



Government of Western Australia
Housing Authority

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Housing Authority

Aboriginal Employment Targets in Construction and Civil Works Contracts

July 2016



Purpose

This document outlines the key components of, and the principles underpinning, the Housing Authority's *Aboriginal Employment Targets in Construction and Civil Works Contracts Practice Guide* and provides guidance to assist in implementing the Guide.

It replaces the Kimberley Employment and Enterprise Program (KEEP).

Guiding Principles

The Practice Guide is guided by the following principles:

- Housing is committed to leveraging its construction and civil works activities to create greater employment opportunities for Aboriginal and Torres Strait Islander Western Australians.
- The Guide will be phased in over time and application varies by region; providing industry with a regional approach allowing a sufficient period of time to deliver the full requirements of the Guide.
- Housing requires Contractors undertaking applicable construction and civil works contracts to work towards, achieve or exceed the Aboriginal Employment Targets in accordance with this Guide.
- Housing is responsible for monitoring compliance with the Guide through the contract management processes.

Authority to grant an exemption from the requirements of this Practice Guide

The Director Client Services North and Aboriginal Housing has the discretion, in exceptional circumstances, to vary or exempt any provision of this Guide.

Commencement

This Practice Guide will commence on 1 July 2016 for all new contracts in the Kimberley and Pilbara regions and September 2016 for all other regions.

Application

The application of the AET Guide is driven by the region in which the project will be based. For Kimberley and Pilbara Regions, the AET Guide will be applied at procurement phase; and for all other regions, application of the guide occurs after contract award. Regions are defined by the Department of Regional Development boundaries. Further information and maps can be accessed [here](#).

Definitions

Aboriginal Person means a person of Aboriginal or Torres Strait Islander descent, who identifies as being of Aboriginal or Torres Strait Islander origin and who is accepted as such by the community with which the person associates.

Aboriginal Employment Target means either:

- Housing's target for the ratio of hours worked by Aboriginal Workers on applicable civil works and construction projects.
- The specific employment target for Aboriginal Workers specified in an Aboriginal Employment Plan or such other target as agreed by the parties in writing for an individual construction and/or civil works contract.

Aboriginal Enterprise includes the following:

- A sole trader, where the person is Aboriginal
- A partnership or firm, where at least 50 percent of the partners are Aboriginal persons
- A corporation, where Aboriginal persons own 50 per cent of the legal entity submitting the tender.

Aboriginal Employment Plan means the Plan submitted by a Contractor as part of its tender submission or as a contractual requirement. The Plan for the Kimberley and Pilbara regions will include, but not be limited to:

- the total number of Aboriginal and non-Aboriginal workers to be employed under the contract
- the total number of hours that Aboriginal and non-Aboriginal employees will work under this contract

The Plan for all other regions will require Contractors to detail how they will develop an Aboriginal workforce; and as an option, may include the information described above.

Aboriginal Workers means Aboriginal Persons considered to be engaged by the Contractor under the Guide for the purposes of the Contract, and includes Aboriginal Persons engaged either under a contract of service or contract for service by the Contractor or a Relevant Subcontractor in connection with the performance of the Works.

All Other Regions Includes Gascoyne; Mid West; Wheatbelt; Peel; South West; Great Southern; Goldfields/Esperance and Metro. (See definition of 'Regions below)

Construction and Civil Works means all works commissioned by Housing in the following categories:

- the construction of new or refurbished residential accommodation
- demolition works
- civil engineering and infrastructure works including the installation of roads and paths, utilities (power, communications, water and wastewater), drainage, and parks.

Construction trades workers/workforce means all construction trades workers, including apprentices and trainees, in scope of the Guide. A list of these occupations is available at www.dtwd.wa.gov.au. The list will be reviewed by the Department of Training and Workforce Development annually in conjunction with industry.

Contract Superintendent means the person nominated by Housing as the Superintendent for the relevant contract.

