

<b>Treasurer's Instruction No</b>	<b>1225</b>
Title	<b>Buy Local Policy: building and construction/roads and bridges</b>
Effective date	<b>15 February 2016</b>
Objective and Background	<b>Provides instruction on the Government's Buy Local Policy including the local benefits test and industry participation plan.</b>
Version Number	<b>7</b>

*Black letter (or bold) items within these Instructions are mandatory and other plain font items are instructional or for the purpose of providing guidance only.*

The Government is committed to backing local businesses to create jobs and stimulate the economy to deliver growth. The Government's Buy Local Policy provides for the application of mandatory procurement planning requirements as well as the introduction of a local benefits test and industry participation plans in Government purchasing. These requirements ensure agencies take into account the wider community and social benefits of purchasing decisions. An overview of the Government's policy is contained in the publication *Buy Local Policy* located on the [Purchasing website - Buying for Government \(Publications\)](#).

- (1) **This Instruction applies to the procurement of building and construction and roads and bridges and is to be read in conjunction with other Instructions relating to such procurements which are contained in the 1200 series of the Treasurer's Instructions. In the event of any inconsistency between the requirements of this Instruction and the requirements of any other Treasurer's Instructions, the requirements of this Instruction prevail.**

Further information on building and construction procurement, including a definition of "building and construction" and "roads and bridges" and information on the types of services that fall under these categories is located on the [Purchasing website - Buying for Government](#) ([www.purchasing.tas.gov.au](http://www.purchasing.tas.gov.au)).

For information in relation to procurement of goods and non-construction related services, refer to the 1100 series of the Treasurer's Instructions.

- (2) **This Instruction applies to procurement processes commenced on or after 8 May 2014.**

### **PROCUREMENT PLANNING AND NON-AGGREGATION OF CONTRACTS**

- (3) **For all procurement processes in relation to building and construction/roads and bridges projects:**
- (a) **with a value of more than \$50 000, an agency must complete a pre-procurement local impact assessment to ensure local suppliers are given every opportunity to participate and be successful in relation to Government contracts. The assessment is to be approved by the Head of Agency (or duly authorised delegate for procurements valued less than \$250 000) prior to commencement of the procurement process; and**

The template to be completed for the pre-procurement local impact assessment is available from the Purchasing website. The use of the template is mandatory for procurements at and above this threshold.

- (b) with a value of \$50 000 or less, an assessment of the impact on local suppliers is to be undertaken.**

In such cases, the format of the assessment and the process to be adopted for approval will be at the discretion and direction of the Head of Agency. Subject to an appropriate risk assessment, completion of a formal document similar to that required for higher value procurements above is recommended.

- (4) Agencies must ensure that the planning process and specification for any procurement process does not disadvantage local SME suppliers and must disaggregate all substantial procurement opportunities unless an exemption is approved by the Head of Agency in accordance with the following clause.**

For the purposes of this clause, substantial means any combined contract value of \$250 000 or more. Below this level, disaggregation is at the discretion of the Head of Agency.

- (5) Approval to allow aggregation may be granted by a Head of Agency where the benefits of aggregation clearly outweigh the potential negative impact on local SME suppliers/the local economy. Details of all exemptions from the requirement to disaggregate must be published in the relevant Agency's Annual Report.**

The authority to exempt a procurement process from disaggregation cannot be delegated by the Head of Agency to other officers and approvals must be sought and granted in writing prior to the commencement of the procurement process. Approval cannot be given retrospectively.

- (6) Agencies must prepare and maintain appropriate and auditable documentation regarding the preparation and approval of pre-procurement local impact assessments as well as approved exemptions from disaggregation.**

## **TASMANIAN INDUSTRY PARTICIPATION PLANS, LOCAL SME INDUSTRY IMPACT STATEMENTS AND THE LOCAL BENEFITS TEST**

Guidance information on industry participation plans, industry impact statements and the local benefits test is available from the *Tasmanian Industry Impact and Participation Policy and Guides*.

