industry Participation Plans to ensure they comply with the SAIPP prior to the finalisation of contract conditions;
- to investigate and monitor compliance with the SAIPP by participants in government contracts;

- to take action to promote and ensure compliance with the SAIPP, including by issuing directions to participants in government contracts requiring them to comply with their contractual obligations in respect of the SAIPP and reporting to the Minister in relation to non-compliance where appropriate;
- to encourage the adoption of industry participation policies by local government;
- to investigate and monitor compliance with local government industry participation policies by participants in contracts to which such policies apply;
- to take any other action considered necessary for the purpose of exercising the functions conferred on the Industry Advocate;
- to exercise other functions conferred on the Industry Advocate by the Minister or under this or any other Act.

The Office of the Industry Advocate (OIA) supports the Industry Advocate has particular functions as set out in **Tables 1 and 2**.

The Industry Advocate is responsible for the application of the SAIPP and Procedural Guidelines.

2.2. Department of Treasury and Finance

The Procurement Services SA branch (PSSA) of the Department of Treasury and Finance (DTF) is primarily responsible for the review and development of the SAIPP and procedural guideline.

2.3. Public Authorities

Public Authorities (PAs) are defined in section 4 of the *Public Finance and Audit Act 1987*.

PAs conduct the implementation and application of the Policy within their own procurement framework and internal processes.

All PA staff responsible for complying with the Policy are required to have undertaken OIA training on the Policy and education of local industry participants and providers every year, or more frequently when there are significant updates to the Policy (as determined by the Industry Advocate). Attendance at training will be monitored by the Industry Advocate.

3. Industry Participation Requirements

Where a requirement under the Policy or the Guidelines applies due to financial thresholds, these thresholds are always inclusive of the Goods and Services Tax (GST), except where they relate to grants.

3.1. All procurements

PAs are encouraged to consider increasing South Australian business¹ input for all procurements and that capable South Australian businesses are being given full, fair, and reasonable opportunity to tender² and participate in government contracts.

All procurements will consider opportunities for start-up and innovative businesses, as well as eligible Aboriginal businesses operating in South Australia. The Government of South Australia may also focus on a particular region if a contract is to be performed in or near that area or for the express benefit of that area.

For the Policy to have maximum impact, project design and tender specifications should not be an obstacle to the South Australian supply of the required goods or services. To ensure specifications are clear and comprehensive but not discriminatory, PAs should use Australian standards, or standards regularly used in Australia, and be performance-based where possible.

¹ As defined in Treasurer's Instruction 18 Procurement

² In this Guideline "tender" also means 'offer', 'quote', 'response', 'grant application', and/or 'bid'.

References to a specific brand or product should only be used in exceptional circumstances and where used, should be followed by the words “or equivalent”.

3.2. Minimum Requirements for Industry Participation

Important: This section should be read in conjunction with Treasurer’s Instruction 18 Procurement, the PSSA Procurement Planning Policy, the PSSA Sourcing Policy and Table 1 of these Guidelines.

At a minimum:

- PAs will seek at least one (1) quote from a South Australian business for any procurement above \$55,000.
- An Industry Advocate Sourcing Checklist (refer to policy and resources section on the OIA website) must be completed, and a copy provided to the OIA, prior to an approach to market for any procurement between \$55,000 and \$550,000.
- An Industry Advocate Outcome Checklist (refer to policy and resources section on the OIA website) must be completed, and a copy provided to the OIA, following approval of the procurement outcome for any procurement between \$55,000 and \$550,000.
- The Policy has set a minimum mandatory weighting of 15% to the industry participation component of the evaluation criteria for any procurement valued above \$550,000. This minimum weighting must increase to 20% for procurements above \$10 million. PAs, Ministers or the Government have the discretion to increase the minimum mandatory weighting as part of the acquisition strategy regardless of value.
- An Industry Participation Plan or Tailored Industry Participation Plan will apply to all competitive (open) procurements above \$550,000. All IP Plan templates must be approved by the Industry Advocate.

The Industry Advocate Checklist can be provided to the OIA via the Procurement Services SA’s Procurement Activity and Reporting System

Chief Executives must approve any procurement outcome above \$55,000 where there is a South Australian business that can supply the required good or service, but the successful supplier is not a South Australian business. This requirement cannot be delegated. Chief Executive approval of the procurement outcome is not required where there are no South Australian businesses that are able to supply the good or service – this can be delegated by the Chief Executive unless the acquisition strategy recommended a direct market approach and the procurement was not competed in the open market.

