

<b>Treasurer's Instruction No</b>	<b>1225</b>
Title	<b>Buy Local Policy: building and construction/roads and bridges</b>
Effective date	<b>25 March 2019</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>9</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 that 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 \$250 000 or more for building and construction works; \$500 000 or more for roads and bridges works; or more than \$50 000 for building and construction / roads and bridges consultancies, 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, 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 these thresholds.

- (b) **with a value less than the thresholds referred to in (a) above, 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:**
- (a) **otherwise exempted by the Secretary of the Department of Treasury and Finance in accordance with clause (7) below; or**
- (b) **an exemption is approved by the Head of Agency, or duly authorised delegate, 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, or duly authorised delegate, 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.**

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.**
- (7) **Class exemptions from the requirement to disaggregate may be approved by the Secretary of the Department of Treasury and Finance where the Secretary is satisfied that the benefits of aggregation clearly outweigh the potential negative impact on local SME suppliers/the local economy.**

Exemptions will only be approved on a class basis (ie not an individual procurement basis).

## **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*.

- (8) **Agencies must ensure that the evaluation criteria for all competitive processes, with a value of \$50 000 or more, includes a local SME industry impact criterion.**

**The weighting to be applied to the criterion is to be determined by the agency but must be at least twenty per cent (20%).**

The weighting applicable is to be applied to the totality of the evaluation ie where the qualitative criteria is assessed separately to quantitative/cost, it is not to be included as a component of either category (where it would be diluted to less than the mandatory minimum overall) but is to be treated as a third category so that the full applicable weighting is applied.

Agencies should assess this criterion in the same manner as any other ie by rating the degree to which each supplier's response has satisfied the criterion before the weighting is applied. The criterion should not be treated as a "met/not met" assessment.

For procurement processes valued at less than the threshold (or for non-competitive processes where an assessment of formal evaluation criteria is not undertaken), Heads of Agency are responsible for ensuring that their agency complies with the objectives of the Government's Buy Local Policy.

**(9) The information to assess the evaluation criterion referred to in clause (7) above is to be collected as follows:**

**(a) Where the supplier is to be engaged using the Department of State Growth's Prequalification System for Road and Bridge Construction Contracts, State Growth must request suppliers complete the Department of State Growth's bespoke Tasmanian Industry Participation Plan (prepared for use in association with the Department's prequalification system).**

**(b) In all other cases, agencies must request suppliers complete a Local SME Industry Impact Statement (as part of their response to the agency's approach to the market).**

When conducting a multi-staged procurement process, such as an Expression of Interest, the request should be made to suppliers at the final stage of the multi-staged procurement ie at the time that information is obtained to enable the evaluation criterion to be assessed.

Submission of a Local SME Industry Impact Statement by a potential supplier is voluntary. Suppliers that fail to submit the information can receive no score for the criterion referred to in (7) above.

A template is available from the Purchasing website and is to be used to ensure consistency in relation to responses. The template should be attached to procurement documentation by the agency prior to release.

**(10) For all contracts:**

**(a) valued at over \$5 million; or**

**(b) valued at over \$2 million up to, and including, \$5 million, where the Head of Agency, at their discretion, has determined that it is appropriate;**

**agencies must require the preferred supplier to prepare a Tasmanian Industry Participation Plan and agree to its publication.**

Where a competitive process has been undertaken, the information provided by suppliers in response to clause (8)(a) and (b) above can form the basis of the Plan.

Where a competitive process has not been undertaken (or the preferred supplier has not provided a Local SME Industry Impact Statement as part of their submission), a Plan will need to be separately prepared and approved prior to the contract being awarded.

- (11) The Tasmanian Industry Participation Plan must be approved by the Head of Agency, or duly authorised delegate, before a contract is finalised with the supplier, and before a supplier enters into sub-contracting arrangements in relation to the contract.**
- (12) 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, or duly authorised delegate, must approve the Plan before the project proponent enters into relevant procurement arrangements.

- (13) 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.

## **DEFINITIONS**

For the purposes of this Instruction, the following definition applies: "Local Small and Medium Enterprises/Local SMEs" are Australian and New Zealand businesses employing less than 200 people.

## **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.