- (7) Agencies must request suppliers provide a Tasmanian Industry Participation Plan (as part of their response to an agency's approach to the market) in relation to procurement processes for:**
- (a) building and construction/roads and bridges valued at over \$5 million; or**
  - (b) building and construction/roads and bridges valued at over \$2 million up to, and including, \$5 million, where the Head of Agency, at their**

**discretion, has determined that a Tasmanian Industry Participation Plan is required.**

A template to assist suppliers provide relevant information is available from the Purchasing website. When conducting a multi-staged procurement process, such as an Expression of Interest, a Plan only needs to be requested from suppliers at the final stage of a multi-staged procurement, ie at the same time that the local benefits evaluation criteria are being assessed.

**(8) The Tasmanian Industry Participation Plan for a particular supplier must be approved by the Head of Agency before a contract is finalised with the supplier, and before a supplier enters into sub-contracting arrangements in relation to the procured building and construction/roads and bridges works or services.**

**(9) For private sector projects valued at over \$5 million that receive support, including in-kind support, valued at or greater than \$500 000 from the Government, the Head of the funding Agency must ensure that the proponent prepares a Tasmanian Industry Participation Plan.**

**The relevant Head of Agency must approve the Plan before the project proponent enters into relevant procurement arrangements.**

**(10) An approved Tasmanian Industry Participation Plan or, where deemed more appropriate, an Executive Summary of the Plan is to be provided to Treasury within 10 days of the execution of the contract for publication on Treasury website(s).**

Agencies must ensure they include as a condition in relevant documentation that the successful supplier (or proponent of an applicable private sector project) will:

- complete the Tasmanian Industry Participation Plan; and
- agree, following approval by the agency, to the publication of the Plan in its entirety or, where the agency determines it more appropriate, an Executive Summary of the Plan on Treasury website(s).

This requirement applies whether the support is provided by way of grant or other form of support.

**(11) Agencies must request suppliers provide a Local SME Industry Impact Statement (as part of their response to an agency's approach to the market) in relation to procurement processes for:**

**(a) building and construction/roads and bridges valued at over \$50 000 up to, and including, \$2 million; or**

**(b) building and construction/roads and bridges valued at over \$2 million up to, and including, \$5 million, where the Head of Agency, at their discretion, has determined that a Tasmanian Industry Participation Plan is not required.**

A template to assist suppliers provide relevant information is available from the Purchasing website.

**(12) Agencies must ensure that the evaluation criteria for all procurement processes in relation to building and construction/roads and bridges**

**projects valued at over \$50 000 includes, as a criterion, the local SME industry impact statement or the Tasmanian Industry Participation Plan (as relevant) provided by the supplier.**

Submission of a Statement/Plan by the supplier will be voluntary, however, suppliers that fail to submit a statement/plan will receive no score for that weighted criterion.

**The weighting to be applied to the criterion is to be determined by the agency, but must be at least 10 per cent.**

For procurement processes valued at \$50 000 or less or for procurement where direct selection has been approved in accordance with Instruction 1217 and the assessment of formal evaluation criteria is not undertaken or for the appointment of consultants utilising the single submission process in accordance with the *Procurement Practice Manual – Best Practice for the Engagement of Consultants*, Heads of Agency are responsible for ensuring that their agency complies with the objectives of the Government’s Buy Local Policy.

## **DEFINITIONS**

For the purposes of this Instruction, the following definitions apply:

- (a) “Local Small and Medium Enterprises/Local SMEs” are Australian and New Zealand businesses employing less than 200 people;
- (b) “Procurement process” means procurement by any means, including but not limited to, calls for quotes, open tender, calls for expressions of interest, selection of consultants in accordance with the *Procurement Practice Manual – Best Practice for the Engagement of Consultants* or direct sourcing in accordance with Instruction 1217 (unless otherwise specifically excluded as in clause (12) above).
- (c) “Commenced” means a request for quotation/proposal has been issued directly to potential suppliers and/or a request has been advertised on the Tenders website and/or a single supplier has been approached directly in accordance with Instruction 1217.

## **FREE TRADE AGREEMENTS AND INTERNATIONAL COOPERATIVE ARRANGEMENTS**

Notwithstanding anything above, any procurement that is impacted by free trade agreements or international cooperative arrangements (refer to Instruction 1202) must comply with the requirements of those agreements/arrangements.