



# Australian Industry Participation Plans in Commonwealth Government Procurement

## Procuring Agency User Guide

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E-mail: [aip@industry.gov.au](mailto:aip@industry.gov.au)

Website: [www.industry.gov.au/aip](http://www.industry.gov.au/aip)

Phone: +61 2 6213 6404

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# 1. Introduction

The *Australian Industry Participation (AIP) Plans in Commonwealth Government Procurement: User Guide for Procuring Agencies* (AIP Plans: User Guide for Procuring Agencies) outlines the steps required to be taken by procuring agencies undertaking an approach to the market where the Commonwealth expenditure is valued at \$20 million or more. It includes descriptions of the types of approaches to market that require potential suppliers to have an Approved AIP Plan and information on how AIP Plans are developed, assessed and implemented.

The AIP Plans: User Guide for Procuring Agencies should be read in conjunction with the *Australian Industry Participation Plans: User Guide for developing an AIP Plan* (AIP Plans: User Guide) and the *Australian Industry Participation Plans: User Guide for developing an Implementation Report* (Implementation Report User Guide). These User Guides, and associated documents, are available at [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

**The User Guides may be updated from time to time. To ensure you are reading the most up to date version you should visit the Australian Industry Participation website at [www.industry.gov.au/aip](http://www.industry.gov.au/aip).**

## 1.1 Background

On 28 July 2009, the Australian Government released the *Australian Government Procurement Statement*<sup>1</sup>. In this Statement, the Australian Government announced it would strategically apply the *Australian Industry Participation National Framework* (AIP National Framework) principles to large Commonwealth procurements (generally over \$20 million), by requiring potential suppliers to prepare and implement AIP Plans. This policy has applied from 1 January 2010.

AIP Plans require potential suppliers to detail actions and strategies which will be implemented to provide *full, fair and reasonable opportunity* to Australian small and medium sized enterprises (SMEs) to supply goods and services to the project. Suppliers will be contractually required to implement these actions, if successful in being awarded a contract, and to develop an Implementation Report detailing evidence of AIP Plan implementation and the outcomes achieved.

## 1.2 Policy Objectives

AIP policy has been developed in accordance with the principles and strategic approaches of the AIP National Framework. The AIP National Framework provides a nationally consistent approach to maximising Australian industry participation in investment projects and significant public and private sector activity. The AIP National Framework was agreed between Commonwealth, state and territory governments in 2001 to promote, develop and maintain a sustainable Australian industry capability by encouraging competitive Australian industry participation in investment projects.

The key principle of the AIP National Framework is to provide Australian industry, especially SMEs, with *full, fair and reasonable opportunity* to participate in major investment projects, in Australia and overseas.

Applying the AIP National Framework principles and strategic approaches to Commonwealth Government procurement is aimed at increasing opportunities for capable and competitive Australian and New Zealand SMEs, to participate in major Commonwealth investment projects and

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<sup>1</sup> The Australian Government Procurement Statement is available at the Department of Finance website: [www.finance.gov.au/procurement/procurement-coordinator](http://www.finance.gov.au/procurement/procurement-coordinator)

procurement activities. AIP Plans provide a mechanism for procuring agencies, project proponents and potential primary suppliers to familiarise themselves with capable and qualified SME suppliers. AIP Plans can lower tenderers' transaction and search costs, and reduce risks by broadening the supply base and understanding of the market. The AIP National Framework is available at [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

This policy is a procurement-connected policy of the Commonwealth. The Department of Finance maintains a list of procurement-connected policies which can be found at [www.finance.gov.au/procurement](http://www.finance.gov.au/procurement).

### 1.3 Legal Framework

This policy applies to Australian Government agencies that are defined as 'non-corporate' Commonwealth entities under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act). For the purposes of section 23 (2) of the PGPA Act and section 18 of the *Public Governance, Performance and Accountability Rule 2014*, requiring potential suppliers to prepare and implement AIP Plans for Major Commonwealth Procurements is 'a policy of the Commonwealth' for the purpose of procurement.

While this policy does not cover 'corporate' Commonwealth entities, these entities may apply the policy to procurements valued at \$20 million or more.

This policy does not apply to Department of Defence procurement, which applies similar policies and programmes.

**Please note:** If there is any inconsistency between this policy and an approach to market, the approach to market will have precedence.

## 2. Information for procuring agencies

### 2.1 Determining if an AIP Plan is required

Once a procuring agency anticipates that it will approach the market with a tender valued at \$20 million or more, the procuring agency should consult with the Department of Industry. The Department of Industry will determine if a requirement for AIP Plans will be necessary. When calculating the value of the tender, procuring agencies should include consideration of possible options, extensions, renewals or other mechanisms that may be executed over the life of the contract.

In consultation with the procuring agency, the Department of Industry will consider the two criteria listed below to determine if an AIP Plan is required. This determination will be made by the Department of Industry on a case-by-case basis.

1. Do opportunities exist to increase opportunities for SMEs and, if so, will requiring an AIP Plan increase SME access to these opportunities?
2. Do SMEs have the capability to supply to the project?

If the Department of Industry considers that an approach to market meets these two criteria then it will advise the procuring agency that an AIP Plan will be required from all tenderers, or shortlisted tenderers (depending on the type of approach to market), as a condition for participation. A copy of an Approved AIP Plan and Certificate of Approval from the Department of Industry must be submitted as a minimum content and format requirement. To allow sufficient time for a procuring agency to finalise the approach to market documentation, a procuring agency should contact the Department of Industry as early as possible, allowing for at least five working days for a determination.

