

LOCAL JOBS FIRST POLICY

Under the Local Jobs First Act 2003

October 2018

 **LOCAL JOBS FIRST**

VICTORIA
State
Government

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1 Overview

The Victorian Government is committed to putting local businesses and workers first. The Local Jobs First Policy ensures government supports Victorian businesses and workers by mandating that small and medium sized enterprises (SMEs) are given a full and fair opportunity to compete for government contracts of all sizes and types. It also mandates that a portion of total hours worked on government projects must go to our future workforce - apprentices, trainees and cadets. This helps to develop local industry, create new jobs, grow the economy and provide new opportunities for apprentices, trainees and cadets.

www.localjobsfirst.vic.gov.au

2 Background

The *Victorian Industry Participation Policy Act 2003* was amended to the *Local Jobs First Act 2003* in August 2018.

Under Section 4 of the *Local Jobs First Act 2003*, the Minister for Industry and Employment is responsible for the Act and is responsible for issuing the Local Jobs First Policy, with the support of the Department of Economic Development, Jobs, Transport and Resources (DEDJTR).

The Local Jobs First Policy is mandatory and must be applied by all Victorian Government departments and agencies and contractors supplying into projects that fall within the scope of the Policy. A Victorian Local Jobs First Commissioner has also been established to facilitate implementation and compliance.

Local Jobs First relates to the participation by local industry in projects, developments, procurements and other initiatives undertaken or funded, (whether wholly or partially) by the state. It also relates to the requirement that local apprentices, trainees and cadets complete at least 10 per cent of hours on certain projects.

Included in the Local Jobs First Policy are the Local Jobs First Guidelines, which contain procedures for agencies and contractors/suppliers to follow in complying with the Policy.

Consistent with the Act, the Policy is comprised of the Victorian Industry Participation Policy (VIPP) and the Major Projects Skills Guarantee (MPSG).

3 Application by Agencies

The Local Jobs First Policy and associated guidelines apply to all entities defined as either a public body or a department under section 3 of the *Financial Management Act 1994*.



3.1 Transitional arrangements

For projects at tender or in contract to 15 August 2018

The *Victorian Industry Participation Policy Act 2003*, VIPP agency and supplier guidelines (2016), and where applicable the MSPG guidelines (2016), including model clauses, will continue to apply to projects where contracts have been entered into by 15 August 2018.

All agencies must continue to ensure that contractors deliver their commitments as specified in VIPP Plans, Local Industry Development Plans (LIDP), and MSPG Compliance Plans within existing contracts.

Compliance will continue to be the responsibility of the procuring agency and project contractor or supplier, and DEDJTR will continue to have oversight, monitoring, reporting and compliance responsibilities, including auditing of completed projects or those in progress.

In addition, ICN Analytics must be applied to all projects worth \$20 million or more put to tender from 1 May 2018.

For projects tendered from 15 August 2018

The *Local Jobs First Act 2003*, the Local Jobs First Policy and related Local Jobs First Guidelines (including model clauses) will apply to all projects put to tender from 15 August 2018. Documentation may need to be updated to reflect these requirements and tender periods may need to be extended to give industry sufficient time to respond.

Compliance will continue to be the responsibility of the procuring agency and project contractor or supplier, and DEDJTR will continue to have oversight, monitoring, reporting and compliance responsibilities, including auditing of completed projects or those in progress.

The Local Jobs First Commissioner's functions and powers will also apply to these projects.

3.2 Project exemptions

In exceptional circumstances, the Minister responsible for the Act can exempt specific projects from applying the Local Jobs First Policy and/or the requirements for a LIDP. Exemptions can only be sought by the procuring agency.

The request for an exemption must be submitted at least 30 days prior to the planned release of solicitation documents (e.g. Expressions of Interest (EOI), request for tender (RFT) or grant documents) to the market or agreements being issued to prospective grant recipients. Agencies that are unable to meet the 30 day requirement must contact the Office of Industry Participation and Jobs in DEDJTR.

Circumstances under which an exemption could be sought include urgent works responding to a natural disaster.

4 Local Jobs First Policy Objectives and Principles

The Local Jobs First Policy objectives are to:

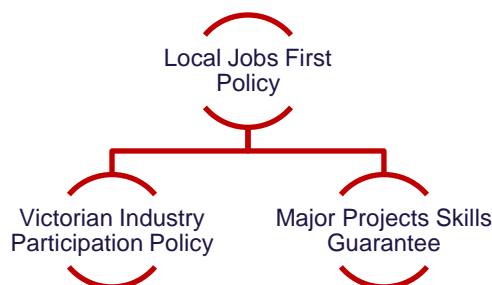
- promote employment and business growth by expanding market opportunities for local industry
- provide contractors with increased access to, and raised awareness of, local industry capability
- expose local industry to world's best practice in workplace innovation, e-commerce and use of new technologies and materials
- develop local industry's international competitiveness and flexibility in responding to changing global markets by giving local industry a fair opportunity to compete against foreign suppliers.

