

Australian Jobs (Australian Industry Participation) Rule 2014

I, Ian Macfarlane, Minister for Industry, make the following rule under section 128 of the *Australian Jobs Act 2013*.

Dated: 09/01/2014

Ian Macfarlane

Minister for Industry

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Part 1—Preliminary

1 Name of rule

 This rule is the *Australian Jobs (Australian Industry Participation) Rule 2014*.

2 Commencement

 This rule commences on the day after it is registered.

3 Authority

 This rule is made under section 128 of the *Australian Jobs Act 2013*.

4 Definitions

 In this rule:

***Act*** means the *Australian Jobs Act 2013*.

Part 2—Exception to giving draft Australian Industry Participation plan

5 Exception to giving draft AIP plan to the Authority—specified conditions in relation to a plan

 (1) For paragraph 17(5)(b) of the Act, this section specifies conditions relating to a plan prepared by a project proponent that has been given to a State or Territory.

Note: Under section 17 of the Act, a project proponent for a major project must give a draft AIP plan to the Authority. However, section 17 does not apply if the project proponent has prepared a plan that:

(a) has been given to a State or Territory; and

(b) complies with any conditions specified in a rule.

 (2) The key objective of the plan must be to ensure that Australian entities have full, fair and reasonable opportunity to bid for the supply of goods or services for the project.

 (3) The plan must not give preference to suppliers of goods or services located in one State or Territory over suppliers located in another State or Territory.

 (4) The plan must include arrangements to ensure that the project proponent notifies the Authority:

 (a) when giving the plan to the State or Territory; and

 (b) when the State or Territory notifies the project proponent of any decision it makes on the plan.

6 Exception to giving draft AIP plan to the Authority—specified conditions in relation to a project proponent

 (1) For subsection 17(6) of the Act, this section specifies conditions.

Note: Under section 17 of the Act, a project proponent for a major project must give a draft AIP plan to the Authority. However, section 17 does not apply if conditions specified in the rules are satisfied.

 (2) An Australian Industry Participation Plan for the project has been approved under the Enhanced Project By‑law Scheme administered by AusIndustry before the commencement of this section.

Part 3—Compliance Reports

7 Information to accompany compliance report—project proponent

 (1) For paragraph 25(7)(b) of the Act, this section specifies information that must accompany a report mentioned in subsection 25(6) of the Act relating to compliance with Part B of an approved AIP plan during a reporting period.

 (2) The information is:

 (a) an update on the project for the reporting period; and

 (b) details of participation by Australian entities in the supply of key goods or services for the project during the reporting period; and

 (c) details of steps taken by the project proponent towards ensuring that the objectives set out in subsection 35(1) of the Act are achieved by each procurement entity for the project; and

 (d) details of steps taken by the project proponent towards the fulfilment of the obligations set out in subsection 36(1) of the Act; and

 (e) any case studies, media releases or publications that support the information provided under paragraphs (a) to (d); and

 (f) details of the key goods and services acquired for the project during the reporting period including:

 (i) a description of the goods or services acquired; and

 (ii) the Australian or international standards (if any) that apply to the goods or services acquired; and

 (iii) the name of the procurement entity responsible for acquiring the goods or services; and

 (iv) the contract category mentioned in subsection (3) that applies to the contract used to acquire the goods or services; and

 (v) the name and location of the entity whose bid to supply the goods or services was successful; and

 (vi) if the successful entity was not an Australian entity—the reason why an Australian entity was not successful; and

 (vii) the percentage of Australian content of the goods or services acquired (if any); and

 (g) details of capability, capacity and general competitiveness of Australian entities identified through implementation of the plan during the reporting period; and

 (h) the total cumulative commitments awarded for the reporting period (expressed in million dollars); and

 (i) the total cumulative commitments awarded to Australian entities (expressed in million dollars); and

 (j) the total cumulative commitments awarded to non‑Australian entities (expressed in million dollars).

 (3) For subparagraph (2)(f)(iv):

 (a) contract category A is a total expenditure under the contract for acquiring goods or services of $1 million or more but not more than $5 million; and

 (b) contract category B is a total expenditure under the contract for acquiring goods or services of more than $5 million but not more than $25 million; and

 (c) contract category C is a total expenditure under the contract for acquiring goods or services of more than $25 million but not more than $100 million; and

 (d) contract category D is a total expenditure under the contract for acquiring goods or services of more than $100 million but not more than $500 million; and

 (e) contract category E is a total expenditure under the contract for acquiring goods or services under the contract of more than $500 million.

8 Information to accompany compliance report—operator of new relevant facility

 (1) For paragraph 26(4)(b) of the Act, this section specifies information that must accompany a report mentioned in subsection 26(3) of the Act relating to compliance with Part C of an approved AIP plan during a reporting period.