Appendix B of the Guidelines provides the contractual special conditions drafted by the Crown Solicitors Office to be inserted where necessary in any contract for which an Industry Participation Plan is required.

The Industry Advocate will monitor compliance and total percentage of contracts awarded to non-South Australian businesses.

3.3. The Industry Participation Plan

An Industry Participation Plan (IP Plan) will apply:

- optionally to competitive procurements valued above \$55,000 and up to and including \$550,000 (with a suggested weighting of 15% for industry participation in the evaluation criteria);
- to all competitive procurements valued above \$550,000 (with the minimum 15% or 20% weighting (depending on procurement value) for industry participation in the evaluation criteria); or
- to limited and direct market approach procurements above \$550,000 (as it provides

decision makers with guidance on whether the purchase has achieved broader economic value to the State as well as broader value for money outcomes). The minimum weighting for industry participation in evaluation criteria will not apply.

3.4. Tailored Industry Participation Plan

PAs should be looking for opportunities for further economic development for the State from procurement and can design and implement an approved Tailored IP Plan that will benefit from this regardless of value. The OIA will develop the Tailored IP Plan in collaboration with PAs.

The following are cases where a tailored approach to industry participation may have potential to deliver on this outcome:

- major infrastructure or major construction
- specific industries such as health industries, information economy and advanced technology, design and architectural services
- a program of interlinked small infrastructure projects (e.g. a stimulus package)
- development in an economic participation region
- Aboriginal economic participation (including but not limited to contracts delivered in APY lands)
- socio-economic objectives.

In these cases, PAs should:

- consider lifting the minimum 20% weighting for industry participation in the evaluation criteria; and
- if purchasing structural/reinforcing steel or fabrication of structural steelwork, apply the higher minimum 20% weighting for industry participation in the evaluation criteria.

At a minimum, a Tailored IP Plan will apply for all procurements above \$50 million (with the minimum 20% weighting for industry participation in the evaluation criteria).

3.5. Panel Contracts

The Policy will also apply to all panel contracts, including mandated across-government contracts, as follows:

- Stage 1

Businesses will be required to submit a Statement of Intent approved by the Industry Advocate which will form Stage 1 of the industry participation process. The information provided will be used to benchmark an IP Plan submitted at Stage 2 (i.e. the secondary procurements from the panel).

- Stage 2 –

Transactions between \$55,000 and \$550,000 – an Industry Advocate Outcome Checklist must be completed, and a copy provided to the Industry Advocate on request.

Above \$550,000 - An IP Plan must be completed with a minimum 15% weighting for industry participation within the evaluation criteria.

3.6. Regional South Australia

All procurement of goods, services or construction works which are predominantly Regional in character will focus on delivery of economic contribution to the Region and PAs will need to consider if the weighting for the industry participation component of evaluation criteria should be increased. Regional South Australia is defined as per the map set out in **Appendix A**.

3.7. Aboriginal Businesses

If the procurement presents an opportunity for Aboriginal businesses, the PAs should consider seeking a quote from an eligible Aboriginal business (or directly engaging an eligible Aboriginal business if the procurement is valued up to and including \$550,000) (see **s4.6**). This includes but is not limited to contracts delivered in APY lands.

3.8. Procurements with the Not-for-Profit Sector

Procurements and contracts involving the Not-for-Profit sector are captured by the South Australian Government Procurement Framework and are also captured by the Policy requirements under the requirements above.

3.9. Grants

To the Private Sector

PAs will include an Industry Advocate Sourcing Checklist as part of the grant application for grants to the private sector above \$500,000 (GST exclusive). PAs will evaluate economic benefit as part of the grant application process. This will involve details of South Australian jobs and where appropriate, investment and supply-chain opportunities associated with the grant project.

The OIA will work with PAs to establish appropriate evaluation criteria (noting economic benefit may include capital investment, research and development, skills transfer, or other benefits to the State). Responses to the evaluation criteria will form part of the assessment for the grant and reflected in the grant agreement.

With the Not-for-Profit Sector

Grants involving the Not-for-Profit sector are excluded from the Policy and Guidelines.

Between PAs

Grants between PAs are excluded from the Policy and Guidelines.

