



Australian Government
**Department of Industry,
Innovation and Science**

Regulator Performance Framework

Self-Assessment Report

Submitted by: Australian Industry Participation Authority
2016-2017

www.industry.gov.au/aip

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1 Certification by the Accountable Authority

“The regulator’s Accountable Authority under the PGPA Act, if applicable, must certify the self-assessment report and provide it to the MAC or other stakeholder consultation mechanism approved by the responsible Minister”.

2 One page snapshot

Summary

The Australian Industry Participation (AIP) Authority is a statutory position established under the *Australian Jobs Act 2013* (the Jobs Act) which commenced on 27 December 2013. The Authority is a small regulator that interacts with a limited number of large companies with an emphasis on engagement and encouragement to ensure compliance.

The Authority position is occupied on an acting basis by a senior executive of the Department of Industry, Innovation and Science. In 2016-17, there were eight full time Authority staff, provided by the department, for administration of the Jobs Act. The Authority has a total four-year budget appropriation of \$7 million that is also used by the Authority to implement AIP plan requirements in Commonwealth Government procurements, grants, and Clean Energy Finance Corporation and Northern Australia Infrastructure Facility investments. The Authority does not undertake any cost recovery.

The Jobs Act requires the development and implementation of an AIP plan for major Australian projects that details how a project proponent will provide full, fair and reasonable opportunity to Australian entities to bid to supply key goods and services to the project. The Jobs Act applies to both public and private projects with a capital expenditure of AUD500 million or more. The Authority holds the responsibility to ensure compliance with the Jobs Act and its role is to evaluate, approve and publish summaries of AIP plans, and monitor and report on the implementation of AIP plans.

The Authority is covered by the Regulator Performance Framework (the Framework) as it is responsible for administering the Jobs Act. To meet the requirements of the Framework, the Authority undertook a self-assessment against six outcome-based key performance indicators (KPIs):

- reducing regulatory burden
- targeted communications
- risk-based and proportionate approaches
- efficient and coordinated monitoring
- transparency
- continuous improvement.

The Authority continued to perform robustly against the six KPIs. In 2016-17, improvements were implemented to address stakeholders' feedback gathered in the 2015-16 survey and Authority staff's self-identified improvements based on experiences with implementing the Jobs Act and interaction with proponents.

These improvements included revising the AIP plan template to be less onerous and repetitive and updating supporting documents to clarify the notification timeline and the obligations and requirements of the Jobs Act. These improvements formed part of the Authority's communications strategy and the Authority will continue to implement improvements as part of the strategy.

Review of the compliance and monitoring records show that the Authority continued to have a 100% success rate in responding to queries on (and before) the required timeframe. The Authority was also approving AIP plans within the legislated timeframe.

In 2016-17, the Authority:

- wrote to 14 proponents alerting them to their potential obligations and providing guidance
- approved 11 AIP plans
- accepted that five major projects had met the requirements under the Australian Jobs (Australian Industry Participation) Rule 2014 for an exception to providing a draft AIP plan
- received, evaluated and accepted 20 AIP plan compliance reports.

3 Introduction

3.1 About the regulator

The Australian Industry Participation Authority (the Authority) administers the *Australian Jobs Act 2013* (the Jobs Act). The Jobs Act applies to both public and private projects with a capital expenditure of AUD500 million or more. Proponents of these major projects are required to develop and implement an Australian Industry Participation (AIP) plan detailing how they will ensure Australian entities have full, fair and reasonable opportunity to bid to supply key goods and services. Target proponents are those undertaking a major development project (\$500 million or more) in the resources, infrastructure, and industrial and commercial construction sectors within Australia.

AIP plans:

- detail expected opportunities for the supply of goods and services to the project
- outline how these opportunities will be communicated to potential suppliers
- detail how Australian businesses will be assisted in longer-term participation, including encouraging capability development and integration into global supply chains.

Major project proponents are required to apply AIP plan principles to all levels of the project's supply chain—from procurement entities to lower tier suppliers.

The Authority is a statutory position established under the Jobs Act. A permanent Authority has not been appointed. The Australian Government has appointed officers from the department as the Acting Authority (in accordance with section 71 of the Jobs Act). The Authority is a small regulator that interacts with a limited number of large companies with an emphasis on engagement and encouragement to ensure compliance.