Local Jobs First takes into account and is consistent with the following principles relating to procurement, tendering and the provision of financial assistance by the State:

- the provision of open, clear and accountable tendering mechanisms and processes
- value for money considerations in purchasing and supply decisions over the life of a good, service or construction project.

5 Local Jobs First Policy

The Local Jobs First Policy is comprised of the Victorian Industry Participation Policy (VIPPP) and the Major Projects Skills Guarantee (MPSG).




5.1 Victorian Industry Participation Policy

The VIPPP is an industry development policy that is designed to ensure small and medium-sized enterprises are given full and fair opportunity to compete for Victorian government contracts.

Under Local Jobs First, local content refers to Australia and New Zealand (ANZ) value added activity reflecting:

- Goods produced by local industry
- Services supplied by local industry
- Construction activities carried out by local industry.



In practice, the local content of a good, service or construction activity is determined on a cost basis and is the part of a product, service or activity once the cost of the international component has been subtracted. It can be expressed by the following equation:

$$\text{Local content} = \text{total cost of the good or service less international content}$$

The content of a good, service or construction activity may include the following:

- manufactured goods
- service provision (e.g. engineering, design, ICT, planning, testing and analysis certification, commissioning)
- direct capital costs (e.g. equipment, machinery)
- freight, transport and warehousing
- fees, taxes (excluding GST), margins and insurances – up to 10 per cent allowable of a project's local content.

Australia and New Zealand are treated as a single market under the Australia and New Zealand Government Procurement Agreement. All other countries are considered 'international'. Items imported into New Zealand as part of New Zealand sourced goods and services are considered to be international content.

VIPP requirements apply to all Local Jobs First projects, irrespective of whether products and services are 'contestable' or not.

5.2 Major Projects Skills Guarantee

The Victorian Government is committed to creating job opportunities and promoting a strong and sustained vocational training culture.

The MPSG is a workforce development policy that is designed to ensure job opportunities for apprentices, trainees and cadets on Victorian Government construction projects.

The MPSG has applied since 1 January 2016 and requires all construction projects greater than \$20 million to utilise Victorian registered apprentices, Victorian registered trainees or cadets for at least 10 per cent of the contract works' total estimated labour hours.

6 Local Jobs First Projects

The Local Jobs First Policy applies to the full range of Victorian Government projects that meet financial thresholds.

Local Jobs First applicable projects include but are not limited to:

- purchase of goods and/or services, regardless of the method of procurement (including but not limited to individual project tenders, State Purchase Contracts, supplier panels)
- construction projects (incorporating design and construction phases and all related elements), including but not limited to individual projects, Public Private Partnerships, Alliance Contracts, Market Led Proposals, supplier panels and auctions

- grant and loan projects, including but limited to grant agreements or loan arrangements to private, non-government and local government organisations for a single or group of projects.

6.1 Project value

The value of the project refers to the total budget allocated over the life of the project and not the value of individual contracts, excluding GST. This ensures opportunities for industry development and workers are maximised under the Local Jobs First Policy.

For example, if a construction project involves stages such as early works, design, construction activities, maintenance, with a combined total value of \$50 million or more, then the project must be treated as a Local Jobs First Strategic Project, with minimum local content requirements to be applied as specified by the Act and Minister for Industry and Employment.

A further example would be if a services project involves annual delivery activities to the value of \$500,000 per year for each of four years. This project would have a total value of \$2 million and as such it would be treated as a Local Jobs First Standard Project if in regional Victoria. If the project had an option to renew for a further four years, its total value would be \$4 million and as such it would be treated as a Local Jobs First Standard Project irrespective of location.

The source of a project budget does not impact the application of the Local Jobs First Policy. For example, a project budget may be sourced from State Government appropriations, internal agency resources, grants or other contributions, which together make up the project value for Local Jobs First Policy purposes.

6.2 Standard Project thresholds

A Local Jobs First Standard Project is a project:

- with a budget of \$1 million or more in rural and regional Victoria
- with a budget of \$3 million or more for statewide projects or for projects in metropolitan Melbourne
- declared to be a standard project by the Minister under section 7A (1) of the Act.

6.3 Strategic Project thresholds

A Local Jobs First Strategic Project is a project with a budget of \$50 million or more or any other project declared to be a Strategic Project by the Minister under section 7A(2) of the Act.

6.4 Voluntary application for lower value projects

Where the Minister has not deemed a project to be a Standard or Strategic Project, an agency may voluntarily apply the Local Jobs First Policy to projects with a budget that is lower than the minimum Standard or Strategic Project thresholds established under the Act or otherwise set out in this Policy.

