



# South Australian Industry Participation Policy

October 2016

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

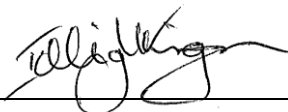
# South Australian Industry Participation Policy

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## Introduction

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This Policy was updated in November 2015 to reflect important commitments the Government of South Australia has made to ensure jobs, investment and supplier inputs are a critical element of future procurement objectives. It has been updated again in October 2016 to reflect changes in the starting threshold for the policy from \$22,000 to \$33,000.

The South Australian Industry Participation Policy is designed to measure the economic benefit to the State from labour, capital and supply inputs as part of the tender evaluation process or through direct negotiation.

Industry participation in government contracting is critical to the Government of South Australia. The Government wants procurement to generate economic activity, work, investment and innovation to grow the State's economy.

The Government is committed to ensuring that competitive South Australian based businesses are given full, fair and reasonable opportunity to be considered for contracts being undertaken in this State by the public sector. The development of the Industry Participation Policy (IPP) addresses this commitment.

The Government has identified seven key priority areas and ten economic priorities to drive growth and development of the State. This policy contributes to the achievement of these priorities.

Industry Participation Policies are used throughout Australia and in many other countries to develop local industry. This policy supports the Government's desire to provide opportunities to develop globally competitive local firms. The Government of South Australia will continue to work with South Australian based businesses to promote innovation, flexibility and best practice through initiatives to develop the manufacturing and services sectors and ensure that employment; training and skills development programs are aligned to industry requirements.

The policy complements, and should be applied in conjunction with, other State Government policies including the Workforce Participation Policy and Sustainable Procurement Guideline. The Policy also endorses the principle of improving Aboriginal employment outcomes by using procurement as a lever and, where appropriate, incorporating specific consideration to support the Aboriginal employment and procurement initiatives (refer to IPP Guidelines, section 7).

Given the relatively small size of the South Australian economy, local SMEs are often more heavily reliant upon winning work let by government than their counterparts in the eastern states. This is especially evident in regional South Australia, particularly when considering the value of procurement across our 68 council areas.

There is a need to act quickly to build the confidence, development and growth of local businesses. As such, the Industry Participation Advocate believes it is necessary to develop a policy position applicable to all levels of government purchasing, to ensure the use of competitive local businesses when purchasing or contracting for goods, services, housing and works is maximised; whether by State Government Agencies, Local Government or other public institutions.

To facilitate this, the Office of the Industry Advocate will be working with local government and other public institutions to encourage them to adopt similar policy objectives.

The policy will not apply retrospectively to contracts commenced under earlier versions of the policy.

## 1. Objective

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This policy is aimed at delivering greater economic benefit to the State from procurement. These benefits include:

- improved industry capability and capacity through capital investment
- employment and workforce development
- retention of economic activity in the state
- additional value adding activities, innovation and supply chain development.

A key objective of the South Australian IPP is 'to ensure that capable South Australian small and medium enterprises are given full, fair and reasonable opportunity to tender and participate in significant publicly funded or supported projects'.

Value for money remains the prime consideration in evaluating tender bids for Government of South Australia contracts. However, when assessing value for money, the broader impact of the contract to South Australia on a whole of life basis, including the benefits to local industry, should also be considered. The policy supports this outcome. Additional guidance on calculating whole of life costs can be obtained from the State Procurement Board's Life Cycle Costing Guideline.

## 2. Policy Scope

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The Industry Participation Policy has effect on all Government expenditure above \$33,000 for the following activities:

- Government of South Australia procurement of goods and services including infrastructure and construction.
- Public Private Partnership projects.
- Federally-funded infrastructure and construction projects managed by the Government of South Australia.
- private sector projects receiving significant Government of South Australia support, (over \$2.5 million cash and in-kind).

The policy has a tiered structure to ensure the costs of compliance are appropriate to the opportunity for local industry participation and minimise red tape requirements for business and government. The policy will be embedded into government procurement policies and procedures.

The Government may direct the involvement of the Industry Participation Advocate in other activities.

There are no specific requirements for tenders with a value of less than \$33,000; however Responsible Government Agencies should use local businesses wherever possible and encourage successful tenderers to consider using local SMEs.

## 3. Roles and Responsibilities

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### 3.1. Industry Participation Advocate

The Industry Participation Advocate (IPA) has the authority to:

- request meetings with government buyers on behalf of local companies
- review acquisition plans and tender documentation in key contracts to assess any unnecessary impediments to local companies bidding
- review tender awards to evaluate if assessment criteria has been applied
- review contracts and assess if IPP Plans are being applied well by the prime contractor
- review tenders post award and, when necessary, make recommendations to the relevant agency Chief Executive or Minister for improving industry participation going forward.