3.10. Private Sector and University Projects Receiving Significant Monetary Support or Value-in-Kind

Private projects³ which receive \$2.5 million (GST exclusive) or above in monetary support or value-in-kind from the Government of South Australia are subject to the Policy and Guidelines. Monetary support or value-in-kind can include, for example:

- when land is transferred to the developer below market-rates (to a value above \$2.5 million) by the Government of South Australia
- when land is remediated to a value above \$2.5 million by the Government of South Australia
- when an opportunity is available from the Government of South Australia that has goodwill to a value above \$2.5 million
- where the Government of South Australia provides extensive support (e.g. case-management or facilitated approval processes), representing a value above \$2.5 million in resources
- when the Government of South Australia provides direct financial support (e.g. a grant) above \$2.5 million.

An approved IP Plan is sufficient although a Tailored IP Plan can be developed by OIA in collaboration with the relevant PA to target specific opportunities. A minimum 15% industry participation weighting will be applied as a component of the overall evaluation criteria for any

³ This includes Public Private Partnership projects to which the Government of South Australia is a party.

private project valued above \$2.5 million.

At times, these private projects may involve a business case as part of an application process. This should seek information on economic contribution to the State such as South Australian jobs and where appropriate, investment and supply-chain opportunities associated with the project (noting these will often be highly commercial and confidential). In these cases, the business should be encouraged to apply the principles of the IPP (including minimum weightings for industry participation in evaluation criteria) to their own procurement processes.

Where the business case/application sufficiently addresses economic contribution to the State, the Industry Advocate can endorse the business case as constituting a valid set of economic contribution commitments without requiring an IP Plan.

3.11. Compliance

The Industry Advocate can and may review and assist in the negotiations of IP Plans to ensure they comply with the Policy prior to the finalisation of the contract (i.e. prior to contract execution).

To assist, suppliers will submit a Supplier Declaration to the Industry Advocate to confirm whether there have been any significant changes during final contract negotiation stage that impact on the IP Plan commitments. The declaration must be given by the person who will be executing the contract on behalf of the supplier. For consortium suppliers, each entity comprising the consortium must sign the declaration.

Where the Supplier Declaration identifies that changes have been made to the IP Plan submitted with the quote, a revised IP Plan must be submitted to the Industry Advocate for approval prior to contract execution. Following contract execution, the supplier will apply the principles of the Policy and their IP Plan.

Requirements and any commitments to economic contribution that are reflected in relevant contracts or agreements will include reporting obligations⁴ to the Industry Advocate (refer **Table 2**). The Industry Advocate can and will investigate and monitor compliance with the Policy by PAs and participants in government contracts (i.e. suppliers).

3.12. Exemptions

Exemptions from any requirement of the Policy will be considered by the Industry Advocate. Grounds for an exemption may include when there is a third-party requirement to use a specific procurement criterion or there is no relevant supplier in South Australia or Australia.

4. Opportunities for Expanded Economic Development

4.1. Infrastructure and Construction Contracts above \$50 million (“Major Projects”)

This includes major infrastructure or major construction, including Federally funded infrastructure and construction projects managed by the Government of South Australia as well as the purchase of structural/reinforcing steel or fabrication of structural steelwork.

Tailored IP Plans will focus on opportunities specific to the building and civil construction sectors and will include:

- implementation of the Policy with regard to the Steel Industry (**s5**)
- other employment and subcontracting opportunities.

An approved Tailored IP Plan weighting and scoring will be allocated accordingly. The OIA will

⁴ This may include reporting for jointly funded projects to which the Government of South Australia is a party (e.g. Public Private Partnerships and Federally funded infrastructure and construction projects managed by the Government of South Australia).

provide guidance and assist PAs with negotiations.

Tailored IP Plans for Major Projects above \$50 million will seek to achieve:

- South Australian workers delivering a minimum 90% of labour hours; and
- Apprentices, trainees, Aboriginal workers, and long-term unemployed delivering 20% of all labour hours.

The Industry Advocate will review and monitor compliance across all projects and report on progress. Penalties will apply to lead contractors for not achieving targets.

4.2. Professional Services: Project Managers, Architects, Designers, Engineers, Surveyors and Planners

PAs will procure local project managers, architects, designers, engineers, surveyors and planners from South Australian businesses for government projects above \$55,000. An Industry Advocate Sourcing and Outcome checklist must be completed, and a copy provided to the Industry Advocate. The Industry Advocate will review and monitor compliance and report on progress.

4.3. Public Housing Construction and Maintenance Programs

PAs will procure South Australian manufactured products for public housing construction and maintenance programs, where available, for procurements valued above \$55,000. PAs should review existing design specifications, and ensure future specifications are focused on these outcomes.