The Department of Industry can be contacted at [aip@industry.gov.au](mailto:aip@industry.gov.au) or on +61 2 6213 6404.

#### 2.1.1 Background information on approach to market

To assist the Department of Industry in the decision of whether an AIP Plan will be required, the procuring agency should provide the following information (if available):

- The value of the approach to market across the life of the contract (including any options that may be involved).
- The type of good/service to be procured and how they are expected to be procured (e.g. what type of approach to market is going to be used, is it a single/multi source tender or a panel arrangement).
  - For panel arrangements details should be provided as to whether the approach to market will create one panel or multiple panels.
- Will potential suppliers be able to tender on part or all of the approach to market?
- Is the approach to market for a good or service?
  - If a good, is it being purchased off the shelf or can it be made/fitted out in Australia?
  - If a service, can it be delivered solely in Australia or will it be delivered from offshore?
- Is it a repeat approach to market (any information on previous approaches to market/contracts will help in deciding the potential opportunities that may exist for SMEs).

- Potential involvement of SMEs in providing goods or services to the supplier.
- Expected length of contract.
- Any sensitivities with approach to market (i.e. sensitive data, security issues etc).
- Time frames for the release of the approach to market and how long it will be open for (this can create issues for potential suppliers if the approach to market is open for a short time and an AIP Plan is required as the Department of Industry may take up to 10 days to approve an AIP Plan).
- Any other background information which may help us.

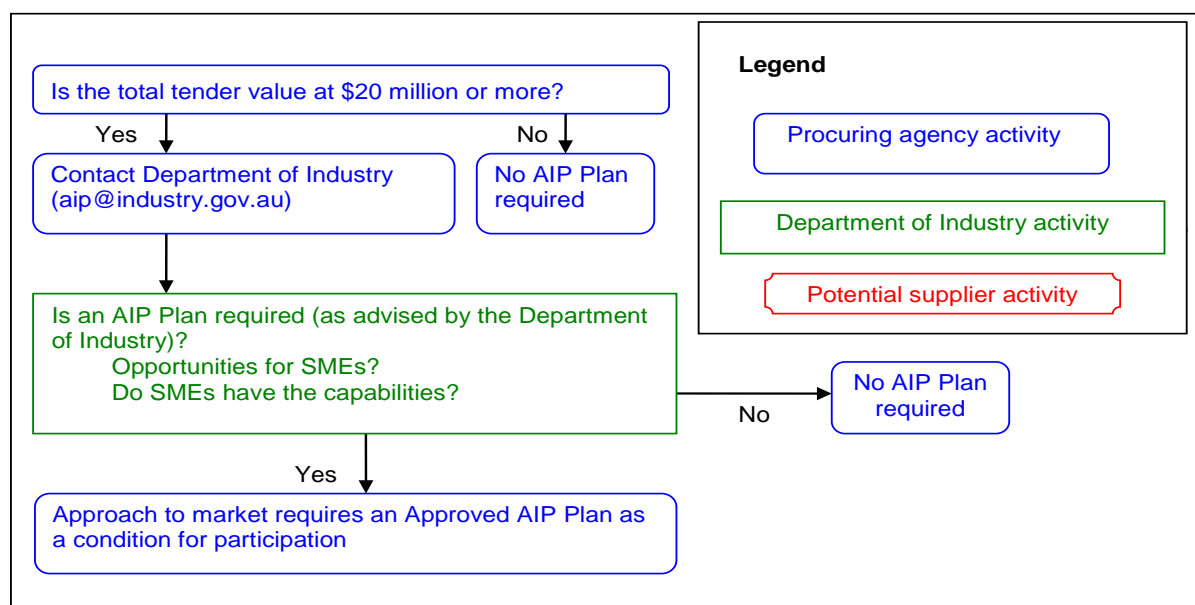
**A questionnaire can be provided upon request by contacting the Department of Industry:**

Email: [aip@industry.gov.au](mailto:aip@industry.gov.au)

Phone: +61 2 6213 6404

## 2.1.2 Overview: Determining if an AIP Plan is required

**Figure 1 Overview of the procuring agency procurement process**



## 2.2 Single procurement process

If the Department of Industry has advised a procuring agency that an AIP Plan is required for an approach to market, the model clauses provided in **Attachment C** (or equivalent clauses) should be included in the agency's approach to market documentation, for example in the request for tender.

These provisions have the effect of requiring potential suppliers to submit an Approved AIP Plan at the time they submit their tender response and the approach to market closes (together with a Certificate of Approval from the Department of Industry as evidence the AIP Plan is 'Approved' and current).