7 Roles and Responsibilities

7.1 Responsible Minister

The Minister for Industry and Employment is responsible for the *Local Jobs First Act 2003*, the Local Jobs First Policy, associated policies, guidance documents and model clauses.

7.2 Department of Economic Development, Jobs, Transport and Resources (DEDJTR)

DEDJTR is responsible for developing the Local Jobs First Policy, guidelines and model clauses and establishing structures to support its delivery across Victorian Government agencies. As part of this, DEDJTR undertakes monitoring, reporting and auditing activities related to the Local Jobs First Policy and guidelines, and provides advice and regular reporting to the Minister for Industry and Employment and the Victorian Government.

In addition, DEDJTR is responsible for:

- managing the services to be delivered by the Industry Capability Network (ICN) Victoria under the Policy
- leading engagement with the Commonwealth Government, other states and territories, and internationally on the Local Jobs First Policy
- preparing the whole-of-government annual report on the application of the Policy, including compliance, to provide to the Minister to table in Parliament as required under the Local Jobs First Act.

DEDJTR engages directly with agencies and has access to all Local Jobs First documentation developed by agencies or submitted to agencies or the ICN by potential and contracted suppliers.

DEDJTR performs these functions through the Office of Industry Participation and Jobs.

7.3 Victorian Local Jobs First Commissioner


The Act establishes a Local Jobs First Commissioner whose role will balance advocacy, facilitation and compliance functions, working closely with government agencies and industry.

The Commissioner's functions are established under the Act, with further direction issued by the responsible Minister.

7.4 Agencies

The term agency refers to all Victorian Government agencies subject to the *Financial Management Act 1994*.

An agency is responsible for meeting and applying the requirements of the Act, the Local Jobs First Policy and related guidelines to all Victorian Government Local Jobs First projects.



Each agency is also required to nominate a **Local Jobs First Administrator**, as a coordination point to support implementation, monitoring, reporting and compliance activities. The Local Jobs First Administrator may oversee tender processes related to a given agency; be a liaison point for DEDJTR, the Commissioner, and ICN; coordinate the agency's monitoring and reporting requirements to the responsible Minister, DEDJTR and the Commissioner and through the agency's normal financial reporting mechanisms.

An agency's Chief Procurement Officer will be deemed to be the Local Jobs First Administrator unless otherwise advised.

An agency must, on request of the Office of Industry Participation and Jobs in DEDJTR or its agents:

- confirm current, upcoming and completed project opportunities
- provide advice on contracted suppliers and their supply chains for any Local Jobs First project
- provide advice on strategies to connect Victorian industry and workers to project opportunities
- support where possible, events and communications activities related to the Local Jobs First Policy and projects
- furnish regular reports on the implementation of the Local Jobs First Policy and progress with the achievement of Local Jobs First outcomes and contracted commitments, including early notification of potential non-compliance.

An agency must engage with the Local Jobs First Commissioner and assist the Commissioner in the performance of the Commissioner's functions under the Act.

An agency must engage with the ICN Victoria consistent with the Local Jobs First Policy guidelines or as otherwise advised by the Minister, DEDJTR or the Local Jobs First Commissioner.

7.5 Industry Capability Network (Victoria)

The ICN is a not-for-profit organisation funded by the Victorian Government to support the delivery of Local Jobs First.

The ICN's key responsibilities include:

- working with DEDJTR and agencies to support the implementation of the Local Jobs First Policy
- managing the VIPP Management Centre portal where tenders are registered
- identifying local goods and services for a project
- acknowledging and evaluating bidders' local content, job and other commitments upon full completion of a LIDP
- providing local suppliers the opportunity to register interest in upcoming government projects and connecting Victorian SMEs located in metropolitan Melbourne and regional Victoria with Local Jobs First project and supply chain opportunities
- mapping local supply chain capability
- providing access to ICN Analytics for all Local Jobs First projects with a value of \$20 million or more
- undertaking post-contract verifications on whether or not contractors have achieved the local content commitments as committed to in LIDPs

- managing an expression of interest portal enabling local suppliers to register capability and interest in supplying into these upcoming government procurement projects
- providing access to the government's forward plan of Strategic Projects to ensure local suppliers have an opportunity to register interest in upcoming opportunities.

7.6 Suppliers/Contractors

Suppliers or contractors are terms used to describe providers of a good, service or construction activity. Both these terms are used interchangeably within this document.

Suppliers to Victorian Government projects must deliver the Local Jobs First commitments as set out in the LIDP contained within their project contract with the agency. A key part of this is engaging with local businesses and supply chains.

Suppliers are responsible for retaining documents, monitoring progress and reporting on compliance with the Local Jobs First Policy, and must follow the Local Jobs First Guidelines for Suppliers.

