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1. Overview

The Western Australia Industry Participation Strategy (WAIPS) represents a new approach to State Government purchasing for both agencies and industry. The WAIPS gives effect to the objectives contained within the *Western Australian Jobs Act 2017* (WA Jobs Act), an Act that aims to maximise opportunities for local businesses to supply to the State Government market. The Minister for State Development, Jobs and Trade (Minister for Jobs) is responsible for developing and implementing the WAIPS. The objectives of the WAIPS are:

- Promoting the diversification and growth of the Western Australian economy by targeting supply opportunities for local industry.
- Providing suppliers of goods or services with increased access to, and raised awareness of, local industry capability.
- Encouraging Government and local industry to adopt, where appropriate, world's best practice in promoting innovation through the development of new products and processes.
- Promoting increased apprenticeship, training and job opportunities in Western Australia.
- Promoting increased opportunities for local industry to develop import replacement capacity by giving local industry, in particular small and medium enterprises (SMEs), a full, fair and reasonable opportunity to compete against foreign suppliers of goods or services.

The primary economic focus of the WAIPS is SMEs, which make up around 97% of all businesses in Western Australia.

The Western Australian Government's aim is to promote a positive relationship between purchasing and contracting decisions and economic and social benefits such as job creation and retention, training and apprenticeships outcomes. This will be achieved through State agencies providing local industry with maximum access to opportunities, together with transparency and accountability in the tendering and contract award process. The requirement for participation plans as part of a prospective supplier's offer to supply is an important element in achieving these goals.

Participation plans have become part of the evaluation, award and contracting process. Plans outline the commitment of prospective suppliers to local involvement.

The requirements under WAIPS are applicable to WAIPS supplies tendered since 1 October 2018.

Assistance to both State Government agencies and businesses in understanding WAIPS requirements and implementing WAIPS into their procurement cycle, is available through the Department of Jobs, Tourism, Science and Innovation's (JTSI) Industry Link Advisory Service (ILAS) and the Department of Primary Industries and Regional Development's regionally based Local Content Advisers (LCAs). (Refer to Section 12 for contact details).

2. Coverage

The WA Jobs Act places enhanced industry participation responsibilities on Western Australian Government Departments, Agencies, Statutory Authorities and Government Trading Entities. For the purposes of WAIPS, the term "Agency" is used to encompass all these entities.

The WAIPS is produced as a requirement of the WA Jobs Act and is applicable to a range of procurements (goods, services, housing and works and community services) above designated values (Refer to Table. 1 *Thresholds for WAIPS Supplies*). These are known as "WAIPS supplies". Total annual spend on these items is estimated at \$27 billion.

The WAIPS does not apply to:

- universities,
- local government procurement,
- grants,
- property leases for government accommodation, or
- proprietary software packages.

3. Key Components of the WAIPS

3.1 Procurement Related Principles and Policies

The WAIPS has been developed based on the principles and objectives of the WA Jobs Act. Therefore, all activities undertaken under the WAIPS must take into account and be consistent with:

- value-for-money as the primary consideration when making procurement decisions;
- probity and accountability in procurement processes and decisions; and
- State Supply Commission (SSC) policies.

3.2 Participation Plans

Dependent on the value of a WAIPS supply, prospective suppliers will be required to complete either a core (less detailed) or full (more detailed) participation plan. A participation plan is a written statement that a prospective supplier uses to outline their commitments to employing or involving local businesses in a supply opportunity. A key aspect is the concept of full, fair and reasonable opportunity for local industry.

Thresholds for participation plans are as follows. These values are for the total life of the contract including GST.

Form of Procurement (WAIPS Supply)	Core Participation Plan	Full Participation Plan
Goods and services – Metropolitan and Regional contracts	\$1 million - \$5 million (Metro) \$500,000 - \$5 million (Regional)	Above \$5 million
Housing and works - Regional contracts	\$500,000 - \$5 million	Above \$5 million
Housing and works - Metropolitan contracts	\$3 million - \$10 million	Above \$10 million

Table 1. Thresholds for WAIPS Supplies

Plans will be weighted at either 10% or 20% of the qualitative evaluation for both the core and full participation plans, based on the issuing Agency’s judgement.

