Understanding the Buy Local Policy and Associated Price Preferences

Purpose of the Buy Local Policy
- Mandatory policy established by the WA State Cabinet which is applicable to all government entities. The policy also applies to all procurements under the powers of the Housing Act 1980;
- Maximises supply opportunities for WA businesses;
- Applies to the supply of all goods, services (including leasing hire and disposal of goods), housing and works purchased or contracted by government agencies or their agents on behalf of the State Government; and
- Considers whole of life costs, social, economic, environmental and regional development initiatives as part of the value for money decisions.

Key Benefits

Government Agencies
- Western Australian industry and regional development recognition;
- Local content considered on value for money decisions;
- Provides opportunities for local businesses;
- Maximises local contracting opportunities;
- Consistent approach by government and private sector providers;
- Applications of regional price preferences where appropriate; and
- Contribution to employment growth and industry development.

Local Business
- Increase in local contracting opportunities;
- Consistent application by government agencies and private sector providers to government;
- Where appropriate, application of price preferences in all regionally based quotation and open tender evaluations;
- Sustainable employment; and
- Maximises industry development potential.

The key considerations for the Buy Local Policy are Local Content and Price Preferences.

Local Content
Local content refers to the portion of the contract that is performed or obtained within the prescribed distance from the purchase or point of delivery. Local content includes goods, materials and services offered and the degree to which local suppliers and subcontractors are used in the delivery of the purchase or contract outcomes.

The measures provided for by the Western Australian Jobs Act 2017 and the Western Australian Industry Participation Strategy (WAIPS) will functionally replicate the Local
Content Weighted Selection Criterion, and as a consequence, it is no longer required as a measure within the Buy Local Policy.

Price Preferences
There are two types of price preferences which aim to give preferential consideration to local businesses located within the prescribed distance from the purchase or point of delivery. These are:
- Regional Price Preference (Regional Business Preference and Regional Content Preference); and
- Imported Content Impost.

Regional Price Preferences
Regional price preferences are applied within the prescribed distance from a purchase or point of delivery. The total maximum preference that can be claimed is $250,000 for goods and services purchases and $500,000 for housing and works purchases.

Please note: Maximum preference for housing and works is divided equally between Regional Business Preference and Regional Content Preference at $250,000 each.

There are two types of regional price preferences:

Regional Business Preference
This preference applies to businesses that are located within a prescribed distance (see Buy Local Zonal Map) from a regional purchase or point of delivery. Management/delivery of the majority of the contract must be from their regional business location. Preference is applied to the total cost of the bid.
To be eligible, a business must:
- Maintain a permanent operational office within the prescribed distance (for a minimum of six (6) months prior to bidding); and
- Be either registered or licensed to operate within Western Australia.

Regional Content Preference
This preference is applied to the purchase of services or materials from regional businesses for use in regional contracts. The preference is applied to the portion of the bid that covers these purchases.
The following are not considered when applying regional content price preferences:
- All costs associated with travel, accommodation and meals (including travel, accommodation and meal costs associated with sending people from outside the prescribed distance to work on a regional contract and all ongoing travel, accommodation and meal costs associated with the delivery of the contract);
- Costs associated with materials supplied by government agencies or the contract principal (principal supplied materials);
- Costs associated with goods and services supplied by State Government utilities e.g. water and electricity; and
- Costs associated with wear and tear on plant and equipment (e.g. repairs, new tyres etc).
In circumstances where one or more Offers are received from businesses located in other States or Territories of Australian, New Zealand and, for covered procurements, FTA countries and these Offers are not being considered in the final analysis then the regional business preference and the regional content preference will be applied. A current list of agreements with FTA countries is available at www.ssc.wa.gov.au > Free Trade Agreements. The Department of Communities (as the case requires) retains the complete discretion to determine those Offers in the final analysis.

Prescribed distances and regional zones

- Regional price preferences are applied within prescribed distances from purchase or contract point of delivery and operate within a framework of regional zones covering Western Australia (see Buy Local Zonal Map)
- Zones determine which prescribed distance is applicable to a particular contract based on the purchase or contract point of delivery.
- Prescribed distances differ between zones;
  - zone one qualifies for content preference only;
  - zone two has a prescribed distance of 200km; and
  - zone three has a prescribed distance of 400km.

*Please Note: In zone three, 400km prescribed distance may be extended to incorporate the next nearest town.*
Buy Local Zonal Map
Imported Content Impost

A 20% impost is applicable to the portion of a bid that comprises goods, services or items imported into Australia from another country that does not have a Free Trade Agreement with Australia. This portion of the bid is referred to as imported content. Imported content includes any estimated duty costs and costs of services relating to importing the good, service or item e.g. freight and insurance, software for ICT tenders, custom clearing charges.
Frequently Asked Questions

1. What if I receive a non-conforming bid from a business whose country is signatory to a Free Trade Agreement?

Australia is signatory to a number of Free Trade Agreements (FTAs). The following FTAs contain a chapter on government procurement, specifically in relation to how government agencies are required to comply; Singapore, US, Chile, Korea and Japan. In addition, Australia is also signatory, along with all other Australian States, Territories and New Zealand, to the Australia New Zealand Government Procurement Agreement (ANZGPA). The Buy Local policy does not apply when bids are received from these locations. Further, these agreements do not allow for price preference arrangements against bids from these countries. This means that when bids received from businesses whose countries are signatories to a Free Trade Agreement/s and/or are located outside of WA are being considered in the final analysis, the Buy Local policy does not apply.