The Department of Industry, Innovation and Science provides staff to assist the Authority in administering the Jobs Act. In 2016-17 there were eight FTE and this will increase to nine FTE in 2017-18. The Authority has a four-year budget appropriation of \$7 million, which is also used to implement AIP plan requirements in Commonwealth Government procurements, grants, and Clean Energy Finance Corporation and Northern Australia Infrastructure Facility investments. The Authority does not undertake any cost recovery.

The Jobs Act also requires compliance reporting on each AIP plan, during the project's construction phase and two years into the operations phase. The Authority holds the responsibility to ensure compliance with the Jobs Act and its role is to evaluate, approve and publish summaries of AIP plans, and monitor and report on the implementation of AIP plans.

Currently there are 22 active AIP plans approved under the Jobs Act. Since the Jobs Act's commencement on 27 December 2013, the Authority has written to the proponents for 79 projects alerting them to potential obligations under the Jobs Act. This contact and self-identification by projects has resulted in 55 major project notifications lodged with the Authority. As at 30 June 2017, the Authority has approved 28 AIP plans for projects from 21 different proponents, and has received, evaluated and accepted 43 AIP plan compliance reports.

Within the requirements of the Jobs Act, the Authority works with proponents in establishing appropriate timing for AIP plans and reports and has provided seven exceptions to the requirement to submit an AIP plan where a compliant state or territory industry participation plan is in place. The Authority is yet to impose a penalty for a case of non-compliance.

As a first step the Authority promotes awareness of the Jobs Act among target entities to remind them of their need to comply. Generally, as the first course of action, where evidence of a contravention is detected, targeted advice and assistance is provided to ensure proponents are aware of possible obligations and are provided with guidance to remedy any contravention. For continuing contraventions, the Authority may seek to use administrative or court assisted enforcement methods.

3.2 The Australian Government Regulator Performance Framework

The Regulator Performance Framework (the Framework) is an important part of the Government's commitment to reduce the cost, by at least \$1 billion a year, of unnecessary or inefficient regulation imposed on individuals, business and community organisations. The Framework has been developed following consultation with a range of stakeholders and consists of six outcome-based key performance indicators (KPIs):

- reducing regulatory burden
- targeted communications
- risk-based and proportionate approaches
- efficient and coordinated monitoring
- transparency
- continuous improvement.

Commonwealth regulators that administer, monitor or enforce regulation are required to implement the Framework. The Authority is covered by the Framework as it is responsible for administering the Jobs Act.

As reported in 2015-16, the Authority has developed a programme of activities that will impact across all KPIs, which is informed by:

- the findings of external reviews
- the feedback of this self-assessment process
- one-on-one industry consultation
- discussions with other related Commonwealth agencies
- working with state and territory jurisdictions operating under the AIP National Framework 2001.

The Authority is currently implementing the programme which will need the agreement of the Minister where policy change and legal instruments are required; agreement with affected Commonwealth agencies; coordination with the states and territories through Council of Australian Governments and engagement with industry. Key proposed measures include:

- reducing regulatory burden
 - the principal activity will be on better harmonisation between Commonwealth, state and territory requirements. While current arrangements avoid potential for duplication, there are some further harmonisation opportunities, including sharing of plans, that would simplify industry requirements.
 - templates, user guides and supporting documents will be subject to ongoing review based on external and internal feedback.
- targeted communications
 - a communications strategy has been developed and budget provision has been made to promote industry awareness, engagement and education, consistent with the legislative functions of the Authority.
- risk-based and proportionate approaches
 - while the Jobs Act provides the frameworks and powers of the Authority, it is limited in providing guidance on proportionality in the use of discretions. It is proposed to develop guidelines on proportionality of sanction actions by the Authority.
- efficient and coordinated monitoring
 - investment has been made to access further information to monitor new project proposals, and to ensure that compliance reporting is targeted and efficient.
- transparency
 - will be an ongoing focus of the communications strategy.
- continuous improvement
 - the communications strategy will continue to enable feedback loops that can support ongoing self-assessment of regulatory performance.

3.3 Approach/response to the implementation of the Framework

Performance measures (PM)

The following five performance measures were agreed upon by the Hon Ian Macfarlane, the former Minister for Industry and Science on 21 July 2015, for the assessment of the Authority under the Framework.