Design, construction, and maintenance contracts for public housing must include the following clauses for all contracts above \$55,000:

- Project design and tender specifications must not be an obstacle to the South Australian supply of required goods or services.
- Design and tender specifications must use Australian standards, or standards regularly used in Australia and be performance based rather than design specific where possible.
- References to a specific brand or product made should only be used in exceptional circumstances and followed by the words “or equivalent”.

The Industry Advocate will review and monitor compliance and report on progress.

4.4. Programs of interlinked Small Infrastructure Projects – e.g. stimulus package

The PA will work with the OIA to develop an appropriate response to industry participation opportunities. The design of the stimulus package will consider how to maximise industry participation, employment and use of supply-chains that benefit the South Australian economy. South-Australian manufactured products should be used where available.

4.5. Economic Participation Regions

“Economic Participation Regions” may be established from time to time. When established, procurements within the Region should expressly be designed to benefit the Region, for example it can be designed to:

- provide a long-term pipeline of projects for the region
- carry an increased weighting for industry participation in evaluation criteria; assessing economic contribution to the region as a critical criterion in selection of contractors to perform government contracts.

4.6. Aboriginal Economic Participation

PAs should consider their forward procurement program for opportunities that are suitable for Aboriginal economic participation, including eligible Aboriginal businesses, supply chains and Aboriginal employment.

The Government of South Australia, including individual PAs may establish preferred Aboriginal business pre-qualification lists, to make it easier to contract with eligible Aboriginal businesses.

Targeting Aboriginal economic participation

PAs may apply an approved IP Plan to procurements valued below \$550,000 and may increase the industry participation weighting in evaluation criteria above the minimum of 15%. This may be accompanied by targeted IP Plan measures that are directly relevant to raising economic participation for eligible Aboriginal businesses and employees. Relevant considerations on when to apply this may include:

- contracts performed in Aboriginal lands or for communities with a significant Aboriginal population
- contracts which have eligible Aboriginal businesses performing within it or in the supply chain
- contracts where the Policy sets targets for use of Aboriginal labour and increasing the use of Aboriginal businesses can assist with achieving those targets.

Any increased weighting for industry participation in evaluation criteria should consider the estimated amount of Aboriginal employment or labour hours associated with the contract directly and indirectly through subcontractors and suppliers.

Where there are these opportunities, the intent of the Policy is that the industry participation weighting in evaluation criteria is increased, and a Tailored IP Plan developed with reference to increasing Aboriginal economic participation.

Direct market approach to an eligible Aboriginal business

PAs can procure directly from an eligible Aboriginal business for procurements valued up to and including \$550,000. PAs should confirm that value-for-money has been achieved by:

- obtaining a written quote from an eligible Aboriginal business
- confirming the price/rates submitted by the eligible Aboriginal business demonstrates value in the expenditure of public money
- giving consideration to the eligible Aboriginal business' capacity and capabilities.

The PSSA Value for Money Guideline provides further advice about how the Government considers value-for-money in the procurement processes.

4.7. Other Socio-economic Objectives

Where there are other socio-economic opportunities, such as engaging social enterprises, disability enterprise, women-owned businesses or achieving other social, environmental or economic procurement outcomes, consideration should be given to increasing the industry participation weighting in evaluation criteria and an approved Tailored IP Plan should be developed with reference to addressing the particular socio-economic objectives.

5. Industry Development and Investment Attraction

PAs should work with the OIA at the early stage of a business case or planning the acquisition strategy to realise the benefits of growth, innovation and investment attraction. This should occur when:

- the contract could contribute significantly to developing and/or growing a high value industry in the State
- the contract could be leveraged to generate employment outside of the contract for South Australia.

In those cases, the Tailored IP Plan could consider areas such as:

- Does the business(s) have an investment strategy in South Australia? What is the evidence for this?
- What type of presence does the business(s) currently have in South Australia (i.e. head office/national office/branch office/none etc.) and what is the potential impact (if any) from the implementation of the business case on their South Australian presence (i.e. enhanced/maintained etc.)?
- Does the business(s) have any intention to produce goods or services in South Australia that are part of a value-chain? What is the evidence for this?
- Does the business(s) have any intention to distribute goods or services from South Australia? What is the evidence for this?
- Does the business(s) 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?
- Is the business(s) capable of conducting research and development (including goods/product or service development) with South Australian institutes or the private sector?
- Is the business(s) capable of creating 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?
- Is the business(s) capable of conducting any goods/product or service trials in South Australia prior to launching them? What is the likelihood of this?