Having an Approved AIP Plan that covers the approach to market process and is current at the time the approach to market closes will be a condition for participation for the tender. The requirement on potential suppliers to provide a copy of the Approved AIP Plan and Certificate of Approval issued by the Department of Industry with their tender will be a minimum content and format

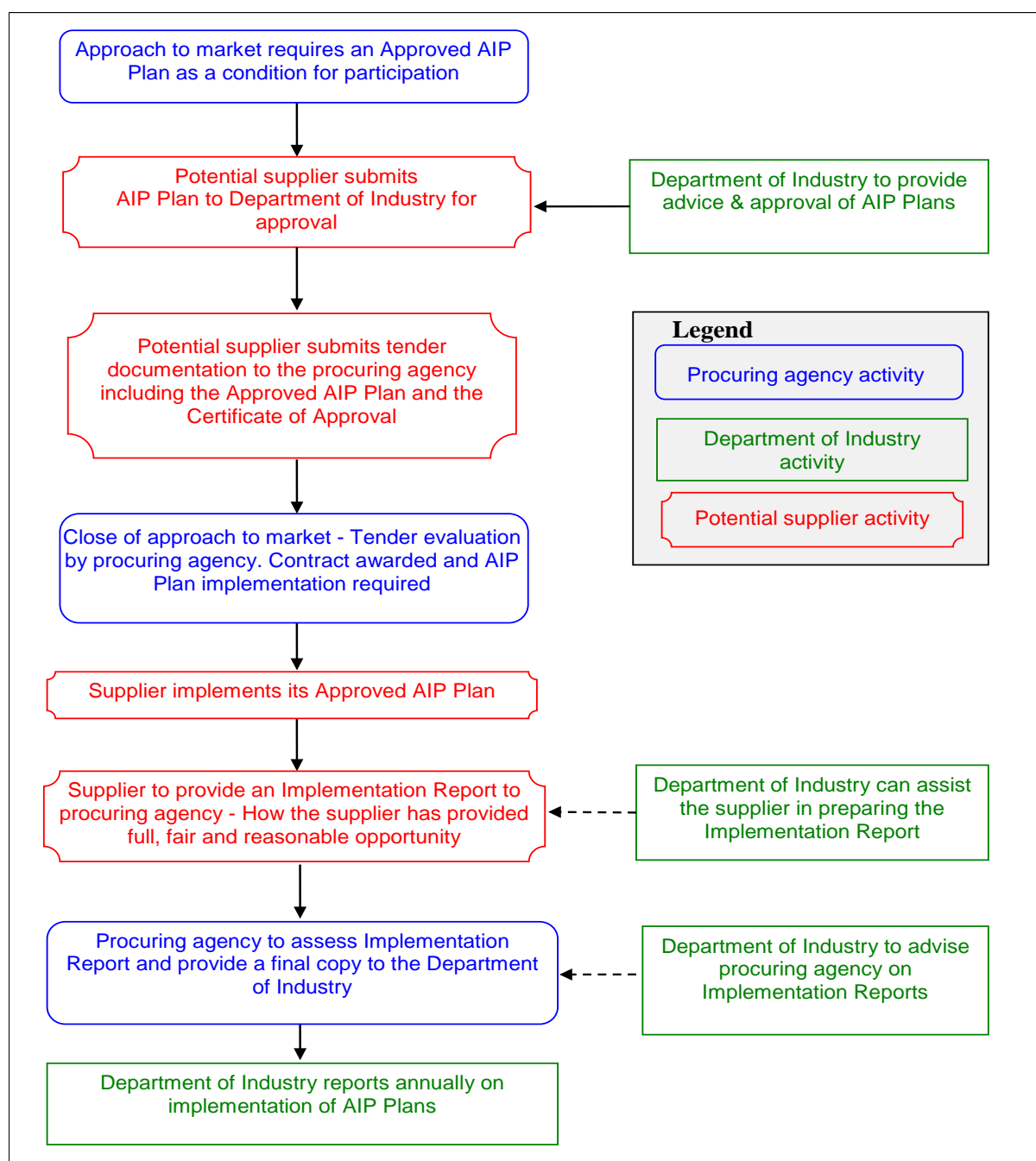
requirement. A tenderer who does not satisfy these requirements must be excluded from the evaluation process.

As the supplier will be contractually required to implement their Approved AIP Plan, any draft contract that is published with the approach to market should include the model clauses in **Attachment E**.

### 2.2.1 Overview of the single procurement process

The following flowchart outlines the typical process to be followed by procuring agencies and tendering entities when applying the AIP National Framework to a single government procurement process.

**Figure 2 Overview of the single procurement process**



## 2.3 Panel arrangement process

If the Department of Industry has advised a procuring agency that an AIP Plan is required for a panel arrangement, the model clauses provided in **Attachment D** (or equivalent clauses) should be included in the agency's approach to market documentation, for example in the request for tender.

These provisions have the effect of requiring potential suppliers to submit an Approved AIP Plan (together with a Certificate of Approval from the Department of Industry as evidence the AIP Plan is 'Approved' and current) before the Head Agreement has been signed between the selected panel members and the procuring agency.

Potential suppliers should be encouraged to approach the Department of Industry in the early stages of drafting a tender response to enquire about AIP Plan requirements and timelines. Although the approach to market may specify an AIP Plan is required prior to signing a Head Agreement, potential suppliers can submit an AIP Plan for feedback and approval prior to the close of the approach to market and can submit the Approved AIP Plan and Certificate of Approval with their tender response.