8 Local Content and related requirements

The Act provides that the responsible Minister must set local content and other requirements for Strategic Projects.

The Minister must, unless an exemption is granted (as above) set these requirements at no less than the following for selected Strategic Project types:

- 90 per cent for a construction project
- 80 per cent for a services project or a maintenance project
- 80 percent for the maintenance or operations phase of a Strategic Project.

Local content requirements for other types of Strategic Projects will be set on a case-by-case basis, on advice from the ICN.


The Minister may also set requirements for Standard Projects.

9 Tender Evaluation Weightings

The Act requires the following minimum weightings to be applied in evaluating tenders for Local Jobs First projects:

- 10 per cent for industry development, including commitments made in relation to the VIPP
- 10 per cent for job outcomes, including, if applicable commitments made in relation to the MPSG

This is designed to ensure that local content and job opportunities are maximised by bidders in delivery of the project.



Local Jobs First has a clear objective to provide for local industry development. Priority areas of focus include SME growth, supply chain augmentation and the level of activity in Victoria.

Focus on job outcomes ensures that bids which commit to creating a higher number of Victorian jobs and job development opportunities are scored more highly than bids that commit to a lower number of jobs.

Guidance for the specific application of weighting is provided in the Local Jobs First Agency Guidelines.

10 Local Industry Development Plan requirements

All tenders, proposals or other submissions for a Local Jobs First project must submit an Local Industry Development Plan (LIDP) to the ICN noting this will be available to the procuring agency and DEDJTR.

The LIDP must comply with the Local Jobs First guidelines, including:

- specifying how the requirements of the Local Jobs First Policy will be met
- making clear local content and job commitments
- agreeing to monitoring and reporting requirements.

An agency must not accept a tender, proposal or other submission that does not include a compliant LIDP. The LIDP will be a required deliverable under the contract.

For individual tenders, proposals or other submissions that form part of a Local Jobs First applicable project but are valued less than \$100,000, an agency can determine that a LIDP is not required. If a supplier chooses to submit a LIDP to demonstrate their commitment to Local Jobs First as part of the tender this is allowable. However, the total value of these tenders, proposals or other submissions of the project where a LIDP is not required cannot exceed a total of \$500,000. Instances where agencies determine that a LIDP is not required must be documented and is subject to review and audit by the Office of Industry Participation and Jobs in DEDJTR and The Local Jobs First Commissioner.

If a supplier's tender is accepted, the supplier must comply with delivery, monitoring and reporting requirements of the Local Jobs First Act and Policy. This includes information and documents pertaining to Local Jobs First being accessible to the Local Jobs First Commissioner, in addition to the procuring agency.

Projects and contracts should not be structured by agencies to avoid the application of the Local Jobs First Policy.

11 Local Jobs First Guidelines

The responsible Minister must issue guidelines which must be followed by agencies and suppliers in the application of the Local Jobs First Policy and the *Local Jobs First Act 2003*.



The guidelines are publicly available for both agencies and suppliers to follow.

12 Monitoring

It is the responsibility of agencies and suppliers to monitor and report on the delivery of Local Jobs First requirements and commitments and ensure compliance, consistent with the Act, guidelines and any further requirements in project contracts.

Agencies are responsible for ensuring that contracted local content and job commitments are being monitored, are on track and being achieved, and take action if they are not.

DEDJTR's Office of Industry Participation and Jobs will undertake regular monitoring, auditing and reporting on progress at initiation, during delivery or commissioning, and at the completion of Local Jobs First projects. DEDJTR has also provided for ICN Analytics to be available to agencies and suppliers for monitoring of local content and job outcomes.

The Local Jobs First Guidelines provide specific instructions related to Local Jobs First monitoring, compliance and reporting requirements.

13 Compliance

Agencies and suppliers must retain documentation relating to Local Jobs First projects to demonstrate outcomes and compliance with the Local Jobs First Policy and related commitments.

The *Local Jobs First Act 2003* provides a transparent compliance framework, involving a series of steps that the Local Jobs First Commissioner and responsible Minister can apply to confirm delivery of LIDP commitments and actions to take if they are not.

14 Reporting

Each agency must include in its report of operations under *Part 7 of the Financial Management Act 1994* a report on the departments or agency's compliance with the Local Jobs First Policy in the financial year to which the report of operations relates.

Consistent with the requirements of the Local Jobs First Act, each agency must provide requested information for inclusion in a report to DEDTR no later than six weeks after the end of the financial year to which the report relates.

Directions under section 8 of the *Financial Management Act 1994* may include directions as to the form and content of the report required.



15 Contact Us

For further information or assistance on the Local Jobs First Policy and processes please contact:

Office of Industry Participation and Jobs

Department of Economic Development, Jobs, Transport & Resources

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Authorised by the Hon Ben Carroll, Minister for Industry and Employment
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