WAIPS 2019 introduces a streamlined, single participation plan template that meets both Core and Full Participation Plan requirements. This template is available on the WA Industry Link portal, under [‘Participation Plans’](#).

3.3 Reporting

Agencies are required to ensure WAIPS contracts contain an obligation for the successful supplier to report on the implementation of the participation plan.

Reporting will focus on actual outcomes realised compared to those proposed in a participation plan. The reports will be a key indicator of the success of the WAIPS and will be presented annually, in aggregate, by the Minister for Jobs to Parliament.

WAIPS 2019 introduces a streamlined, single participation plan reporting template for all contract (i.e. core and full participation plan) requirements. This template is available on the WA Industry Link portal, under [‘Reporting’](#).

Annual reporting is required throughout the duration of the contract on each anniversary of the contract award date, or as negotiated with the responsible Government Agency.

A final report will also be required. For contracts less than 12 months in duration, only one report at practical completion is required.

Reporting requirements are a contractual obligation. These reports may be subject to an independent audit.

Commercial in confidence aspects of reports will be considered by Agencies and the Minister for Jobs in relation to public disclosure of information.

Another aspect of reporting is the gathering of information on supply chain capability gaps. This is achieved through the ILAS and LCAs making direct contact with Agencies and suppliers.

3.4 Strategic Projects

Projects with a contract value of \$25 million or more that the Minister for Jobs considers of strategic significance to the Western Australian economy may be declared a strategic project. A participation plan with additional local commitments will be required for strategic projects.

An upward variation of the qualitative criterion weighting may be prescribed by the Minister for Jobs for strategic projects.

3.5 Exemptions

The WA Jobs Act allows for an exemption from the requirement to seek a participation plan and associated obligations when procuring a WAIPS supply. Exemptions may be granted by the Minister for Jobs or his delegate, the Director General of JTSI, in two ways:

1. On a case by case basis; or
2. As a standing exemption in relation to a prescribed class or circumstance of a WAIPS supply.

Where the requirement for a participation plan has been exempted, reporting on workforce and apprentice/trainee outcomes at annual intervals and at contract conclusion will still be requested.

WAIPS does not apply to items procured during an emergency.

3.6 Regional Procurement

For the purposes of the WAIPS, the regions of Western Australia are those defined under the *Regional Development Commissions Act 1993*.

Agency procurements for regional requirements, irrespective of location of purchase, should be conducted to give consideration to regional economic impact. This will include ensuring that regional industry is given full, fair and reasonable opportunity to participate in contracting and supply arrangements. For contracts to be called or delivered in regional Western Australia, there are a number of additional WAIPS initiatives and actions intended to increase regional outcomes.

These initiatives and actions include the LCAs operating throughout regional Western Australia, encouragement of delegated authorities pursuing increased regional Agency site spend; modifications to buying rules for Common Use Arrangements and panel contracts; and stricter application of regional price preferences giving greater scrutiny to bid validity and outcomes.

3.7 Regional Sourcing Strategy

The Regional Sourcing Strategy (RSS) is currently under development and represents a new approach to enhancing supply opportunities for regional businesses. The initiatives described in 3.6 Regional Procurement, collectively represent aspects of the RSS. The RSS is being developed in recognition that the past reliance on price preferences alone was inadequate to realise the government's priorities. The RSS will give emphasis to regular and formal communications between regional stakeholders and government and will be characterised by an evolving set of initiatives or measures stemming from ongoing monitoring and consultation.