The final analysis is defined as the stage of the procurement after due diligence checks are completed and a decision to award or not award is made – see FAQ #4.

2. What if I receive a bid from a non-Western Australian business with an office in Western Australia?

If a bid is received from their local office which is within the prescribed distance, regional price preferences will be applied.

3. How do I comply with the requirements of the policy in goods and services, housing and works procurements?

**Pre-tender:**
Buy Local policy questionnaires must be included in all quotation and tender documents where applicable. These questionnaires are completed by eligible businesses and used for evaluation purposes.

**Post-tender:**
Regional Business price preference is calculated at 5% of the tendered price to a maximum of $250,000.
Regional Content price preferences are calculated in the following ways:
- Goods and Services Procurements - 10% of cost of claimed regional content to maximum of $250,000.
- Housing and Works Procurements - 5% of the cost of claimed regional content to a maximum of $250,000.

Eligible regional businesses can also claim the regional content preference. In this instance, the regional content preference is applied to the cost of the portion of the bid (services and materials) that will be purchased and used in the delivery of the contract outcomes from local businesses (located within the prescribed distance) and the cost
of any services the regional business itself will provide using local permanent employees.

The Regional Price preference calculation amounts are subtracted from the price of the total bid prior to the evaluation phase.

4. What does ‘Final Analysis’ mean in relation to regional price preferences?

Bids that have been excluded:
- because they were received late or did not contain sufficient information;
- after the application of any prequalification or participation criteria;
- after the application of the discretion to exclude bids that do not properly address any compliance and disclosure requirements; and
- from shortlist, where a short-listing process has been used to determine value for money.

will not form part of the final analysis.

For works procurements activities where price is the only factor, those responses clearly beyond the norm on price will be excluded from the final analysis.

5. How do I determine whether a bid is an ANZ bid?

An ‘ANZ’ bid refers to a bid received from a business in another state or territory of Australia or New Zealand. The key determining factor is where the legal entity (Company) ‘lives’ in terms of its office location or main place of business. In this situation, the Australian Company Number (ACN) is used (the origin of the bid) and not the origin of the product.

To confirm the office location of the ACN, it is recommended you use ‘ABN Lookup’ – this is the Australian Business Register (ABR) and provides access to publicly available information supplied by businesses including the registered address of the ACN.

The Western Australian Government is signatory to the Australian and New Zealand Government Procurement Agreement (ANZGPA), therefore, when compliant bids are received from businesses located in other states or territories of Australia or New Zealand and those bids are being considered in the final analysis (see FAQ #4), following the evaluation of the qualitative criteria, the regional business preference and the regional content preference must not be applied – please review the flow chart ‘When to apply preferences’ for further guidance.

6. What if an ANZ business has submitted their bid from a Permanent Operational Office within the prescribed distance?

A Permanent Operation Office relates to a bone-fide business within Western Australia which has had an established and operational office for at least six (6) months prior to bids being sought. Where an ANZ business has submitted their bid from:

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1 This is not intended to imply that all works procurements are conducted on the basis of price only.
2 Please note, in relation to the Buy Local Policy, Permanent Operational Offices are defined in the context of Western Australian location only
• a Permanent Operational Office in Western Australia; and
• that office is within the prescribed distance; and
• that bid is being considered in the final analysis, following the evaluation of qualitative criteria;
the regional business preference and the regional content preference must be applied (where applicable).
Example 1: The application of Price Preferences

HOU Number: HOU1234514 – Kalgoorlie Works
Name of Project: Example of Buy Local Policy Calculations

<table>
<thead>
<tr>
<th>Description</th>
<th>Company A Kalgoorlie</th>
<th>Company B Perth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tendered Price (GST Inclusive) ($)</td>
<td>$1,000,000.00</td>
<td>$1,000,000.00</td>
</tr>
<tr>
<td>Regional Tenderer (Y/N)</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Claim for Regional Content (GST Inclusive) ($)</td>
<td>$500,000.00</td>
<td>$500,000.00</td>
</tr>
<tr>
<td>Cost of Imported Goods (GST Inclusive) ($)</td>
<td>$0.00</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>Regional Business Preference (5% of Tendered Price Capped at $250,000) ($)</td>
<td>$50,000.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>Regional Content Preference (5% of Cost of Claim for Regional Content - Capped at $250,000) ($)</td>
<td>$25,000.00</td>
<td>$25,000.00</td>
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<tr>
<td>Imported Content Impost (20% of Cost of Imported Content) ($)</td>
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<td>$4,000.00</td>
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<tr>
<td>TOTAL Buy Local Preferences and Impost. ((E+F)-G)</td>
<td>$75,000.00</td>
<td>$21,000.00</td>
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</table>

| Adjusted Tendered Price for Comparative Evaluation Only ((A - (H+M)) | $925,000.00   | $979,000.00 |

| Adjusted Value of Tender (GST Removal) ((N/11)*10) | $840,909.09 | $890,000.00 |

In this example, both companies A & B submitted the same tender amount. Once the Price Preferences and Imported Content impost are applied Company A’s adjusted price is now lower that Company B’s. In this instance the tender will be awarded to Company A in compliance with the Buy Local Policy.

Please note this is an example that takes into consideration the Buy Local Policy preferences only. For a list of factors to consider in an evaluation please see Fact Sheet #14 Evaluation Principles and Procedures.

For further information and guidance, contact ProcurementandContractManagement@communities.wa.gov.au