1. **Performance commitment (PM 1):** Demonstrating a clear commitment to performance standards that are transparent to all stakeholders and monitoring progress against these standards.
2. **Risk-based compliance (PM 2):** Evidence of implementing risk-based approaches and streamlined compliance approaches.
3. **Clarity of expectations and decision-making (PM 3):** Regulated entities are clear as to the expectations of the Authority on requirements under the Jobs Act. In addition, entities are provided with informative and clear advice as to reasons for an adverse decision given to them including avenues of appeal.
4. **Stakeholder engagement (PM 4):** Evidence of targeted, effective and relevant engagement with stakeholders to gain feedback or input on policy or administration changes, organisational improvements and better understanding of the regulatory cost impact.
5. **Continuous improvement (PM 5):** Evidence of a continuous improvement culture through changing practices in response to staff feedback, stakeholder suggestions, and internal or external reviews.

The performance measures listed above were developed to assess the Authority against the Framework's Key Performance Indicators (KPIs) (see below). They are used for annual assessment of continuous improvement within the Authority and its staff.

KPI	Regulator Performance Framework	Performance Measures
1	Regulators do not unnecessarily impede the efficient operation of regulated entities	PM 2, PM 5
2	Communication with regulated entities is clear, targeted and effective	PM 3, PM 4
3	Actions undertaken by regulators are proportionate to the regulatory risk being managed	PM 2, PM 5,
4	Compliance and monitoring approaches are streamlined and co-ordinated	PM 2, PM 5
5	Regulators are open and transparent in their dealings with regulated entities	PM 1
6	Regulators actively contribute to the continuous improvement of regulatory frameworks	PM 1, PM 4, PM 5

As at 30 June 2017, the Authority, and the Jobs Act, have operated for three and a half years, with a legislated five year review of the Jobs Act's operation due in 2018. As such, the approaches to meeting the measures listed above may be refined for future assessments.

4 Assessment

4.1 Common resources

The Authority is a small regulator so most evidence collected is qualitative and survey-based. While a stakeholder survey was conducted in 2015-16, a survey was not conducted in 2016-17 as the Authority focussed on considering and addressing specific feedback gathered in the previous survey. Given the relatively small number of proponents and AIP stakeholders, the Authority will review the frequency and timing of conducting subsequent stakeholder surveys to ensure that stakeholders' feedback takes into account recent improvements.

A number of resources were used to inform the 2016-17 self-assessment of the Authority. They include:

- the notifications register: recording project details, project milestone dates, responsible officers, Authority's decision dates including exceptions granted
- the compliance monitoring database: tracking projects, proponent details, industry information and letters sent to potential major project proponents
- guidance documents: instructional documents guiding proponents through the AIP process, including plan preparation and compliance reporting
- the AIP inbox: email communication received and sent from aip@industry.gov.au—the generic email address for proponents to contact the Authority and for staff to use when contacting existing and potential proponents
- the AIP website www.industry.gov.au/aip: where information about the scheme, public notices and public resources (i.e. user guides, templates, FAQs) are published
- project files: electronic and hard copy files kept on all major projects, documenting regulatory processes, interactions and project progress
- 2015-16 stakeholder survey results.

The limitation of relying on qualitative data for assessment is that it does not serve well as a baseline for longitudinal monitoring. Development of a more quantitative monitoring approach for a small number of regulated entities is not practical as it will likely suffer from exaggerated effects of small changes and anomalies.

In 2016-17, the Authority continued with the qualitative approach along with ongoing monitoring of feedback (both structured under a communications strategy and from 'transactions' with regulated entities).

4.2 KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities

KPI expectations and performance measures

KPI 1 addresses whether current regulation is achieving its outcome without unnecessarily restricting or burdening regulated entities. Where appropriate, regulators also recognise the need to adapt approaches to particular stakeholders.

This KPI is linked to risk-based compliance (PM2) and continuous improvement (PM5). These measures were used to assess against this KPI as it addresses whether current regulation is achieving its outcome without unnecessarily restricting or burdening regulated entities. Where appropriate, regulators also recognise the need to adapt approaches to particular stakeholders.

Measures used for this KPI:

- Risk-based compliance (PM 2): While the Jobs Act is broadly prescriptive regarding requirements, the approach of the Authority has been, particularly for compliance, to only require sufficient reporting to identify potential problems which can then be further pursued.
- Continuous improvement (PM 5): The multiple sourcing of feedback both in and outside of the self-assessment and the proactive development of an improvement

programme evidence a strong culture of working with industry to improve implementation.

Authority's approach

The Authority has reduced regulatory burden to entities by designing documents, such as user guides for AIP plan preparation and compliance reporting, that reflect the requirements of the legislation. Authority staff meet fortnightly, as well as via ad hoc meetings, to discuss Authority business (including processes, best practice and feedback) aimed at improving processes. In 2016-17, staff's experience with implementing the Jobs Act, including responding to proponents' questions and providing feedback on draft AIP plans, has confirmed the need for some improvements to the AIP plan template and supporting documents to increase clarity, reduce the level of draft AIP plan feedback and respond to emerging issues.