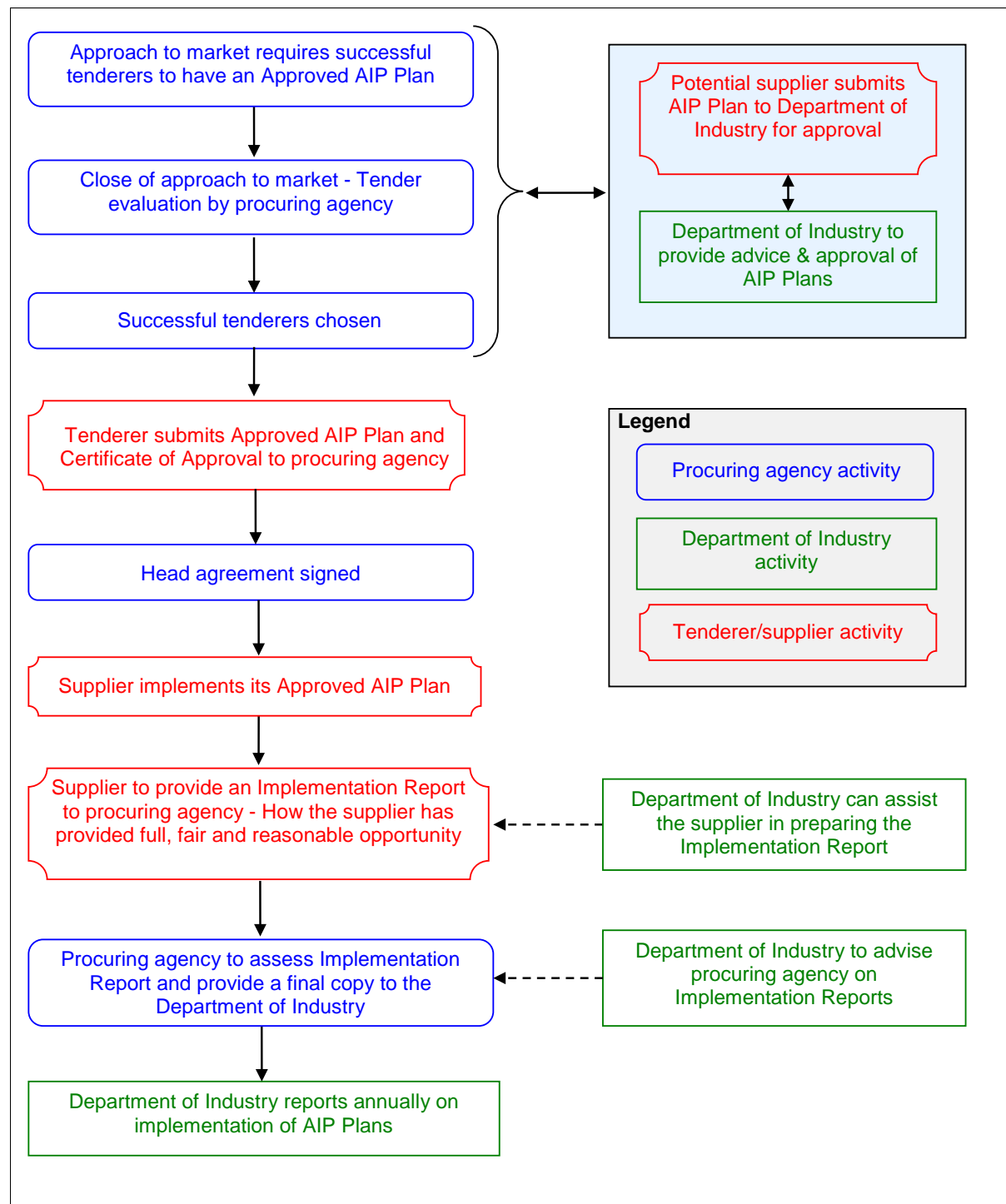
As the supplier will be contractually required to implement their Approved AIP Plan, any draft contract that is published with the approach to market should include the model clauses in **Attachment E**.



### 2.3.1 Overview of the panel procurement process

The following flowchart outlines the typical process to be followed by procuring agencies and tendering entities when applying the AIP National Framework to government procurement when panel arrangements are used.

**Figure 3 Overview of the panel procurement process**



## 2.4 Timing considerations

Procuring agencies should take into account the length of time needed by potential suppliers to obtain the Department of Industry's approval of their AIP Plan when approaching the market. The Department of Industry requires at least 10 working days from the receipt of a potential supplier's draft AIP Plan to assess and approve the AIP Plan and provide the approval documents. The Department of Industry may provide potential suppliers with feedback on their draft AIP Plans and, when necessary, their revised AIP Plans. The timeframe for the approval process is dependent on how long potential suppliers take to incorporate feedback.

It is the sole responsibility of the potential supplier to manage the timeframes around the approval of the AIP Plan and ensure the minimum timeframe is provided.

## 2.5 The AIP Plan

Potential suppliers will be required to develop an AIP Plan to be approved by the Department of Industry which covers the approach to market. The AIP Plan criteria are outlined in **Attachment A**. An AIP Plan only covers the specified approach to market and cannot be submitted for other approaches to market.

The AIP Plan will be assessed by the Department of Industry in accordance with the AIP Plans: User Guide available at [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

The Department of Industry will provide guidance and feedback to the potential supplier on their AIP Plan.

### 2.5.1 AIP Plan approval documentation

If the Department of Industry approves an AIP Plan it will issue the potential supplier with:

- a cover letter stating the AIP Plan is approved and detailing any limitations
- the Approved AIP Plan
- a Certificate of Approval

A procuring agency will exclude a tender response from further consideration if the tenderer does not provide a copy of the Approved AIP Plan and a copy of the Certificate of Approval by the time specified by the procuring agency in the approach to market.

## 2.6 Publication of AIP Plan executive summaries

The Australian Government requires executive summaries of AIP Plans to be published on [www.industry.gov.au/aip](http://www.industry.gov.au/aip). Suppliers are required to draft the executive summary and provide it to the Department of Industry for approval. The executive summary of the AIP Plan will need to exclude any commercially confidential material (for example, the estimated calculation of Australian industry value added).