Engaged means a person employed under a contract of service or contract for service by the Contractor or a relevant Subcontractor.

Head Contractor means the Contractor engaged by the Principal under the Contract to perform the Works.

Housing means the Housing Authority.

Practice Guide means this Guide the *Aboriginal Employment Targets in Construction and Civil Works Contracts Practice Guide*

Prescribed Form means the form of report Contractors are required to use to notify Housing of their monthly progress against achieving the targets and outcomes outlined in this Guide.

Regions are defined according to Department of Regional Development boundaries and include, Kimberley; Pilbara; Gascoyne; Mid West; Wheatbelt; Peel South West; Great Southern; Goldfields/Esperance and Metro.

Semi-skilled employee means a worker having or needing some skills, but not extensive, training or experience.

Skilled employee means a worker having or showing the knowledge, skills, training or experience to perform a certain activity or task well.

Unskilled employee means a worker not having or requiring special skills, training or experience for adequate or competent performance.

1. PRACTICE GUIDE STATEMENTS

1.1. Aboriginal employment targets

The following are Housing's Aboriginal employment targets for its construction and civil works contracts for the period 2016–19 to 2020–Onwards. Housing will review these targets annually after implementation.

Financial year	Region	Target
2016-19	Kimberley and Pilbara regions	20%
	Goldfields/Esperance region	10%
	Gascoyne; Mid West; Wheatbelt; Peel; South West; Great Southern; and Metro	Towards 5%
2020-Onwards	Kimberley and Pilbara regions	25%
	Goldfields/Esperance region	15%
	Gascoyne; Mid West; Wheatbelt; Peel; South West; Great Southern; and Metro	5%

1.2 Application of Aboriginal employment targets

From September 2016 all applicable construction and civil works contracts awarded by Housing must include an Aboriginal employment or engagement component and comply with this Guide.

Applicable contracts are:

- Construction contracts awarded by Housing at a total value greater than \$250,000 (incl. GST)
- Civil works contracts awarded by Housing with a labour component of the contract exceeding \$300,000
- Demolition contracts awarded by Housing at a total value greater than \$250,000 (incl. GST)

1.3 Application of the Practice Guide to Joint Ventures

This Practice Guide applies to construction and civil works activities undertaken by Housing in a Joint Venture arrangement with a private, government or non-

government organisation only where adopted by that project's Board or other governance entity.

1.4 Retrospectivity

For the avoidance of any doubt, this Guide will not apply to any construction and civil works activities procured by Housing prior to 30 September 2016 for all other regions and prior to July for the Kimberley and Pilbara regions.

1.5 Types of Employment

Aboriginal employees can be engaged by:

- The sub-contracting of Aboriginal-owned and operated businesses to perform components of work.
- Direct employment of Aboriginal tradespeople or Aboriginal people in semi-skilled or unskilled positions.
- Employment through a labour hire company or group training organisation.
- Onsite employment through an apprenticeship or traineeship or through a group training organisation.
- Employment as clerical or professional staff in the local office to perform work directly related to the project/contract

2 KIMBERLEY AND PILBARA REGIONS

2.1 Tender Documentation

When procuring construction and civil works in the Kimberley and Pilbara regions, Housing will include specific clauses that contain the details of and Contractor obligations under, this Guide. This information should be placed in the Conditions of Tender section of the Request document.

2.2 Aboriginal Employment Plan

For construction and civil works in the Kimberley and Pilbara regions, Contractors must submit an Aboriginal Employment Plan as part of their tender submission.

This plan details how the employment benchmark will be achieved in accordance with the contract.

A proforma Aboriginal Employment Plan is available from Housing's website, <http://www.housing.wa.gov.au/aboutus/thehousingauthority/orap/Pages/default.aspx>

2.3 Prospective Tenderer queries

If queries from prospective tenderers are received by the nominated contact person in the Tender document relating to the operation of the Guide, this person is to direct such queries to the Manager, Aboriginal Economic Development, Aboriginal Housing Services (AHS) for a response.