When proponents notify the Authority of their major projects, the Authority will negotiate with proponents on the timing for submission of a draft AIP plan (based on the estimated trigger date of the project) and agree on a date that balances proponent and supplier interests.

All major project proponents who have submitted draft AIP plans receive feedback from Authority staff who provide tailored advice via email, phone and occasionally in person. The Authority's expectations are available to stakeholders in the user guide.

Section 18(10) of the Jobs Act specifies that the Authority must take all reasonable steps to approve or refuse AIP plans within 30 days of submission. The 30 day timeframe is publicised in the AIP guidance documents available on the website, and is easily accessible to stakeholders. A review of submitted AIP plans, including resubmissions, indicates the Authority has approved AIP plans well within the legislated timeframe in 2016-17. There is no formal approval process for compliance reports, however the 30 day timeframe is used.

2015-16 survey results

Responses to this KPI included uncertainty regarding notifications, the obligations of the Jobs Act on smaller companies, the value of undertaking the AIP process and that the AIP plan template is onerous and repetitive.

Improvements and activities in 2016-17

The Authority is implementing a communications strategy focussing on clarifying the purpose of the Jobs Act, how proponents can meet compliance obligations and methods of communication to ensure regulated entities can understand and meet best practice.

In response to the 2015-16 stakeholder survey and Authority staff's feedback, improvements were made to the wording of the AIP plan template, AIP plan summary templates, user guide and Frequently Asked Questions (FAQ) documents. They provide greater clarity on requirements and address common errors in completing the templates. Amendments are compliant with the AIP plan rules in the Jobs Act and do not represent any reduction of proponents' Jobs Act obligations. However, due to the need to cover off all the requirements of the AIP plan rules, there continues to be some repetition in the questions in the AIP plan template.

These updated documents are available at the AIP website and the Authority will monitor the performance/effect of these improvements on regulated entities.

4.3 KPI 2: Communication with regulated entities is clear, targeted and effective

KPI expectations and performance measures

KPI 2 addresses whether regulators are communicating in such a way that regulated entities understand regulatory obligations.

This KPI is linked to clarity of expectations and decision-making (PM 3) and stakeholder engagement (PM 4). These measures were used to assess against this KPI as it addresses whether regulators are communicating in such a way that regulated entities understand regulatory obligations and how to meet them.

Measures used for this KPI:

- Clarity of expectations and decision-making (PM 3): Regulated entities are clear as to the expectations of the Authority on requirements under the Jobs Act. In addition, entities are provided with informative and clear advice as to reasons for an adverse decision given to them including avenues of appeal.
- Stakeholder engagement (PM 4): Evidence of targeted, effective and relevant engagement with stakeholders to gain feedback or input on policy or administration changes, organisational improvements and better understanding of the regulatory cost impact.

Authority's approach

All major project proponents who have submitted draft AIP plans receive feedback. Authority staff provide tailored advice via email, phone and occasionally in person. The Authority's expectations are available to stakeholders in the user guide.

As mentioned above, the Authority has a website which outlines the requirements of the legislation. The website also houses a number of user guides to assist proponents in meeting obligations under the Jobs Act. Respondents to the 2015-16 stakeholder survey suggested the development of example AIP plans and compliance reports would provide additional assistance in meeting the Authority's expectations. This idea was considered but given that projects covered under the Jobs Act are quite varied, it will be difficult and of little value to provide an example that will assist all projects.

Throughout the project, Authority staff interact with regulated entities to build understanding and provide appropriate advice. Phone and email contact details are available on the AIP website. When a proponent contacts the Authority, a case manager is allocated, however any member of the Authority staff can respond to calls and enquiries received on the AIP hotline or AIP inbox. Contact details are also provided in written communication sent from the Authority when notifying major projects of potential obligations under the Jobs Act. This demonstrates openness to communication from the Authority.

As required by section 23 of the Jobs Act, the Authority maintains a register of all approved AIP plans in force along with the dates when notifications, plans and compliance reports are received and the date of the Authority's response. The Authority has implemented an internal policy of resolving enquiries within 10 business days. In 2016-17, Authority staff had a 100% success rate responding within the required timeframe. All major project AIP plan submissions, including resubmissions, listed in the register were approved or refused within the 30 day timeframe.