The executive summary will only be published if the potential supplier is successful in the tender process.

Executive summaries can be updated or modified by suppliers in consultation with the Department of Industry.

The executive summary will be published once the contract notice is published on AusTender. It will be the responsibility of the procuring agency to inform the Department of Industry when this

announcement is made to facilitate timely publication of the supplier's executive summary of the AIP Plan. Suppliers may also publish the executive summary of the AIP Plan on the organisation website.

## **2.7 Contract preparation and ensuring implementation of AIP Plans**

Once a supplier has been selected by the procuring agency, the agency is required to ensure that the supplier is contractually obliged to comply with the AIP Plan and to report on the implementation of their AIP Plan (through an Implementation Report). **Attachment E** provides model clauses for the procuring agency to include in draft contracts (released with the approach to market) and final contracts to give legal effect to the AIP Plan requirements.

## 3. Evaluation of Implementation Reports

Suppliers will be required to provide an Implementation Report on their AIP Plan to the procuring agency as a requirement of the contract. An Implementation Report template is available for suppliers to complete at [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

### 3.1 What is an Implementation Report

An Implementation Report will set out how *full, fair and reasonable opportunity* has been provided and provides evidence of how all essential elements of the AIP Plan have been implemented as agreed. An Implementation Report will also detail the outcomes that were achieved as a result of AIP Plan implementation, including providing an estimate of the total Australian industry value added achieved in the project.

### 3.2 When an Implementation Report is due

An AIP Plan implementation report should be required within 60 days of the anniversary of signing the contract (for example, within 14 months of the contract being signed). Only one Implementation Report is required.

### 3.3 How to evaluate an Implementation Report

Procuring agencies will make the final decision on approving or accepting Implementation Reports. However, the procuring agency can seek Department of Industry advice and/or assistance when determining whether the supplier has met the AIP Plan requirements to ensure consistency in AIP Plan implementation across agencies and suppliers.

When evaluating an Implementation Report, procuring agencies should ensure that the following key components are addressed for each individual action in the AIP Plan:

- That appropriate evidence of AIP Plan implementation has been provided
- That the outcomes listed as being achieved are supported by the evidence

Where an action has not been implemented the procuring agency should be satisfied that appropriate information has been provided detailing why the action was not implemented and what additional activities were undertaken.

The procuring agency must provide a copy of the compliant Implementation Report to the Department of Industry to inform the AIP annual report to Government.

For further information on the outcomes expected in an Implementation Report, see the Implementation Report User Guide which is available at [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

#### 3.3.1 Unsatisfactory or incomplete Implementation Reports

Where an Implementation Report is incomplete or does not provide sufficient evidence that the AIP Plan has been implemented as agreed, the procuring agency will advise the supplier on any additional information required. The procuring agency should proactively manage the requirement for an Implementation Report to be properly submitted by the supplier and ensure that the supplier meets the requirements of the AIP Plan. Any revisions or amendments to the Implementation Report should be provided by the supplier within the specified timeframe of the request being sent by the procuring agency. If such additional information is not received within the timeframe specified, the report will be deemed to be non-compliant by the procuring agency.

Once completed, a copy of the Implementation Report must be provided to the Department of Industry which will report annually on the implementation of AIP Plans.

### **3.4 Publication of Implementation Report outcomes**

For public reporting purposes only an aggregate percentage of Australian industry value added will be published for each project. Australian industry value added in purchased goods and services is defined as: the supply price of those products or services less the amount spent on imported products and services. This value will be published once the Implementation Report has been deemed acceptable by the procuring agency. The procuring agency will be responsible for providing the Department of Industry a copy of the acceptable Implementation Report to allow for the Australian industry value added to be published for each organisation/project.

The Department of Industry and/or procuring agency may also publicise or report on the supplier's performance in relation to and level of compliance with the AIP Plan and/or Implementation Report provided.

### **3.5 Reviewing Implementation Report outcomes**

In conjunction with the procuring agency, the Department of Industry may follow up on the implementation of AIP Plans in order to monitor the effectiveness of AIP Plans in providing benefits to all tiers of successful suppliers and providers of goods and services. The Department of Industry will select major Commonwealth procurements each year for these reviews and will work with procuring agencies in conducting these reviews.

### **3.6 AIP Annual Report**

The Australian Government will prepare an Annual Report on AIP Plans and outcomes. Information provided to the Department of Industry through AIP Plans and Implementation Reports will be incorporated into this Annual Report.

# Attachment A

## AIP Plan Criteria

### **Criterion 1: Organisation and project details**

Provide detail on the organisation and the project to be undertaken.

### **Criterion 2: Opportunities for Australian industry**

Where it is known, provide detail on the goods and services to be procured for the project, an indication of expected areas of opportunities for Australian suppliers, and an estimate of the percentage of Australian industry value added for the project.

### **Criterion 3: Communication strategy**

Provide detail on the project's communication strategy that provides for the early identification of opportunities for Australian industry and the effective transfer of information on opportunities for Australian industry through all tiers of supply (e.g. along sub-contracting chains).

This must include detail on how the organisation or project will actively seek information on Australian industry capability and communicate opportunities to potential suppliers.

### **Criterion 4: Opportunities through all tiers of supply and in all stages of the project**

Describe strategies to include Australian industry through all tiers of supply and all stages of the project (i.e. through design, procurement, construction, operation and whole-of-life support).