The IPA will advocate for competitive South Australian suppliers who miss out on short listing for presentations to award panels or short listing onto panel contracts. Agency Chief Executives will be expected to explain why those suppliers were not listed and to revisit that decision, if that can be done.

### 3.2. Office of the Industry Advocate

The Office of the Industry Advocate supports the Industry IPA to implement the IPP and other initiatives aimed to help SMEs get involved in government procurement.

The OIA is responsible for the implementation of the South Australian IPP. This role includes:

- assisting tenderers to develop South Australian IPP Plans by providing information about local supplier capability
- providing assistance to RGAs where required to determine compliance with the IPP and when relevant to assist in the evaluation and scoring of IPP Plans
- providing industry capability information to Responsible Government Agencies, tenderers and contractors
- promoting awareness of the South Australian IPP to government agencies and private sector proponents
- reporting to Cabinet annually on South Australian IPP outcomes.

The OIA will be involved when acquisition plans are developed by Responsible Government Agencies for all contracts subject to the IPP to ensure the economic contribution to the state from the procurement activity is maximised through design of appropriate specifications and IPP Plans.

### 3.3. Responsible Government Agencies

Responsible Government Agencies are responsible for the implementation and application of the SA IPP within their own procurement processes.

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

## 4. National and International Agreements

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The South Australian IPP operates within the context of relevant national and international agreements and procurement policies to which South Australia is a signatory including the Australia and New Zealand Government Procurement Agreement (ANZGPA). Consistent with these agreements, the South Australian IPP does not mandate local content levels or provide unfair preferential treatment for local suppliers. It is a policy that focuses on capital investment, labour, supply chain opportunities and the associated economic contribution to the State.

## 5. South Australian Industry Participation Policy and Government Procurement

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The Industry Participation Policy threshold commences from \$33,000 with emphasis on jobs and extends to subcontractor activity.

For all Government expenditure, the Responsible Government Agency (RGA) will be required to advise all interested parties of the requirements of the South Australian IPP at the initial invitation stage. This stage applies to any approach to market including, but not limited to Request for Quotes, Request for Tenders or Request for Proposals. At that time, potential tenderers will be informed of IPP requirements including:

- If the tenderer is required to complete an Employment Contribution Test (see section 5.1).
- If the tenderer is required to complete a South Australian IPP Plan.

The OIA can assist tenderers to prepare South Australian IPP Plans by providing capability information on local suppliers; however ownership of the Plan and responsibility to deliver against it remains with the tenderer.

Tenders that are submitted without an IPP Plan (where that is a requirement of the tender) will be deemed non-compliant and will preclude the tenderer from contract award IPP Plans will be weighted in the tender evaluation process.

The successful tenderer's South Australian IPP Plan commitments will be included within the contract and reporting on IPP Plan outcomes will be required by the successful tenderer.

Minimum weightings apply for Employment Contribution Tests and Industry Participation Plans. In all procurements, a determination can be made by the agency, a Minister or the Premier to increase this weighting where the potential economic and social benefits for South Australia, or to a specific region, resulting from a particular procurement are significant. Other factors, such as investment and supply inputs may also be incorporated or considered differently into the evaluation criteria. Refer to the IPP Guidelines, section 7.

### 5.1. Employment Contribution Test

An Employment Contribution Test (ECT) applies to all procurements between \$33,000 and \$4 million (\$1 million in Regional South Australia). The ECT requires that Responsible Government Agencies (RGA) first determine if the goods and/or services to be procured are available within the State or region. If so, all tenderers for the procurement will be required to provide the number of labour hours associated with the primary contract and any sub-contracts.

Guidelines and templates have been developed to assist tenderers understand the detail and information required to meet Employment Contribution Test requirements.

Table 1 identifies the various Employment Contribution Test requirements.

**Table 1: Employment Contribution Test Requirements**

Category	Requirement
Government procurement where tender value is between \$33,000 and \$220,000	RGA must seek at least 3 quotes and one must be from an SA business where possible. ECT must be completed
Government procurement where tender value is over \$220,000 and under \$4 million (\$1 million in Regional South Australia)	ECT must be completed and forms a <b>minimum*</b> 15% of overall evaluation

\*Refer to Industry Participation Policy Guidelines

### 5.1.1. \$33,000 - \$220,000

For contracts between \$33,000 and up to \$220,000 (including GST) where a minimum of three quotes are being sourced, agencies are required to seek at least one quote from a local source. This is one case where the term 'local' should be given a more localised definition than that of any Australian and New Zealand supplier. This is consistent with ANZGPA on the basis that non-South Australian firms would still have opportunities to give quotes and there is no restriction on agencies seeking more than three quotes if necessary.