The Authority demonstrates accountability and transparency through its legislated annual report (section 83 of the Jobs Act). At the end of each financial year, a report on the operations of the Authority must be provided to the Minister for presentation to the Parliament. The Authority's annual report is published as an appendix to the department's annual report and is available on the department's website. The 2016-17 annual report will be published as part of the department's annual report by October 2017.

2015-16 survey results

Responses to this KPI included suggestions to make available a mock-up AIP plan and compliance report to assist proponents in meeting the Authority's expectations, a flow chart

which outlines the AIP plan decision-making process, the need for active marketing of AIP and industry specific forums.

Improvements and activities in 2016-17

The Authority is implementing a communications strategy. In response to the 2015-16 stakeholder survey and Authority staff's feedback, a new AIP process map that outlines the decision-making process has been developed and published on the AIP website.

Authority staff participated in three meetings, organised by the Major Projects Facilitation Agency, with potential proponents in 2016-17 to communicate Jobs Act obligations, AIP plan requirements and AIP plan approval process. During these meetings, proponents' project-specific queries were discussed and staff provided targeted responses, providing clarity and expectations of the Authority. Staff also provided ongoing support by following up with proponents via emails and telephone after the meetings, providing information resources to assist proponents in developing their AIP plans and answer any further queries they may have.

Authority staff also attended four conferences for land infrastructure, mine, oil and gas projects to engage with proponents, SMEs, industry associations and/or state government to discuss Jobs Act obligations, the objective of AIP plans and promote awareness of the Jobs Act and the Authority for future projects. These conferences also provided an opportunity for Authority staff to develop industry specific knowledge on procurement practices.

The Authority also has a Jobs Act fact sheet published on the Major Projects Facilitation Agency's website as part of the agency's tools and resources to provide a useful summary of Australian Government regulations that commonly apply to major project developments in Australia. The Jobs Act fact sheet provides information on the application of the Jobs Act and AIP plan approval requirements. The fact sheet also provides AIP contact details and directs stakeholders to the AIP website for more information.

4.4 KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed

KPI expectations and performance measures

KPI 3 ensures a risk-based approach is undertaken to promote the effective use of resources and improve regulatory framework effectiveness.

This KPI is linked to risk-based compliance (PM2) and continuous improvement (PM5). These measures were used to assess against this KPI to ensure a risk-based approach is undertaken to promote the effective use of resources and improve regulatory framework effectiveness.

Measures used for this KPI:

- Risk-based compliance (PM 2): Evidence of implementing risk-based approaches and streamlined compliance approaches.
- Continuous improvement (PM 5): Evidence of a continuous improvement culture through changing practices in response to staff feedback, stakeholder suggestions, and internal or external reviews.

Authority's approach

When proponents notify the Authority of their major projects, the Authority will negotiate with proponents on the timing for submission of a draft AIP plan (based on the estimated trigger date of the project) and agree on a date that balances proponent and supplier interests.

The Authority provides support to project proponents in the development of AIP plans, taking into consideration the particular characteristics of each project. This helps project proponents tailor AIP activities appropriately taking into account the size and scope of the project while avoiding unnecessary compliance burdens. When a project proponent submits a draft AIP

plan to the Authority, the case manager prepares any required feedback which is quality checked by another team member.

Following the approval of an AIP plan, project proponents must submit to the Authority six-monthly compliance reports during the project phase of the project, and the first two years of the operations phase. Proponents report on AIP activities undertaken, contracts awarded and outcomes for Australian suppliers. The Authority reviews each report and the evidences provided and seeks clarification if required. Once a report is accepted, the Authority notifies the proponent in a letter advising the decision and the date of the next compliance report. The Authority also records expected dates for the reports in the notifications register, with Authority staff notifying proponents in advance on upcoming deadlines. In 2016-17, the Authority received, reviewed and accepted 20 compliance reports.

Proponents may apply to the Authority to extend a compliance reporting period when a project has been delayed and AIP activities have been put on hold. Where the scope of a project is changed such that the capital value falls below the \$500 million threshold, or if the project has been cancelled or deferred indefinitely, the proponent may withdraw its AIP plan. A proponent may make minor alterations to an approved AIP plan (such as change of project contact name) without the requirement to submit a new plan for approval. The FAQ document on the AIP website has been updated to include additional questions to assist proponents to address these changes appropriately.