The response from AHS is to be provided to the nominated contact person who will then be responsible for providing this information to the Contractor.

AHS will endeavour to respond to queries within one working day.

Housing may also assist prospective tenderers by referring them to other sources of relevant information, such as the Small Business Development Corporation (SBDC), Aboriginal Business Directory WA, or Supply Nation (for details about registered Aboriginal Enterprises).

2.4 Tender Evaluation

A tender submission may be considered non-conforming and the submission may be excluded from the tender evaluation process if:

- It does not include a completed Aboriginal Employment Plan
- A tenderer is unable to provide evidence to satisfy Housing regarding the content of the Aboriginal Employment Plan.

Housing reserves the right during the evaluation of the tender to request evidence from a tenderer to verify the validity of the submitted Aboriginal Employment Plan.

2.5 Tenderers unable to meet targets

There may be occurrences where tenderers indicate through their tender submissions that they are not able to meet the Aboriginal Employment Targets. Under this scenario, Housing may proceed with assessing the tender submissions against all other criteria.

3 ALL OTHER REGIONS AND GOLDFIELDS/ESPERANCE

3.1 Contract documentation

Unlike the tendering requirement for the Kimberley and Pilbara Regions, there is no requirement to submit an Aboriginal Employment Plan at tender stage. Note – it is Housing’s intention to transition to the Kimberley and Pilbara model of requiring the Aboriginal Employment Plan at the time of tender after a suitable transitional period.

For applicable construction and civil works in all other regions, Housing will include reference to this Guide in the tender preamble and will then include contract requirements that will require submission of an Aboriginal Employment Plan. The

outcomes of the Aboriginal Employment Plan will be reported on throughout the project and measured at the end of contract.

4 CONTRACT MANAGEMENT (Kimberley, Pilbara and all other regions)

4.1 Contractor Reporting

For the duration of the project, Contractors will be required to submit an Aboriginal Employment Report no later than ten (10) business days after either; the end of each calendar month or each milestone Progress Claim. The Contractor is to send its completed Aboriginal Employment Report to the Contract Superintendent.

Housing will provide Contractors with the Report template for this purpose,. Contractors may request assistance from the Aboriginal Economic Development Manager for support and advice relating to the submission of the Aboriginal Employment Report.

4.2 Contractors unable to meet Aboriginal Employment Targets Or Goals

If a Contractor is unable to meet the targets or goals described in their Aboriginal Employment Plan, they should formally notify Housing and work with Housing to develop a resolution.

4.3 Contractor Audits

Housing may undertake random audits of Contractors to determine compliance with this Guide. Housing may reasonably use any information provided by Contractors to it or its agents to determine compliance with the Guide.

4.4 Contractor compliance with the Practice Guide

A Contractor in the Kimberley and Pilbara regions will be compliant with this Practice Guide if it has:

- Achieved or exceeded the Aboriginal Employment Target outlined in its Aboriginal Employment Plan aggregated over the course of the contract for Kimberley and Pilbara regions.
- Achieved against goals described in the Aboriginal Employment Plan for All other regions
- Submitted all required Aboriginal Employment Reports in sufficient detail by the specified times.

A Contractor in all other regions will be compliant with this Practice Guide if it has:

- Worked towards meeting or has achieved any Aboriginal Employment Target outlined in its Aboriginal Employment Plan aggregated over the course of the contract and / or
- Documented goals to improve organisation’s capability in developing an Aboriginal workforce and reported against those goals; and
- Submitted all required Aboriginal Employment Reports in sufficient detail by the specified times.

It is the Contractor’s responsibility to obtain relevant information from their Subcontractors to ensure compliance with this Practice Guide.

5 AMENDMENTS TO THIS PRACTICE GUIDE

All Practice Guide documents and amendments will be posted on Housing’s website, available at: www.housing.wa.gov.au.

From time to time, Housing may review and make amendments to this document.