To assist, the OIA has developed Tailored IP Plan templates are available for:

- Health Industries
- Information Economy and Advanced Technology

and these can be established on a once-off opportunity basis to attract investment to South Australia.

5.1 Fabrication of structural steelwork

Regarding **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 is considered satisfactory and may be engaged to conduct work.

5.2 Uniforms and Manufactured Personal Protective Equipment

PAs will procure locally manufactured uniforms and locally manufactured personal protective equipment, where possible, for procurements above \$55,000. PAs will review and develop specifications such as types and quantities of uniforms with a view to future forecasting of requirements and identifying collaborative opportunities. The Industry Advocate will review and monitor compliance and report on progress.

Contact

Office of the Industry Advocate
Level 17, 30 Wakefield Street
Adelaide SA 5000
Telephone: 08 8226 8956
oia@sa.gov.au

Table 1: South Australian Industry Participation Policy Requirements

This section should be read in conjunction with Treasurer's Instruction 18 Procurement, the PSSA Procurement Planning Policy, and the PSSA Sourcing Policy.

Under the functions of the *Industry Advocate Act 2017* the Industry Advocate has the discretion to review and assist in the negotiation of IP Plans to ensure they comply with the Policy prior to the finalisation of contract conditions. Contact the Office of the Industry Advocate to determine the most appropriate industry participation requirement on a case-by-case basis.

Value Range <i>NOTE: All thresholds are inclusive of GST.</i>	SAIPP Requirement
Procurements between \$55,000 and \$550,000	<ul style="list-style-type: none"> • PAs must complete the Industry Advocate Sourcing Checklist and the Industry Advocate Outcome Checklist at the market approach and procurement outcome stage. • PAs must seek at least one (1) quote from a South Australian business. • PAs will procure locally manufactured uniforms and locally manufactured personal protective equipment, where possible. • PAs will procure local project managers, architects, designers, engineers, surveyors and planners from South Australian businesses. The business will need to satisfy the South Australia business definition. • PAs will procure locally manufactured products for public housing construction and maintenance programs, where possible, for procurements valued above \$55,000. • If the procurement presents an opportunity for an eligible Aboriginal business, the PA may engage an eligible Aboriginal business through a direct market approach. • Chief Executives must approve any procurement outcome above \$55,000 where there is a South Australian business that can supply the required good or service, but the successful supplier is not a South Australian business.
Procurements above \$550,000 but below \$10 million	<ul style="list-style-type: none"> • Mandatory IP Plans are required. • A minimum 15% industry participation weighting must form part of the overall evaluation criteria. • Where the purchase of structural/reinforcing steel and fabrication of structural steelwork is involved, minimum 20% industry participation weighting must form part of the overall evaluation criteria. • Approved IP Plans should be considered where there is opportunity for expanded economic benefit to the State. • A competitive (open) market approach must be used.
Procurements above \$10 million but below \$50 million	<ul style="list-style-type: none"> • An Industry Participation Plan approved by the Industry Advocate will apply. • A minimum 20% industry participation weighting must form part of the overall evaluation criteria.
Procurements above \$50 million	<ul style="list-style-type: none"> • Mandatory Tailored IP Plans approved by the Industry Advocate are required. • Where the purchase of structural/reinforcing steel and fabrication of structural steelwork is involved, a minimum 20% industry participation weighting must form part of the overall evaluation criteria. • A Statement of Intent will form Stage 1 of the Tailored IP Plan process