 (2) The information is:

 (a) an update on the operation of the new relevant facility for the reporting period; and

 (b) details of participation by Australian entities in the supply of key goods or services for the new relevant facility during the reporting period; and

 (c) details of steps taken by the operator of the new relevant facility to ensure that the objectives set out in subsection 39(1) of the Act are achieved by each procurement entity for the new relevant facility; and

 (d) details of steps taken by the operator of the new relevant facility towards the fulfilment of the obligations set out in subsection 40(1); and

 (e) anycase studies, media releases or publications that support the information provided under paragraphs (a) to (d); and

 (f) details of the key goods and services acquired for the new relevant facility during the reporting period including:

 (i) a description of the goods or services acquired; and

 (ii) the Australian or international standards (if any) that apply to the goods or services acquired; and

 (iii) the name of the procurement entity responsible for acquiring the goods or services; and

 (iv) the contract category mentioned in subsection (3) that applies to the contract used to acquire the goods and services; and

 (v) the name and location of the entity whose bid to supply the goods or services was successful; and

 (vi) if the successful entity was not an Australian entity—the reason why an Australian entity was not successful; and

 (vii) the percentage of Australian content of the goods or services acquired (if any); and

 (g) details of capability, capacity and general competitiveness of Australian entities identified through implementation of the plan during the reporting period; and

 (h) the total cumulative commitments awarded for the reporting period (expressed in million dollars); and

 (i) the total cumulative commitments awarded to Australian entities (expressed in million dollars); and

 (j) the total cumulative commitments awarded to non‑Australian entities (expressed in million dollars).

 (3) For paragraph (2)(f)(iv):

 (a) contract category A is a total expenditure under the contract for acquiring goods or services of $1 million or more but not more than $5 million; and

 (b) contract category B is a total expenditure under the contract for acquiring goods or services of more than $5 million but not more than $25 million; and

 (c) contract category C is a total expenditure under the contract for acquiring goods or services of more than $25 million but not more than $100 million; and

 (d) contract category D is a total expenditure under the contract for acquiring goods or services of more than $100 million but not more than $500 million; and

 (e) contract category E is a total expenditure under the contract for acquiring goods or services of more than $500 million.

Part 4—Categories of goods or services

9 Categories of goods or services

 For paragraphs 36(1)(d) and 40(1)(d) of the Act, the categories into which key goods or services must be broken down for the purpose of publishing a statement relating to the expectations of the project proponent or operator are the categories that are the most reasonable and appropriate in the context of how the project proponent or operator expects the goods and services to be acquired or supplied.

Note: It is possible to classify complex key goods and services in different ways, which may create different impressions of the expectations of the project proponent or operator. For example, there is a significant difference between:

(a) a single category of a piece of machinery and several categories of the machinery’s components; or

(b) a single category of a drum and its contents and several categories of the drum and each of its contents.

 The categories chosen by the project proponent or the operator must reflect accurately the intention about how the key goods and services will be acquired or supplied for the purposes of the AIP plan. The Authority is able to assist project proponents and operators to choose appropriate categories.

Part 5—Notification obligations

10 Notification of preliminary trigger day for major projects

 (1) For paragraph 41(3)(b) of the Act, this section specifies information that must accompany a notification of the preliminary trigger day for a major project.

 (2) The information is:

 (a) the name of each project proponent; and

 (b) the ABN and ACN of each project proponent; and

 (c) the project name; and

 (d) the project location; and

 (e) the type of project; and

 (f) whether the project involves establishing a new facility or upgrading an existing facility; and

 (g) an estimate of the total expenditure of a capital nature that is reasonably likely to be incurred in carrying out the project; and

 (h) the project timeframe; and

 (i) the preliminary trigger day for the project; and

 (j) the event mentioned in paragraph 41(4)(a), (b), (c), (d) or (e) that triggered the preliminary trigger day for the designated project.

Part 6—Functions of the Authority

11 Schemes and programs administered by the Authority

 (1) For paragraph 68(1)(k) of the Act, this section specifies the schemes and programs that the Authority is to administer on behalf of the Commonwealth as part of its functions.

 (2) The schemes and programs are:

 (a) the Supplier Advocates Program; and

 (b) the Resources Sector Supplier Advisory Forum; and

 (c) the Resources Sector Supplier Envoy Program.

12 Functions of the Authority

 (1) For paragraph 68(1)(m) of the Act, this sections specifies functions of the Authority.

 (2) The functions of the Authority are:

 (a) to provide advice on the preparation of draft AIP plans and AIP plan requirements for major Government procurements, loans and grants; and

 (b) to represent the Department in relation to the Department’s company membership in Industry Capability Network Limited; and

 (c) to represent the Department on Australian industry participation matters; and

 (d) to provide advice on Australian industry participation matters; and

 (e) to manage funding for the following schemes or programs:

 (i) the Supplier Access to Major Projects Initiative;

 (ii) the National Sector Manager Initiative;

 (iii) the Industry Capability Network Limited;

 (iv) the National Coordination of the State, Territory and New Zealand Industry Capability Network;

 (v) the Industry Capability and Project Opportunities Database.