This must include information on the standards to be applied in the project and how AIP Plan commitments will cascade to tier 1 or Engineering, Procurement and Construction Management (EPCM) companies. This must also explain the process and criteria to assess potential suppliers (including any prequalification processes).

### **Criterion 5: Opportunities for longer-term participation**

Describe opportunities for longer-term participation by Australian industry, including how the project will work with suppliers (and government programmes where applicable) to encourage capability development and integration into global supply chains.

### **Criterion 6: Procedures and resources**

Describe the internal procedures, resources and systems in place to monitor the implementation of the AIP Plan.

# Attachment B

## Abbreviations and acronyms

Abbreviation	Acronym
AIP Plan	Australian Industry Participation Plan
AIP National Framework	<i>Australian Industry Participation National Framework</i>
AIP Plans: User Guide	Australian Industry Participation Plans: User Guide for developing an AIP Plan
AIP Plans: User Guide for Procuring Agencies	Australian Industry Participation Plans in Commonwealth Government Procurement: User Guide for Procuring Agencies
Efic	Export Finance and Insurance Corporation
ICN	Industry Capability Network
Implementation Report User Guide	Australian Industry Participation Plans: User Guide for developing an Implementation Report
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
SME	Small and Medium Enterprises

## Definitions

### AIP National Framework

The AIP National Framework encourages a nationally consistent approach to maximising Australian industry participation in major projects in Australia and overseas. Commonwealth, State and Territory Ministers signed the AIP National Framework in 2001. The AIP National Framework is available at [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

### AIP Plan requirement

An AIP Plan outlines the actions a potential supplier intends to take to provide SMEs with *full, fair and reasonable opportunity* to participate in the project. **Attachment A** provides the criteria that are to be met for an AIP Plan to be approved by the Department of Industry. In meeting these criteria, potential suppliers should outline specific activities they will undertake to provide SMEs with *full, fair and reasonable opportunity*. Potential suppliers are given further guidance on how to prepare and implement an AIP Plan in the AIP Plans: User Guide.

### Approach to market

Approach to market refers to any notice inviting potential suppliers to participate in a procurement which may include a request for tender, request for quote, request for expression of interest, request for application for inclusion on a multi-use list, request for information or request for proposal.

Note: the acronym 'ATM' is used on AusTender and other procurement documents to reference an approach to market.

### **Approved AIP Plan**

An Approved AIP Plan means an AIP Plan that has been approved by the Department of Industry in accordance with the AIP Plans: User Guide.

### **Austender**

AusTender is the central web-based facility for the publication of Australian Government procurement information, including business opportunities, annual procurement plans and contracts awarded.

### **Commonwealth entity**

In accordance with subsections 10(1) and (2) of the PGPA Act a Commonwealth entity is defined as a Department of State; or a Parliamentary Department; or a listed entity; or a body corporate that is established by a law of the Commonwealth; or a body corporate (that is established under a law of the Commonwealth (other than a Commonwealth company); and is prescribed by an Act or the rules to be a Commonwealth entity).

### **Corporate Commonwealth entities**

In accordance with paragraph 11(a) of the PGPA Act it is a Commonwealth entity that is a body corporate.

### **Full, Fair and Reasonable opportunity**

The concept of providing *full, fair and reasonable opportunity* to Australian industry is the core principle of the AIP National Framework. The definitions are as follows:

Full – Australian industry has the same opportunity afforded to other global supply chain partners to participate in all aspects of a project (e.g. design, engineering, project management, professional services and IT architecture).

Fair – Australian industry is provided the same opportunity as global suppliers to compete on projects on an equal and transparent basis, including given reasonable time in which to tender.

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

### **Implementation Report**

An Implementation Report documents (by providing evidence) the actions and activities that a supplier (and where appropriate its sub-contractors) has taken to implement the AIP Plan under a Major Commonwealth Procurement contract. Guidance on how to report on the outcomes achieved from the implementation of the AIP Plan is provided in the Implementation Report User Guide.

### **Major Commonwealth Procurement**

For the purposes of this policy, a Major Commonwealth Procurement is any procurement, including direct sources and the establishment of panel arrangements, valued at \$20 million or more.

### **Minimum content and format requirements**



Minimum content and format requirements are criteria that a tender's submission is required to meet, when responding to an approach to market, to be eligible for further consideration in a procurement process.

**Non- corporate Commonwealth entities**

In accordance with paragraph 11(b) of the PGPA Act it is a Commonwealth entity that is not a body corporate.

**Potential supplier**

A potential supplier is an entity or person who may respond to an approach to market.

**Procuring agency**

A procuring agency refers to the Commonwealth agency responsible for the Major Commonwealth Procurement.

**Project**

A project refers to the activity to be conducted under a contract for a Major Commonwealth Procurement.

**Small and medium enterprise (SME)**

A SME, as defined by the Australian Bureau of Statistics, is a business employing less than 200 people<sup>2</sup>. In this document all references to SMEs refers to Australian and New Zealand SMEs.

**Submission**

A submission is any formally submitted response from a potential supplier to an approach to market.

**Supplier**

A supplier is an entity or person who has entered into a contract with the Commonwealth.

**Tenderer**

A tenderer is an entity or person who has responded with a submission to an approach to market.

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<sup>2</sup> ABS Small Business in Australia 2001 – 1321.0, p1.

# Attachment C: Approach to market model clauses for single procurement

The model clauses in this attachment should be used in a procuring agency's approach to market.