For procurements between \$33,000 and \$220,000, where there are two or more bids that meet the needs of Government and they represent good value, the ECT is used to determine the winner (the one with the highest score in this test).

Where the tenderer expects to use subcontractors to deliver the contract, the labour hours directly linked to the delivery of the contract will also need to be submitted and will impact on the overall score of the ECT.

### 5.1.2. \$220,000 - \$4 million (\$1 million in Regional South Australia)

Agencies are encouraged to use the Industry Capability Network (ICN) database, in consultation with the OIA, during the market research phase of the procurement process for all contracts over \$220,000 (including GST).

For procurements between \$220,000 and \$4 million (\$1 million in Regional South Australia), the ECT will apply in the same manner as is required for procurements between \$33,000 and \$220,000 however in this higher value range, the ECT will be given a specific weighting as a component of the overall evaluation criteria.

This weighting is a **minimum of 15%**; however a consideration will be given to increasing the minimum weighting based on a merit assessment (refer to IPP Guidelines, section 7).

Where the tenderer expects to use subcontractors to deliver the contract, the labour hours directly linked to the delivery of the contract will also need to be submitted and will impact on the overall score of the ECT.

## 5.2. Industry Participation Plans - \$4 million (\$1 million in Regional South Australia) and above

The Government of South Australia is committed to ensuring jobs, investment and supplier inputs are a critical element of future procurement objectives.

South Australian IPP Plans will provide a clear statement of the tenderer's commitment to the policy and identify the approach a contractor will undertake to identify opportunities to optimise the benefits to the



state economy and to use local industry. The level of detail required will depend on the size and complexity of the contract. Table 2 identifies the various South Australian IPP Plan requirements.

IPP Plans will be a weighted evaluation criterion of a **minimum 15%** in the tender evaluation process for State Government contracts. However a consideration will be given to increasing the minimum weighting based on a merit assessment (refer to IPP Guidelines, section 7).

**Table 2: Industry Participation Plan Requirements**

Contract Value	South Australian IPP Plan Requirement
\$4 million (\$1 million in Regional South Australia) and above and less than \$50 million	Completion of an IPP (Standard) Plan is mandatory IPP Plan has a <b>minimum 15% weighting</b>
Projects over \$50 million	Completion of an IPP (Tailored) Plan is mandatory Tailored IPP Plan has a <b>minimum 15% weighting</b>

Guidelines and templates have been developed to assist tenderers understand the detail and information required to prepare IPP Plans.

The commitments made by the successful tenderer in their IPP Plan will be binding on any sub-contracting arrangements. Where sub-contracting occurs it is the responsibility of the successful tenderer to monitor the application of the South Australian IPP over the entire contract term.

Given the broad range of procurement undertaken by the Government of South Australia, the OIA can consider requests from government Agencies to vary the standard requirements for IPP Plans.

While the assessment criteria will vary depending on the nature of the contract, typically it will include:

- the number of labour hours or jobs directly linked to the contract
- the value of capital investment in South Australia directly linked to the contract
- the approach outlined to consider local SME involvement in the contract through supply-chain opportunities
- past performance of the tenderer in meeting IPP Plan commitments.

### 5.2.1. \$4 million (\$1 million in Regional South Australia) - \$50 million

Tenders within the scope of the policy with a value of \$4 million (\$1 million in Regional South Australia) and above, but less than \$50 million, will seek that tenderers prepare a South Australian IPP (Standard) Plan that identifies how the tenderer will:

- promote economic contribution to the state including for employment outcomes and economic growth
- provide full, fair and reasonable opportunity to identify and consider products and capabilities provided by local SMEs.

Submission of an IPP Plan is mandatory. Where this requirement is not met the tender will be classed as non-compliant.

All tenderers are encouraged to contact and work with the OIA to complete their South Australian IPP Plan. Successful tenderers are also encouraged to work with the OIA post contract award with regard to sub-contracting opportunities to obtain a list of local suppliers. There are other requirements including notifying local suppliers of those opportunities. Annual reporting on local SME participation will be required throughout the duration of the contract and at its completion. Reporting requirements will be a contractual obligation for successful tenderers.