	and the information provided will be used to benchmark a Tailored IP Plan submitted at Stage 2.
Direct Market Approach	<ul style="list-style-type: none"> • All Policy requirements apply to a limited or direct market approach above \$550,000. • No industry participation weighting is necessary in the evaluation.
Panel contracts	<ul style="list-style-type: none"> • The Policy applies to all panel contracts including mandated across-government contracts. A tailored industry participation process is mandatory. • A Statement of Intent will form Stage 1 of the industry participation process and the information provided will be used to benchmark an IP Plan submitted at Stage 2 (i.e. the secondary procurements from the panel). • An Industry Advocate Outcome Checklist must be completed for any secondary process between \$55,000 and \$550,000, and a copy provided to the Industry Advocate upon request. • An IP Plan is required for any secondary procurement from the panel above \$550,000 and a minimum 15% industry participation weighting is applied as a component of the overall evaluation criteria for secondary procurement process from the panel.
Grants to the Private Sector above \$500,000 (GST exclusive) but below \$2,500,000 (GST exclusive).	<ul style="list-style-type: none"> • PAs will include an Industry Advocate Sourcing Checklist as part of the grant application for grants above \$500,000 (GST exclusive). PAs will evaluate economic benefit as part of the grant application process. This will involve details of South Australian jobs and where appropriate, investment and supply-chain opportunities associated with the grant project. • The OIA will work with PAs to establish appropriate evaluation criteria (noting economic benefit may include capital investment, research and development, skills transfer, or other benefits to the State). Responses to the evaluation criteria will form part of the assessment for a grant and be reflected in the grant agreement. • Not for Profit grants are <u>excluded</u> from this requirement.
Private Sector and University Projects receiving monetary support or value-in-kind equal to or above \$2,500,000 (GST exclusive)	<ul style="list-style-type: none"> • A minimum 15% industry participation weighting must form part of any evaluation criteria used by the recipient of the monetary support (i.e., private sector or University) when they assess the quotes/bid in expending the support provided by government. • Not for Profit grants are <u>excluded</u> from this requirement. • An IP Plan approved by the Industry Advocate will often be sufficient, but a Tailored IP Plan can be developed by OIA in collaboration with the relevant PA, to target specific opportunities. • These business cases may form an application process and should seek information on South Australian jobs and where appropriate, investment and supply-chain opportunities associated with the project (noting these will often be highly commercial and confidential). Where the business case sufficiently addresses economic contribution to the State, the Industry Advocate can endorse the business case as constituting a valid set of commitments without requiring an IP Plan. • Not for Profit grants are <u>excluded</u> from this requirement.

Table 2: Summary of Roles and Responsibilities

This table provides an overview of the roles and responsibilities of the PA, Supplier and the OIA at each step of the procurement process specific to IP Plans. This table is to be used as a guide only and should be read in conjunction with the relevant sections of these Guidelines.

All thresholds are inclusive of GST.

Stage	Public Authority ("PA")	Office of the Industry Advocate ("OIA")	Supplier
Planning	<ul style="list-style-type: none"> • Check if project is within the scope of SAIPP (includes grants and procurements). • When the procurement is over and equal to \$55,000 but below \$550,000 complete the Industry Advocate Sourcing Checklist prior to market approach and the Industry Advocate Outcome Checklist again at the procurement outcome stage. Provide copies to the OIA. • When the procurement classified as Complex or Strategic and/or the project is over \$550,000 forward draft acquisition strategy documents to OIA for review. • Consider if the minimum weighting (of 15%) for industry participation should be increased. • Where the procurement is between \$55,000 and \$550,000 consider the opportunities of discretionally applying the IP Plan (consult with OIA). • If a Cabinet Submission is required, note that OIA must be consulted (includes grants and procurements). • Provide justification to the Industry Advocate if seeking exemption from the 	<ul style="list-style-type: none"> • Meet with the PAs to discuss the application of the Policy. • Monitor return of the Industry Advocate Checklists • Review acquisition strategy documents for Complex and Strategic Procurements and projects over \$550,000. • Consult with PAs when considering raising minimum weightings for industry participation and for any tailored industry participation requirements. • Provide assistance and advice to PAs on raising minimum weightings, about the Industry Advocate Sourcing and Outcome Checklists and any tailored industry participation requirements. 	