Some of the anticipated activities to be implemented over 2019/2020 as part of the RSS include:

1. Working with Government Trading Entities on their approaches to utilising regional capacity.
2. Working with the Western Australian Local Government Association (WALGA) to support Local Government Authorities on developing appropriate tendering and contract award processes.
3. Examining the levels of regional delegation and the impact that some panel contracts have on regional SMEs.
4. Focusing on site specific regional works projects for increasing local sourcing opportunities.
5. Examining the potential for regional SMEs to become competitive lead bidders.
6. Identifying capability gaps affecting regional businesses and potential remedial actions.
7. Investigating options of support for unsuccessful regional bidders that may increase the effectiveness of future bids.
8. Developing a process for regional procurement related complaints across all agencies.
9. Exploring avenues to improve the participation of regional businesses in Government grants.
10. Considering the need for training for both agencies and suppliers in the application of the regional price preferences.
11. Considering further measures to ensure only valid interstate bids impact the assessment of regional price preferences.
12. Consulting with Government with a view to amending the Australia and New Zealand Government Procurement Agreement to allow the Western Australian Government to use its spend to support economic and social objectives.
13. Improving how agencies collect information on regional procurement outcomes.

3.8 Value for Money

The WA Jobs Act establishes value for money as a primary consideration when making procurement decisions. Value for money includes both financial and non-financial costs and benefits and must be considered in achieving outcomes for the State.

The application of the value for money approach should support local sourcing when whole of life costs and risk management are considered.

3.9 Panel Contracts

WAIPS applies to Agency panel arrangements that are tendered from 1 October 2018 onwards.

The panel arrangement (i.e. standing offer) is subject to WAIPS if the total estimated value of the contract for the duration of the panel arrangement meets or exceeds the WAIPS thresholds of:

- \$500,000 and above in Regional WA
- \$1 million and above in the Metropolitan area

Due to the nature of this form of contract, the requirement for participation plans at establishment is not feasible and exemptions should be sought. A condition of exemption is that panellists must report on the effects of supply provided under these arrangements.

A further aspect is to develop best practice parameters for this important type of supply arrangement, in consultation with agencies and suppliers.

At Agency discretion, should multiple panellist/s be invited to quote for an individual contract above the WAIPS threshold, a participation plan should be requested.

3.10 Imported Content Impost

The mandatory requirement for agencies to apply a 20% price impost to the portion of a bid that comprises goods, services or items that have been imported into Australian from another country (exc. New Zealand) no longer operates. Agencies can apply or withhold the 20% price impost based on previous experience and outcomes, as to relevance.

4. Implementing the WAIPS across the Procurement Cycle

To assist government Agencies and prospective suppliers to understand requirements under the WAIPS within the procurement cycle, an overview of the steps entailed are shown below:

4.1 Tender Planning

- Agency procurement plan developed and approved by the Agency's delegated authority (for contracts above \$5 million).
- Agency places future tender or early tender advice on website, as appropriate.
- Agency determines whether the offer to supply meets the core or full participation plan requirement, or that it may meet the requirements for it to be classified as a strategic project. ILAS to be advised of the latter proposal by the Agency.

4.2 Tender Drafting

- Agency drafts tender request on appropriate template.
- Agency ensures principles of openness, equity, transparency and value-for-money are incorporated.
- Agency includes request clauses for WAIPS requirements indicating whether a CORE or FULL participation plan response is required, with either 10% or 20% weighting or strategic project clause, as appropriate.
- Agency uses Australian standards, as appropriate, in specifications.
- Agency advises prospective suppliers that ILAS and/or LCAs can assist in identifying local SMEs for inclusion in offer to supply.

4.3 Tender Advertisement

- Agency advertises tender following full, fair and reasonable principles.
- Specific enquiries from prospective suppliers require Agency response.
- Agency undertakes supplier briefings as appropriate, in conjunction with the ILAS and LCAs if required.

4.4 Tender Assessment

- Agency assesses offers to supply for conformance.
- Agency assesses offers to supply against qualitative criteria.
- Agency seeks ILAS input on participation plan as required.
- Agency applies price preferences as appropriate.
- Agency employs value for money methodology to measure price against qualitative criteria.
- Price scrutinised for sustainability.
- Any clarification sought and preferred respondent identified.
- Agency evaluation report prepared.
- Due diligence on contract conducted as necessary by Agency.
- Negotiations conducted if necessary.