The Authority acknowledges that states and territories have local industry participation plan requirements. Under section 17(5) of the Jobs Act, a project proponent may gain an exception to giving a draft AIP plan to the Authority if a plan has been prepared for a state or territory that complies with the conditions specified in the legislative rules. In 2016-17 the Authority accepted that five major projects had met the requirements under the Australian Jobs (Australian Industry Participation) Rule 2014 for an exception to providing a draft AIP plan.

As at 30 June 2017, seven exceptions have been accepted, removing the requirement for proponents to lodge an AIP plan and thus avoiding duplication and reducing regulatory burden on proponents. The Authority has been advised that exceptions may be sought in 2017–18 for two further projects. Currently, all states and territories, with the exception of New South Wales, have local industry participation plan submission requirements for certain projects.

2015-16 survey results

Responses included difficulty with determining notification timeline and interpreting the requirements of the legislation.

Improvements and activities in 2016-17

The Authority is implementing a communications strategy. In response to the 2015-16 stakeholder survey and Authority staff's feedback from interaction with proponents, the FAQ document on the AIP website has been revised to include additional questions to assist proponents in understanding the requirements of the legislation, the AIP plan approval process and compliance requirements. An AIP process map has also been developed to provide an overview of the decision-making process according to the legislation's requirements.

The Authority also exercised flexibility in granting extensions to six proponents for compliance reports where the reasons for extension posed no risk to outcome achievement.

4.5 KPI 4: Compliance and monitoring approaches are streamlined and coordinated

KPI expectations and performance measures

KPI 4 seeks to make sure activities aimed at ensuring regulations are complied with are fit for purpose and non-duplicative.

This KPI is linked to risk-based compliance (PM2) and continuous improvement (PM5). These measures were used to assess against this KPI as compliance and monitoring are essential in allowing regulators to determine the level of compliance with regulation, and fall under chief actions undertaken by the Authority. However, the Jobs Act does not have a verification component to determine the level of compliance with the regulation and utilises engagement and encouragement to ensure compliance.

Measures used for this KPI:

- Risk-based compliance (PM 2): Evidence of implementing risk-based approaches and streamlined compliance approaches.
- Continuous improvement (PM 5): Evidence of a continuous improvement culture through changing practices in response to staff feedback, stakeholder suggestions, and internal or external reviews.

Authority's approach

While compliance with the Jobs Act is the responsibility of project proponents, the Authority works to ensure awareness of obligations under the Jobs Act, and makes information available to assist proponents in meeting those obligations. As mentioned, the AIP website details all obligations under the Jobs Act and provides the necessary templates and guidance materials.

The Authority promotes and monitors compliance with the Jobs Act and there are penalties for non-compliance. These include administrative action or court enforcement. The Authority has not yet imposed a penalty for non-compliance. Risk to social licence and ease of meeting compliance appear to be the major reasons for compliance. In 2016-17 the Authority dealt with two cases of non-compliance according to the level of risk and nature of non-compliance. After evaluating the cause of non-compliance and provision of targeted advice, the Authority chose not to take any further action after assessing that the proponents had taken steps to remedy the contravention. As a commitment to providing ongoing support for proponents, proponents were also encouraged to contact the Authority and seek assistance to ensure compliance.

To ensure the Authority has a streamlined and coordinated approach to compliance and monitoring, a number of strategies have been developed. The Authority maintains a compliance monitoring database that tracks potential major projects and includes details of project locations, proponent details, industry information and letters sent to proponents. The Authority's primary source of data on upcoming projects is Deloitte Access Economics' quarterly Investment Monitor. This Monitor is a comprehensive database of Australian project investment commitments and intentions across major industry sectors. Projects are categorised as 'under construction', 'committed', 'under consideration' or 'possible'. Information from the Monitor is complemented by ongoing reviews and cross-checking of the Chief Economist's energy and resources projects register, Mining Intelligence Center, Construction Intelligence Center, daily business and financial news, ASX announcements, project websites, Morningstar and internal departmental intelligence. Some projects may be identified to the department directly by third parties. After reviewing the data, the Authority may notify potential project proponents of compliance obligations under the Jobs Act. Some projects only come to the attention of the Authority when a notification or draft AIP plan is lodged.

All project proponents submitting project notifications or draft AIP plans are recorded in the Authority's register with dates listed for obligations. A case manager is allocated and project contacts are advised ahead of dates where compliance is required.

On the AIP website, the Authority provides details for stakeholders to raise compliance issues. The AIP hotline and AIP inbox are key contact points for stakeholders to find out about the Jobs Act and compliance requirements or to lodge a complaint or feedback. In 2016-17, the Authority did not receive any complaints.