Stage	Public Authority (“PA”)	Office of the Industry Advocate (“OIA”)	Supplier
	SAIPP.		
Preparing the Approach to Market	<ul style="list-style-type: none"> Ensure market approach documentation refers to the Policy. Ensure market approach documentation allows suppliers to estimate a total bid price. Include industry participation weighting in the evaluation plan, if applicable. Procurements above \$10 million but below \$50 million an Industry Participation Plan approved by the Industry Advocate will apply. Procurements above \$50 million Mandatory Tailored IP Plans approved by the Industry Advocate are required. 	<ul style="list-style-type: none"> For market approaches above \$50 million (or being of a kind to generate economic opportunities), prepare a template for a Tailored IP Plan. Provide advice to PAs on how to reference the IPP in market approach documents. Ensure the industry participation weighting is included in the market approach and procurement outcome approval (as required). 	
Approaching the Market	<ul style="list-style-type: none"> Encourage suppliers to contact OIA for assistance to identify capable local suppliers and for assistance with IP Plan preparation. 	<ul style="list-style-type: none"> Provide assistance to suppliers with regards to local supplier identification and completing the IP Plan where required. 	<ul style="list-style-type: none"> Complete the IP Plan and include with quote. Contact OIA with regard to the project if unable to locate competitive South Australian suppliers.
Evaluating Offers	<ul style="list-style-type: none"> Verify detail of commitments made in IP Plans. Ensure IP Plans are compliant. Verify standard IP Plan scores. Score the Tailored IP Plan. Provide copy of signed IP Plans to the Industry Advocate prior to 	<ul style="list-style-type: none"> Work with the PA to develop Tailored IP Plan and scoring methodology. Negotiate final IP Plan commitments with the supplier. 	<ul style="list-style-type: none"> If required, negotiate final IP Plan commitments with OIA.

Stage	Public Authority (“PA”)	Office of the Industry Advocate (“OIA”)	Supplier
	<p>finalisation of contract (i.e prior to contract execution) as per Industry Advocate Act 2017 s6(e) for assessment.</p> <ul style="list-style-type: none"> Preclude quotes that have not submitted IP Plans from contract award (on advice from OIA). 		
Contract Award	<ul style="list-style-type: none"> Notify OIA of successful supplier and confirm contract term. Notify OIA immediately of contract execution (includes grants and procurement) Ensure supplier declarations are completed and a copy provided to the Industry Advocate along with any resubmitted IP Plan Ensure correct SAIPP contract clauses are being applied (refer appendix B) 	<ul style="list-style-type: none"> Review supplier declarations and renegotiate IP Plans (if required) Assist the successful supplier with finding capable local suppliers, where required. 	<ul style="list-style-type: none"> Complete the Supplier Declaration Engage with OIA for IP Plan commencement and reporting structure. Comply with IP Plan obligations as set out in the executed contract. If unable to locate competitive local suppliers notify OIA for advice.
Ongoing Contract Management	<ul style="list-style-type: none"> Notify OIA immediately if a variation (e.g. scope) to the existing contract has a material impact on IP Plan commitments. Submit any revised IP Plan to the Industry Advocate for approval. Ensure six-monthly IP Plan Reports are received by due date. 	<ul style="list-style-type: none"> Review revised IP Plan Reports. Assess IP Plan reports. Implement benefits realisation and reporting framework. 	<ul style="list-style-type: none"> The Supplier must provide an Industry Participation Report (“IPP Report”) to the IA in respect of each Industry Participation Reporting Period within two weeks of the end of each period.

Definitions

Eligible Aboriginal Business:

For the purpose of the Policy and this Guideline, an eligible Aboriginal Business is one that:

A business or community organisation that meets **all** the following criteria:

- 50% or more Aboriginal owned; and,
- is operating as a business in South Australia, including companies, incorporated associations, sole traders, partnerships, trusts and social enterprises or registered charities if they are operating as a business; and,
- can demonstrate that the Aboriginal and Torres Strait Islander people (owners and/or employees) are involved in the daily operation of the enterprise and have effective control at least equal to the degree of ownership; and,
- provides economic benefit to South Australian Aboriginal people through ongoing employment in this State; and,
- is registered with a recognised certifying authority or registered on the SA Product and Services Register.

In addition, this could include:

An Aboriginal Joint Venture arrangement with at least 50% South Australian Aboriginal ownership and verification that management and financial decisions are made by the Aboriginal partner(s).

Disability Enterprise

A not-for-profit organisation with charitable status, which provides meaningful employment for people with significant disability who would otherwise not be able to work. It may make products or provide services.

Full, Fair and Reasonable:

In the term 'full, fair and reasonable' these words have the following meanings:

- **Full:** local SMEs have the same opportunity afforded to other global supply chain partners to participate in all aspects of a project from project design through to completion.
- **Fair:** local SMEs are provided the same opportunity as global suppliers to compete for contracts on an equal and transparent basis, including being given adequate time in which to submit a response (i.e. quote).
- **Reasonable:** Subject to any explicit requirement of the head contract, tender specifications are free from technical requirements that might rule out local industry and are structured in such a way that they do not preclude local SMEs from the opportunity to participate in projects and compete for contracts.

When technical specifications are being prepared for contracts, care should be taken to use Australian standards, or standards regularly used in Australia, to ensure that local suppliers are not "designed out" of the contract.