**Note to drafters:** *These model clauses are provided as an example of clauses that could be included in an approach to market where the Agency is advised by the Department of Industry an AIP Plan is required in accordance with the AIP Plans: User Guide for Procuring Agencies. Agencies are able to modify or adapt these clauses to ensure consistency with their procurement documentation.*

*Where an agency develops its own clauses or modifies these clauses, the agency should consult with the Department of Industry to ensure that it is compatible with the AIP policy.*

*In determining the length of time between advertising and closing the approach to market, procuring agencies should take into account the time needed by potential suppliers to obtain the Department of Industry's approval of their AIP Plan before tender closing.*

**Please note:** *The Department of Industry requires at least 10 working days from the receipt of a potential supplier's draft AIP Plan to assess and approve the AIP Plan and provide the approval documents. The Department of Industry provides potential suppliers with feedback on their draft AIP Plans and, when necessary, their revised AIP Plans. The timeframe for the approval process is dependent on how long potential suppliers take to incorporate feedback. It is the sole responsibility of the potential supplier to manage the timeframes around the approval of the AIP Plan and ensure the minimum timeframe is provided.*

## 1 AIP Plan

**1.1** Potential suppliers should note that the Australian Government Australian Industry Participation National Framework principles apply to this approach to market process and a resultant contract (if any). More information on AIP Plan requirements and the associated AIP Plans: User Guide can be found at [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

**1.2** Suppliers will be required to have an executive summary of the AIP Plan published at [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

**Note to drafters:** *Where the Department of Industry has advised that an AIP Plan is required, the requirement to have an Approved AIP Plan that covers the tender process at the closing time of the approach to market is a condition for participation for the tender and the requirement to provide a copy of the AIP Plan and Certificate of Approval issued by the Department of Industry is a minimum content and format requirement. Agencies can include these requirements with any other conditions for participation or minimum content and format requirements that are part of the approach to market.*

## 2 Conditions for participation

**2.1** The Agency will exclude a tender from further consideration if at any time before a contract is executed the Agency considers that the Tenderer does not meet any one or more of the following conditions for participation:

**a.** the Tenderer must have an Approved Australian Industry Participation Plan that covers this tender process and is current at the tender closing time.

### 3 Minimum Content and Format Requirements

**3.1** The Agency will exclude a Tender from further consideration if the Agency considers that the Tender does not comply with any one or more of the following minimum content and format requirements:

a. the Tender must include a copy of the Tenderer's Approved Australian Industry Participation Plan that covers the tender process and a copy of the Certificate of Approval from the Department of Industry confirming that it is an Approved Australian Industry Participation Plan.

### 4 Definitions

**Approved Australian Industry Participation Plan or AIP Plan -**

means an Australian Industry Participation Plan that covers the tender process and that has been approved by the Department of Industry in accordance with the AIP Plan: User Guide for developing an AIP Plan.

**Australian Industry Participation Plans: User Guide or AIP Plans: User Guide -**

means the *Australian Industry Participation Plans: User Guide for developing an AIP Plan* published by the Department of Industry as at the date this approach to market was issued a copy which can be obtained from the internet site <http://www.industry.gov.au/aip>.

## Attachment D: Approach to market model clauses for a panel procurement

The model clauses in this attachment should be used in a procuring agency's approach to market.

**Note to drafters:** *These model clauses are provided as an example of clauses that could be included in an approach to market where the Agency is advised by the Department of Industry an AIP Plan is required in accordance with the AIP Plans: User Guide for Procuring Agencies. Agencies are able to modify or adapt these clauses to ensure consistency with their procurement documentation.*

*Where an agency develops its own clauses or modifies these clauses, the agency should consult with the Department of Industry to ensure that it is compatible with the AIP policy.*

*In determining the length of time between advertising and closing the approach to market, procuring agencies should take into account the time needed by potential suppliers to obtain the Department of Industry's approval of their AIP Plan before tender closing or before signing a Head Agreement.*

**Please note:** *The Department of Industry requires at least 10 working days from the receipt of a potential supplier's draft AIP Plan to assess and approve the AIP Plan and provide the approval documents. The Department of Industry provides potential suppliers with feedback on their draft AIP Plans and, when necessary, their revised AIP Plans. The timeframe for the approval process is dependent on how long potential suppliers take to incorporate feedback. It is the sole responsibility of the potential supplier to manage the timeframes around the approval of the AIP Plan and ensure the minimum timeframe is provided.*

### 1 AIP Plan

**1.1** Potential suppliers should note that the Australian Government Australian Industry Participation National Framework principles apply to this approach to market process and a resultant contract (if any). More information on AIP Plan requirements and the associated AIP Plan: User Guide can be found at [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

**1.2** Suppliers will be required to have an executive summary of the AIP Plan published at [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

**Note to drafters:** *Where the Department of Industry has advised that an AIP Plan is required, the requirement to have an Approved AIP Plan that covers the tender process at the time specified by the procuring agency in the approach to market is a condition for participation for the tender and the requirement to provide a copy of the AIP Plan and Certificate of Approval issued by the Department of Industry is a minimum content and format requirement. Agencies can include these requirements with any other conditions for participation or minimum content and format requirements that are part of the approach to market.*

### 2 Conditions for participation

**2.1** The Agency will exclude a tender from further consideration if at any time before a contract is executed the Agency considers that the Tenderer does not meet any one or more of the following conditions for participation:

**a.** the Tenderer must have an Approved Australian Industry Participation Plan that covers this tender process and is current at the time the Head Agreement is signed.