The Authority acknowledges that states and territories have local industry participation plan requirements. Under section 17(5) of the Jobs Act, a project proponent may gain an exception to giving a draft AIP plan to the Authority if a plan has been prepared for a state or territory that complies with the conditions specified in the legislative rules.

2015-16 survey results

Responses included the perception that there are different standards of compliance.

Improvements and activities in 2016-17

As mentioned above, the Authority resolved two cases of non-compliance appropriate with the level of risk and nature of non-compliance. This is consistent with the Authority's approach to make proponents aware of their obligations and provide guidance to remedy any non-compliance without resorting to administrative actions or court enforcement.

Consistent with the Authority's approach to encourage proponents to comply voluntarily before they have contravened the Jobs Act, in 2016-17 the Authority wrote to 14 project proponents alerting them to their potential obligations under the Jobs Act and providing guidance on meeting their obligations. Compliance outcomes were recorded in the database.

4.6 KPI 5: Regulators are open and transparent in their dealings with regulated entities

KPI expectations and performance measures

KPI 5 ensures regulators are open and transparent during the regulatory process, fostering the confidence of regulated entities. Transparency also increases the accountability of both regulators and the government. This KPI is linked to performance commitment (PM 1).

Measure used for this KPI:

- Performance commitment (PM 1): Demonstrating a clear commitment to performance standards that are transparent to all stakeholders and monitoring progress against these standards.

Authority's approach

Stakeholder engagement with regulated entities is key to transparency. As detailed in the other KPIs, the Authority has well established methods for stakeholder communication, including the AIP website, AIP hotline and AIP inbox, as well as designated case managers for proponents for AIP plan and compliance report submissions. Upon contacting the Authority, a case manager is allocated to a stakeholder to assist proponents with meeting compliance responsibilities. Case managers assist stakeholders via phone, email and/or face-to-face meetings.

The expectations of the Authority are clearly outlined in website text or within guidance documents and are easily accessible to stakeholders. To assist proponents to better understand the notification timeline and the obligations and requirements of the Jobs Act, the Authority has updated the FAQ document on the AIP website. An AIP Process Map has also been developed and published providing an overview of the AIP plan and compliance decision-making process.

Section 18(10) of the Jobs Act specifies that the Authority should approve or refuse AIP plans within 30 days of submission. When the Authority receives a draft AIP plan for approval, the executive summary of the plan is placed on the AIP website within one day of receipt. The summary identifies the date the plan was received and until the Authority approves the plan, the published status is 'Under Consideration'. Proponents can monitor the Authority's progress on meeting the 30 day requirement. Stakeholders can also obtain information about

each project and corresponding AIP activities from the published summaries and subsequent updates.

In 2016-17, the Authority approved a total of 11 draft AIP plans, including one resubmission, all within 30 days of submission. The resubmission was due to the Authority's request for additional information and subsequent correction by the proponent. Communication to the proponent was clear and transparent during this period resulting in approval being granted within 30 days upon resubmission.

According to the 2015-16 stakeholder survey, regulated entities clearly understand the Authority's expectations on requirements under the Jobs Act. In addition, entities are provided with informative and clear advice explaining reasons for an adverse decision and avenues of appeal.

Under legislation, the Authority is required to prepare an annual report, outlining the operations of the Authority in each financial year. The 2016-17 annual report will be published as part of the department's annual report by October 2017.

2015-16 survey results

Responses included difficulty in complying with notification timeline.

Improvements and activities in 2016-17

The Authority is implementing a communications strategy.

In response to the 2015-16 stakeholder survey and Authority staff's feedback from interaction with proponents, the FAQ on the AIP website has been revised to include additional questions to assist proponents in understanding the requirements of the legislation, the AIP approval process and compliance requirements. An AIP process map has also been developed to provide an overview of the AIP plan and compliance decision-making process according to the legislation's requirements.

4.7 KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks

KPI expectations and performance measures

KPI 6 promotes the continuous improvement of regulatory frameworks and ensures the framework has the flexibility to adjust to changing circumstances.

This KPI is linked to performance commitment (PM 1), stakeholder engagement (PM 4) and continuous improvement (PM 5).