### 5.2.2. \$50 million and above

Tenderers for contracts of \$50 million and over will be required to prepare a Tailored South Australian IPP Plan that has been specifically drafted for the procurement. Each Tailored IPP Plan will be unique; however will most often include how the tenderer will:

- promote economic contribution to the state including for employment outcomes and economic growth
- provide full, fair and reasonable opportunity to identify products and capabilities of local SMEs
- level of capital investment
- commit to work with the Office of the Industry Advocate throughout delivery of the project to maximise local industry participation
- identify any additional business undertakings that promote South Australian economic growth, such as value added research, training programs and skills transfer, and level of commitment to a South Australian business presence

Successful tenderers are encouraged to work with the OIA post contract award with regard to sub-contracting opportunities to obtain a list of local suppliers. There are other requirements including notifying local suppliers of those opportunities.

A template for the Tailored IPP Plan will be produced by the OIA for the specific procurement and agencies should allow for this in the project and tender planning. For projects in this category, requirements for reporting on IPP Plan outcomes, including frequency, will be negotiated between the agency and successful tenderer during contract award. This will occur at least bi-annually and at the completion of the contract. Reporting obligations will be contractual requirements.

### 5.3. Other activities

For contracts where there is no fixed lump sum, such as standing order contracts or schedule of rates contracts the relevant IPP requirement will be selected based on the RGA's estimated contract cost and/or the potential economic contribution to the State or region from the procurement. A Tailored IPP Plan may be developed by the OIA in conjunction with the RGA.

#### 5.3.1. Direct Negotiation

This policy applies to direct negotiations (single source and selective) subject to the requirement to have an IPP plan. That is, the tenderer will still be required to submit a plan and it will become part of the contract which they will be required to report against.

#### 5.3.2. Panel Contracts

The Industry Participation Policy applies to panel contracts and requirements range from a Declaration of Intent to a Tailored Plan. The Office of the Industry Advocate will assist RGAs to determine the most appropriate IPP requirement on a case by case basis.

#### 5.3.3. Grants and Public Private Partnerships

Where an organisation or business receives a grant over \$2.5 million (in cash or in-kind), or the State Government is involvement in a Public Private Partnership, the organisation or business will commit to meeting the objectives of the South Australian Industry Participation Policy and will procure works in a manner that will generate economic activity, build capacity of the South Australian workforce and grow the State's economy. In consultation with Industry Participation Advocate, the organisation or business will be required to establish Industry Participation Plans for all contracts above \$4 million associated with the project.

## 5.4. Compliance after Contract Award

The commitments made by a tenderer in their Industry Participation Plan will become a condition of contract should they be successful and regular reporting against the IPP commitments will be required. The OIA reserves the right to negotiate or clarify commitments in any IPP Plan submitted prior to finalisation of a contract. Following the execution of a contract, any changes proposed by the successful tenderer will need to be authorised by the responsible Government agency and the OIA, where it relates to commitments made in the IPP Plan.

A contractor's procurement of works, goods and services to undertake its contractual obligations for a procuring entity, remains the responsibility of the contractor. Nothing in this policy entitles the contractor to charge additional costs over and above the price agreed in the contract, depart from the performance standards applicable to the works, goods and services required by the contract, or depart from any other requirement or obligation set out in the contract. In the same manner, nothing in this policy requires a successful tenderer to bear a 'cost penalty' to deal with local companies.

Ongoing monitoring of South Australian IPP Plan commitments will be undertaken by the OIA when working with contractors, by Responsible Government Agencies as part of their contract management regimes and by requiring regular reports from contractors to be submitted. The OIA may audit IPP Plan Reports in line with the IPP Monitoring and Evaluation Framework.

## 6. Measurement and Reporting

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### 6.1. Employment Contribution Test

There are no reporting requirements against the Employment Contribution Test for contractors. However RGAs are required to report on Industry Participation Policy outcomes annually.

### 6.2. IPP Plans

Reporting on South Australian IPP Plan commitments will be a contractual requirement for successful tenderers, Public-Private Partnerships and recipients of Government of South Australia assistance valued at \$2.5 million or greater. Templates to assist businesses with their reporting requirements are available on the OIA website. (Please contact the OIA directly for Reporting Templates for Tailored IPP Plans).

Reporting requirements for IPP Plans will depend on the value of the contract as set out in table 3. Reports will be required to demonstrate how the tenderer has performed against commitments in their IPP Plan and provide details on the value and source of major items purchased for the contract.