### 3 Minimum Content and Format Requirements

**3.1** The Agency will exclude a Tender from further consideration if the Agency considers that the Tender does not comply with any one or more of the following minimum content and format requirements:

**a.** the Tender must provide a copy of the Tenderer's Approved Australian Industry Participation Plan that covers the tender process and a copy of the Certificate of Approval from the Department of Industry confirming that it is an Approved Australian Industry Participation Plan prior to signing a Head Agreement.

### 4 Definitions

**Approved Australian Industry Participation Plan or AIP Plan -**

means an Australian Industry Participation Plan that covers the tender process and that has been approved by the Department of Industry in accordance with the AIP Plans: User Guide for developing an AIP Plan.

**Australian Industry Participation Plans: User Guide or AIP Plans: User Guide -**

means the *Australian Industry Participation Plans: User Guide for developing an AIP Plan* published by the Department of Industry as at the date this approach to market was issued a copy which can be obtained from the internet site [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

# Attachment E: Contract model clauses

The model clauses in this attachment are intended to be used in a contract between a procuring agency and the supplier(s).

**Note to drafters:** *These model clauses are provided as an example of clauses that could be included in a draft contract for an approach to market where the Agency is advised by the Department of Industry an AIP Plan is required in accordance with the AIP Plans: User Guide for Procuring Agencies. Agencies are able to modify or adapt these clauses to ensure consistency with their procurement documentation.*

*Where an agency develops its own clauses or modifies these clauses, the agency should consult with the Department of Industry to ensure that it is compatible with the AIP policy.*

## 1 Interpretation

### 1.1 Definitions

**1.1.1** In this Contract, unless the context indicates otherwise:

#### **Australian Industry Participation Plan or AIP Plan**

Australian Industry Participation Plan or AIP Plan means the plan in Schedule 1 to this Contract.

#### **Australian Industry Participation Plans: User Guide or AIP Plans: User Guide**

Australian Industry Participation Plans: User Guide or AIP Plans: User Guide means the *Australian Industry Participation Plans: User Guide for developing an AIP Plan* published by the Department of Industry as at the date this approach to market was issued a copy which can be obtained from the internet site [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

#### **Implementation Report**

Implementation Report means a report provided to the Agency in accordance with clause 2.

#### **Implementation Report User Guide**

Implementation report User Guide means the *Australian Industry Participation Plans: User Guide for developing an Implementation Report* published by the Department of Industry as at the date this approach to market was issued a copy which can be obtained from the internet site [www.industry.gov.au/aip](http://www.industry.gov.au/aip).

#### **Implementation Report Requirements**

Implementation Report Requirements means the requirements for an Implementation Report set out in the *Australian Industry Participation Plans: User Guide for developing an Implementation Report*.

## 2 Australian Industry Participation Plan (AIP Plan)

### 2.1 Supplier compliance with AIP Plan

**2.1.1** The Supplier must comply with the AIP Plan.

**2.1.2** If any conflict arises between any part of the AIP Plan and any other part of the Contract, the other part of the Contract prevails.

**2.1.3** The AIP Plan must not be construed as limiting the Supplier's responsibility to provide the Services in accordance with and otherwise comply with the requirements of the Contract.

## 3 AIP Plan Reporting

### 3.1 Implementation Report

**3.1.1** The Supplier must provide the Agency with an Implementation Report that meets the Implementation Report Requirements within [insert time frame].

**Note to drafters:** *Suppliers should be required to provide a single Implementation Report on their Implementation of the AIP Plan under the Contract. The appropriate time for providing the Implementation Report will depend on the term of the Contract and the nature of the activity being performed under the Contract, taking into account the areas that are to be addressed in the Implementation Report. As a general statement, for longer term Contracts, within 60 days of the first anniversary of the commencement of this Contract would be appropriate. For shorter term contracts (e.g. less than 12 months), 30 days prior to the completion of the Contract would be appropriate.*

**3.1.2** Where the Agency considers that the Implementation Report does not meet the Implementation Report Requirements, the Agency may by written notice to the Supplier reject the Implementation Report. Where the Agency rejects the Implementation Report, the Agency will provide the Supplier with reasons for the rejection.

**3.1.3** Where the Agency has rejected the Implementation report pursuant to clause 3.1.2, the Supplier must provide the Agency with the Implementation Report, amended to address the reasons advised by the Agency and that otherwise meets the Implementation Report Requirements within 10 Business Days of the date of the notice issued under clause 3.1.2.

## 4 Right to publish AIP Plan executive summary and AIP Implementation Report information

**4.1** The Supplier consents to the Agency or any other Commonwealth agency:

- a. publishing the executive summary of its AIP Plan at [www.industry.gov.au/aip](http://www.industry.gov.au/aip);
- b. providing a copy of the Implementation Report to the Department of Industry;
- c. publishing or reporting on the Supplier's performance in relation to the AIP Plan including the level of Australian industry goods and services purchased on the project and level of compliance with the AIP Plan.

**4.2** If requested, the Supplier agrees to assist the Commonwealth with the collection of information from the project to help monitor and report on the performance of its AIP policy.

**Note to drafters:** *Drafters should confirm that the AIP Plan and Implementation Report are not included as confidential information of the Supplier under the contract.*

## **SCHEDULE 1 – AUSTRALIAN INDUSTRY PARTICIPATION PLAN**

A.1. AIP Plan

**Note to drafters:**

*The Approved AIP Plan is to be inserted here.*