4.5 Tender Award

- Agency delegated authority signs off on decision.
- Contract finalised including participation plan commitments and reporting requirements.
- Copy of winning bidder's participation plan provided to ILAS by Agency.
- Post-tender briefings to unsuccessful bidders provided by Agency on request.

4.6 Contract management

- Contract management plan prepared by Agency.
- Regular participation plan reports provided to procuring Agency on implementation of supplier participation plan commitments.
- Reports provided by Agency to the Minister for Jobs, through ILAS.

5. Compliance and Audit

Adherence to the WAIPS will be monitored by ILAS. Audits may be carried out at the request of the Minister for Jobs by an independent auditor to confirm that an Agency implemented the WAIPS appropriately and that the successful supplier met its local participation obligations.

The services of two to three suitably qualified auditing companies will be procured from Department of Finance's Audit and Financial Services Common Use Arrangement.

6. Local Government

Local Government Associations (LGAs) are not subject to WAIPS. However, it has been identified by some LGAs that WAIPS has proven to be an effective tool in encouraging greater collaboration between the market and local businesses.

Therefore, JTSI will offer its support in aligning local government with the State Government's WAIPS, as and when requested.

7. Review and Revision of the WAIPS and the WA Jobs Act

The Western Australian Government is committed to ensuring the WAIPS is straightforward to understand and implement. The WAIPS will be updated when required in accordance with Section 5(3) of the WA Jobs Act. Implementation Working Groups for both suppliers and Agencies have been established and are contributing to this process.

A review of the operation and effectiveness of the WA Jobs Act must be carried out by the Minister for Jobs before the fifth anniversary of its commencement.

8. Assistance

ILAS and/or LCAs are able to provide assistance in the following areas:

- Advice and support to prospective suppliers in addressing participation plan requirements.
- Enhance the understanding of local SMEs on how to sell to Government either directly or as sub-contractors.
- Advise Agencies on meeting WAIPS obligations and on assessment of participation plans.
- Model tender and contract clauses.
- Introduction and maintenance of the WA Industry Link Portal providing information on WAIPS, forthcoming supply opportunities and a range of issues around supplying to the government market.
- Promoting various assistance programs aimed at enhancing the capability of SMEs as suppliers to the government market.

9. Governance

The Minister for State Development, Jobs and Trade (Minister for Jobs) is the responsible Minister for the WA Jobs Act and the WAIPS. The lead Agency is the Department of Jobs, Tourism, Science and Innovation.

10. Trade Agreements and Section 92 of the Australian Constitution

The Western Australian Government has obligations under the relevant Government Procurement chapters within a number of bilateral Trade Agreements, the Australia and New Zealand Government Procurement Agreement and the Constitution. The WAIPS meets these obligations in its implementation.

Advice on Section 92 conformity has been received from the Solicitor General. The WAIPS approach to Trade Agreements mirrors that of other States and Territories in **exercising the exception based on support (both direct and indirect) for SMEs**. SMEs represent approximately 97% of businesses in Western Australia.

The State Government is currently reviewing its participation in the ANZGPA. Greater flexibility is being pursued in relation to the use of procurement to support economic, social and environmental outcomes.

11. Feedback

The Western Australian Government is committed to ongoing consultation on the WAIPS and welcomes feedback. Please provide this to ILAS using the contact information in Section 12 below.

12. Contact Information

Industry Link Advisory Service (ILAS)

Email: industrylink@jtsi.wa.gov.au

Telephone: (08) 9222 0722

Postal Address: Level 6, 1 Adelaide Terrace, East Perth, WA 6004

Local Content Advisers – refer to the [WA Industry Link](#) portal or the list below:

Gascoyne

Email: local.content@gdc.wa.goc.au

Telephone: (08) 9941 7000

Web: <https://www.gdc.wa.gov.au/local-content-program/>

Goldfields-Esperance

Email: localcontent@gedc.wa.goc.au

Telephone: (08) 9080 5008

Web: <http://www.gedc.wa.gov.au/our-focus/local-content>

Great Southern

Email: Gavin.Ellis@gsdc.wa.gov.au

Telephone: (08) 9842 4888

Web: <http://www.gsdc.wa.gov.au/our-activities/local-content/>

Kimberley

Email: localcontent@kdc.wa.gov.au

Telephone: (08) 9194 3000

Web: <http://kdc.wa.gov.au/local-content-officer/>

Mid-West

Email: local.content@mwdc.wa.gov.au

Telephone: (08) 9956 8589

Web: <http://www.mwdc.wa.gov.au/resources/news/better-opportunities-for-local-businesses.aspx>

Peel

Email: local.content@peel.wa.gov.au

Telephone: (08) 9535 4140

Web: <https://www.peel.wa.gov.au/im-looking-for/local-content-advisor/local-content-advisor/>

Pilbara

Email: local.content@pdc.wa.gov.au

Telephone: 1800 843 745

Web: <http://www.pdc.wa.gov.au/our-focus/pilbara-blueprint/localcontent>

South West

Email: local.content@swdc.wa.gov.au

Telephone: (08) 9792 2000

Web: <http://www.swdc.wa.gov.au/our-people/buy-local.aspx>

Wheatbelt

Email: local.content@wheatbelt.wa.gov.au

Telephone: (08) 9622 7222

Web: <https://www.wheatbelt.wa.gov.au/our-projects/local-content-officer/>

13. Terms Used

Agency: - an Agency as defined in the *Western Australian Jobs Act 2017*.

ANZGPA: - the Australia and New Zealand Government Procurement Agreement is a commitment to a single competitive procurement market between Australia and New Zealand. The agreement allows for suppliers to tender for government contracts in either country, regardless of their physical location.

Full, fair and reasonable opportunity

Full: Australian and New Zealand industry is afforded the same opportunity as other global supply chain partners to participate in all aspects of a project.

(e.g. design, engineering, project management, professional services, IT and architecture).

Fair: Australian and New Zealand industry is provided the same opportunity as global suppliers to compete on projects on an equal and transparent basis, including being given reasonable time to tender.

Reasonable: Tenders are free from non-market burdens that might rule out Australian and New Zealand industry and are structured in such a way as to provide Australian and New Zealand industries the opportunity to participate in projects.

Government Trading Entities (GTEs): - as defined in the *Western Australian Jobs Act 2017*.

ILAS (Industry Link Advisory Service): - a team within JTSI that has been established to provide a range of services to help local businesses and State Government agencies to understand the requirements of WAIPS.

JTSI (Department of Jobs, Tourism, Science and Innovation): - the lead Agency for the WA Jobs Act and WAIPS.

Local Content Advisers (LCAs): - provide advisory services to businesses in regional Western Australia.

Local industry: - Suppliers of goods produced, or services provided, in WA, another State or Territory or New Zealand.

Metro / Metropolitan: - all areas which are located outside of 'Regional'. Refer to definition of 'Regional' below.

Prospective Supplier: - in relation to a WAIPS supply, means a person or body that makes an offer to supply in the course of the procurement process for the WAIPS supply.

Regional: - As prescribed in the *Regional Development Commissions Act 1993*, Schedule 1 – Regions defined by reference to districts.

Request: - any form in which a supplier is requested to provide information on supply. This includes a Request for Tender, a Request for Quotation, a Request for Proposal or an Expression of Interest.

Small and Medium Sized Enterprises (SMEs): - a business with less than 200 full time equivalent employees.

Tender: - refers to an offer to supply goods, services, housing or works. May also be referred to as a 'bid', request for quotation (RFQ) or request for proposal (RFP).

WA Industry Link: - a portal that provides information in relation to the implementation of WA Jobs Act and WAIPS.

WAIPS Supply/Supplies: - applicable to a range of procurements (goods, services, housing and works and community services) above designated values (Refer to Section 3.2, Table. 1 Thresholds for WAIPS Supplies).