Reports are to be provided to the procuring agency on the templates provided. Reporting entities are encouraged to work with the OIA to ensure that reports are of a suitable quality.

Failure of organisations to comply, in part or in whole, with the South Australian IPP and the commitments in their South Australian IPP Plans will be a factor that will be taken into account in the award of future contracts for the Government of South Australia and may be considered a breach of contractual agreements.

RGAs are required to report on Industry Participation Policy outcomes annually.

**Table 3: IPP Reporting Requirements for contractors**

Contract Value	South Australian IPP Plan Requirement
\$33,000 and above and less than \$4 million (\$1 million in Regional South Australia)	No reporting requirement
\$4 million (\$1 million in Regional South Australia) and above and less than \$50 million	Reporting annually and on completion of the contract. Reporting is a contractual obligation.
\$50 million and above	Reporting requirements to be negotiated between the agency and successful tenderer during contract award but to occur at least bi-annually and at end of contract. Reporting is a contractual obligation.

### 6.3. Chief Executive Performance Agreements

To ensure agencies recognise that procurement is a critical economic lever available to the State Government and embrace the policy directives, the Chief Executive Performance Agreements with the Premier will include baseline and performance measures, as outlined in the table 4.

**Table 4: Chief Executive Performance Measures**

Year	Requirement	Outcome
(1) 2014-15	<ul style="list-style-type: none"> <li>Establish baseline for measurement for years 2 and 3</li> <li>Targets set for 2015-16 against baseline</li> </ul>	<ul style="list-style-type: none"> <li>Quarterly reports for baseline measures</li> <li>Yearly report</li> <li>Baseline established for years 2 and 3</li> <li>Targets for 2015-16 set by Premier in consultation with CE</li> </ul>
(2) 2015-16	<ul style="list-style-type: none"> <li>Quarterly reporting against baseline measures</li> <li>Yearly report</li> <li>Justification for lower level of performance than baseline &amp; agreed targets</li> <li>Performance bonus for exceeding target</li> <li>Target for 2016-17 set</li> </ul>	<ul style="list-style-type: none"> <li>Are requirements met</li> <li>Are targets exceeded</li> <li>Targets for 2016-17 set by Premier in consultation with CE</li> </ul>
(3) 2016-17	<ul style="list-style-type: none"> <li>Quarterly reporting against baseline measures</li> <li>Yearly report</li> <li>Justification for lower level of performance than baseline &amp; agreed target</li> <li>Performance bonus for exceeding target</li> <li>Target for 2017-18 set</li> </ul>	<ul style="list-style-type: none"> <li>Are requirements met</li> <li>Are targets exceeded</li> <li>Targets for 2017-18 set by Premier in consultation with CE</li> </ul>

### 6.4. South Australian Industry Participation Policy Outcomes

The OIA will report to Cabinet annually on South Australian IPP outcomes.

## 7. Monitoring and Evaluation

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The OIA will monitor and evaluate the effectiveness of the implementation of the IPP in accordance with the IPP Monitoring and Evaluation Framework.

## 8. Definitions

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### 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 tender.
- **Reasonable:** Subject to any explicit requirement of the head contract, tenders 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.

**Metropolitan Adelaide** is the State Government regions of Western Adelaide, Northern Adelaide, Eastern Adelaide and Southern Adelaide.

**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 is:

- 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)** 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.

### Value for money

Consistent with the State Procurement Board definition, **value for money** is achieved by formulating procurement decisions that achieve the best possible outcome in both financial and non-financial terms in a timely and efficient manner, commensurate with the nature of the purchase. Factors which may be considered in assessing value for money include:

- Fitness for purpose
- Whole of life cost
- Timeliness
- Flexibility
- Price
- Service support and warranty
- Quality
- Efficiency and effectiveness
- Intangible costs and benefits
- Contribution to Government priorities

## 9. Policy Review

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The OIA shall issue Guidelines in accordance with the policy. Implementation and compliance with the policy is required in accordance with the Guidelines.

The OIA will review this policy within five years of its implementation.

## 10. Related Documents

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South Australian Industry Participation Policy Guidelines

*Employment Contribution Test*

Metropolitan Employment Contribution Test Template

Regional Employment Contribution Test Template

*Industry Participation Plans*

Industry Participation Policy Declaration of Intent Template

South Australian Industry Participation Policy (Standard) Plan Template

South Australian Industry Participation Policy (Standard) Plan Report Template

Monitoring and Evaluation Framework

South Australian Industry Participation Policy Frequently Asked Questions

DPC Circular 33 – Industry Participation Policy

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