Measures used for this KPI:

- Performance commitment (PM 1): Demonstrating a clear commitment to performance standards that are transparent to all stakeholders and monitoring progress against these standards.
- Stakeholder engagement (PM 4): Evidence of targeted, effective and relevant engagement with stakeholders to gain feedback or input on policy or administration changes, organisational improvements and better understanding of the regulatory cost impact.
- Continuous improvement (PM 5): Evidence of a continuous improvement culture through changing practices in response to staff feedback, stakeholder suggestions, and internal or external reviews.

Authority's approach

The Authority has developed several ways to engage stakeholders, which also help to facilitate continuous improvements to the administration and operation of the Jobs Act. As detailed in other KPIs, these include the AIP hotline and AIP inbox, allocated case manager and the provision of guidance documents on the AIP website.

When a project proponent submits a draft AIP plan, the allocated case manager reviews the draft and prepares feedback for the entity. Before the feedback is sent, the case manager has the feedback quality checked by another team member. As a commitment to achieving performance standard and improving current practice, the Authority encourages all proponents to lodge their draft AIP plans for feedback before formal submission for approval. An assessment of the AIP plan's activities against the requirements of the Jobs Act will be made and feedback provided to the proponent within 10 working days. This 10 day commitment is now incorporated in the FAQ document on the AIP website.

The Authority's expectations are detailed under the Jobs Act. The Authority makes decisions on whether project proponents have met the requirements under the Jobs Act. In addition, entities are provided with informative and clear advice explaining reasons for an adverse decision including avenues of appeal. The Jobs Act, updated templates and guidance documents are available on the AIP website.

The Authority is open to feedback and suggestions from stakeholders. In 2016-17 Authority staff followed up with eight proponents that have approved AIP plans via face-to-face meetings and teleconferences to discuss regulatory issues, in which one proponent raised that there should be better guidance on when to lodge a project notification.

The Authority demonstrates a culture of continuous improvement in professional development, with staff attending relevant industry-related conferences and events, attending face-to-face meetings with major stakeholders, and the hiring and training of new staff. In 2016-17, staff attended four conferences for land infrastructure, mine, oil and gas projects. These conferences enabled staff to acquire knowledge and understand the operating environment of these industries. Staff were also able to engage with proponents, SMEs, industry associations and/or state governments to discuss Jobs Act obligations, the objective of AIP plans and promote industry awareness for future projects.

2015-16 survey results

Responses included suggestions for a newsletter and process diagram to assist in meeting AIP obligations; perceived lack of background/understanding of industry-specific procurement practices among Authority staff and therefore inappropriate actions being recommended for AIP plans; and suggestion to share plans with state and territory governments.

Improvements and activities in 2016-17

The Authority is implementing a communications strategy which will include the publication of AIP awareness articles in relevant industry publications. In response to the 2015-16 stakeholder survey and Authority staff's feedback from interaction with proponents, the FAQ document on the AIP website has been revised to include additional questions to assist proponents in understanding the requirements of the legislation, the AIP approval process and compliance requirements. An AIP process map has also been developed and published to provide an overview of the AIP plan and compliance decision-making process according to the legislation's requirements.

The Authority notes the suggestion to share plans with state and territory governments and may consider how this can fit under the principal activity on better harmonisation between Commonwealth, state and territory requirements. While current arrangements avoid potential for duplication, there are some further harmonisation opportunities that would simplify industry requirements.

Planned improvements:

The Authority will continue to implement the communications strategy that will also enable feedback loops that can support ongoing self-assessment of regulatory performance. The communication strategy will be reviewed accordingly taking into account the following planned improvements.

The Authority is committed to ongoing gathering of feedback from stakeholders to assess and improve its performance. To do this, the Authority is considering:

- developing a short survey form for proponents to complete after AIP plan approval and the acceptance of the first compliance report. Conducting a short survey at these

times is appropriate as proponents are most likely to have concerns or suggestions on the process that they have just gone through

- implementing a streamlined process, that will be recorded in the notifications register, to contact proponents 12 months after AIP plan approval to discuss progress and address any queries on compliance reporting.

Based on lessons learnt and issues identified through implementing the Jobs Act, Authority staff will seek to improve the current process to better identify risks and devise appropriate risk management strategies for each project. This improvement will be proportional to the category of risk for the project and will help ensure that focus, resources and additional guidance are directed to where they are most required to reduce potential non-compliance. This risk-based model approach will provide flexibility and balance between risk and regulatory burden and encourage proponents to comply voluntarily before they have contravened the Jobs Act.

The Authority will also consult stakeholders in proposed amendment of regulatory requirements and processes to ensure that stakeholders' feedback are considered and decisions do not result in adverse effects.