South Australian business:

Has the same meaning as set out in Treasurer's Instruction 18 Procurement:

A business is a South Australian business in relation to a procurement if the business operates in South Australia and more than 50% of the workforce delivering the contract resulting from the procurement on behalf of the business are residents of South Australia.

Innovative Business:

Is a business based in South Australia with innovative products, processes, technologies, and services that has the potential for broad market up-take locally, nationally and internationally.

Metropolitan Adelaide:

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 and Appendix A.](#)

Region:

The relevant State Government region.

Regional South Australia:

Those parts of South Australia not included as Metropolitan Adelaide.

Note: For projects with activity in both regional and metropolitan areas, the test is where the majority of the activity will be carried out. If you are unsure, contact the OIA.

Public Authorities:

Public Authorities as defined in section 4 of the *Public Finance and Audit Act 1987*.

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

Small and Medium Enterprises (SMEs):

Small and Medium Enterprises (SMEs) are defined by the Australian Bureau of Statistics (ABS) as businesses employing less than 200 people, or in accordance with the ABS Estimated Value of Agricultural Operations.

Social Enterprise

An organisation that is certified by Social Traders and operates in South Australia.

South Australian Worker:

The employee's principal place of residence for taxation purposes is to be used to determine if the worker is South Australian / South Australian labour. Fly-in fly-out arrangements are not to be included in the locational information.

Start Up Business:

Is a business based in South Australia, having an active ABN and in the first two years of operation.

Value-for-money:

Value for money is the achievement of a desired procurement outcome at the best possible price based on a balanced judgement of financial and non-financial factors relevant to the procurement.

Value for money is achieved in procurement by finding the optimum balance of:

- whole-of-life cost; and
- quality.

In addition to the value for money considerations above, public authorities will consider the economic benefit of the procurement to the South Australian economy, in line with the Policy. Factors which may be considered in assessing quality in value-for-money include:

- fitness for purpose
- service support and warranty
- timeliness
- efficiency and effectiveness
- flexibility
- intangible costs and benefits
- contribution to Government priorities.

Appendix A – Regions South Australia

State Government Regional project are defined for all projects that are delivered outside of the boundaries depicted in the map below.

<https://data.sa.gov.au/data/dataset/south-australian-government-regions>



Appendix B – IPP Clause Bank

The following clauses may be inserted as Special Conditions where necessary in any contract for which an Industry Participation Plan is required.

1. The Supplier must implement the Supplier's Industry Participation Plan ("IPP") approved by the Industry Advocate ("IA").
2. The Supplier must provide an Industry Participation Report ("IPP Report") to the IA in respect of each Industry Participation Reporting Period within two weeks of the end of each period.
3. An Industry Participation Reporting Period is:
 - 3.1 the period between the Commencement Date and the date six (6) months after the Commencement Date;
 - 3.2 each subsequent six (6) month period during the Term;
 - 3.3 if the Agreement ends on a date that is not an anniversary of the Commencement Date or an anniversary of the date in Special Condition s3.2, the period from the conclusion of the preceding Industry Participation Reporting Period until the date of termination or expiry of the Agreement;
 - 3.4 for short-term projects of strategic importance to the State the period notified by the IA to the Supplier in writing; and
 - 3.5 where the Term is for a period less than six (6) months, the entire Term.
4. The Supplier must attend any meeting scheduled by the IA during the Term to review how the IPP is being implemented and advanced, and for this purpose, the Supplier must provide all information reasonably requested by the IA. The IA must give the Supplier not less than ten (10) Business Days' notice of any such meeting.
5. The IA may, by written notice require that the Supplier within a reasonable time specified in the notice, provide information or documents to enable the Industry Advocate to assess the Supplier's compliance with this special condition.
6. If the IA reasonably believes that the Supplier is not complying with the requirements of this special condition, the IA may by notice in writing direct that the supply comply with those requirements.
7. Upon receipt of the notice, if the Supplier is of the opinion that its noncompliance is reasonable and justified, the Supplier may provide a response to the Industry Advocate outlining that opinion and the reasons for it.
8. The Supplier's failure to comply, in whole or in part, with the commitments contained within the IPP will be a factor taken into account in the award of future contracts for the Government of South Australia.
9. In this clause, "Industry Advocate" or "IA" means the person from time to time appointed to the position of Industry Advocate under s.5 of the *Industry Advocate Act 2017*.