



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

Regulator Performance Framework

Self-Assessment Report

Submitted by: Australian Industry Participation Authority

2017-2018

www.industry.gov.au/aip

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2 Introduction

2.1 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. 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.

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.

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 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 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.

Within the requirements of the Jobs Act, the Authority works with proponents in establishing appropriate timing for AIP plans and reports and to date has provided nine 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.

In 2017-18, the Authority:

- wrote to 14 project proponents alerting them to their potential obligations under the Jobs Act and providing guidance on meeting their obligations (equal to 14 in 2016-17)
- received formal notification of 31 major projects with current or future obligations under the Jobs Act (up from 15 in 2016-17)
- approved 18 draft AIP plans (up from 11 in 2016–17) and published the AIP plan summaries at www.industry.gov.au/aip
- accepted that two major projects had met the requirements under the Australian Jobs (Australian Industry Participation) Rule 2014 for an exception to providing a draft AIP plan (down from five in 2016–17)

2.1 About the regulator

- received, evaluated and accepted 37 AIP plan compliance reports (up from 20 in 2016–17).

2.2 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 of unnecessary or inefficient regulation imposed on individuals, business and community organisations. The Framework was developed following consultation with a range of stakeholders and consists of six outcome-based key performance indicators (KPIs):

1. Reducing regulatory burden.
2. Targeted communications.
3. Risk-based and proportionate approaches.
4. Efficient and coordinated monitoring.
5. Transparency.
6. Continuous improvement.

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

2.2 The Australian Government Regulator Performance Framework

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 2018, the Authority, and the Jobs Act, have operated for four and a half years, with a legislated five year review of the implementation of the Jobs Act due to be completed by the end of 2018. As such, the approaches to meeting the measures listed above may be refined for future assessments.

3 Assessment

3.1 Common resources

The Authority is a regulator with a relatively small number of proponents and AIP stakeholders, so most evidence collected is qualitative and survey-based. In 2017-18, the Authority implemented an evaluation survey for stakeholders who had prepared their first AIP plan and stakeholders who had prepared their first compliance report. The responses received for 2017-18 will be considered as part of an ongoing continuous improvement process for AIP staff and the online resources and tools.

A number of resources were used to inform the 2017-18 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
- the 2017-18 Evaluation survey.

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 determining the most appropriate methods to assess the performance of the AIP Authority, options to decrease stakeholder burden will be considered.

In 2017-18, the Authority continued with its primarily qualitative approach along with ongoing monitoring of feedback (through the Evaluation survey and from interactions with regulated entities).

4 Performance Scorecard

Improvements and activities in 2017-18	Performance measure	Regulatory KPI
<p>In 2017-18, the AIP team prepared an evaluation survey to provide the Authority with feedback to continuously improve customer service and to ensure entities are able to access regulatory assistance and guidance documents in a way that best serves their obligations in meeting the requirements of the Jobs Act. Responses have been collected for this financial year and any suggestions for improvements will be considered for implementation over the next 12 months. The survey will be continued next financial year.</p>	<p>PM 1: Demonstrating a clear commitment to performance standards that are transparent to all stakeholders and monitoring progress against these standards.</p> <p>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.</p> <p>PM 5: Continuous improvement. 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.</p>	<p>KPI 1: Regulators do not unnecessarily impede the efficient operation of regulated entities.</p> <p>KPI 4: Compliance and monitoring approaches are streamlined and co-ordinated.</p> <p>KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks.</p>
<p>The Authority has updated the AIP website, user guides and provides a hotline and inbox to support proponents in meeting compliance obligations.</p>	<p>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.</p> <p>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.</p>	<p>KPI 2: Communication with regulated entities is clear, targeted and effective.</p> <p>KPI 3: Actions undertaken by regulators are proportionate to the regulatory risk being managed.</p> <p>KPI 4: Compliance and monitoring approaches are streamlined and co-ordinated.</p> <p>KPI 5: Regulators are open and transparent in their dealings with regulated entities.</p> <p>KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks.</p>

Improvements and activities in 2017-18	Performance measure	Regulatory KPI
<p>Authority staff participated in one meeting, organised by the Major Projects Facilitation Agency, with potential proponents in 2017-18 to communicate Jobs Act obligations, AIP plan requirements and AIP plan approval process. During this meeting, 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 the proponent via email and telephone after the meetings, providing information resources to assist the proponents in understanding AIP obligations and answer any further queries they may have.</p>	<p>PM 1: Demonstrating a clear commitment to performance standards that are transparent to all stakeholders and monitoring progress against these standards.</p> <p>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.</p> <p>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.</p> <p>PM 5: Continuous improvement. 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.</p>	<p>KPI 2: Communication with regulated entities is clear, targeted and effective.</p> <p>KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks.</p>
<p>Authority staff attended two conferences for land infrastructure, and 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.</p>	<p>PM 1: Demonstrating a clear commitment to performance standards that are transparent to all stakeholders and monitoring progress against these standards.</p> <p>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.</p> <p>PM 4: Evidence of targeted, effective and relevant engagement with stakeholders to gain feedback or input on policy or administration</p>	<p>KPI 2: Communication with regulated entities is clear, targeted and effective.</p> <p>KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks.</p>

Improvements and activities in 2017-18	Performance measure	Regulatory KPI
	<p>changes, organisational improvements and better understanding of the regulatory cost impact.</p> <p>PM 5: Continuous improvement. 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.</p>	
<p>Authority staff attended internal and external learning and development to improve engagement with program stakeholders.</p>	<p>PM 5: Continuous improvement. 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.</p>	<p>KPI 6: Regulators actively contribute to the continuous improvement of regulatory frameworks.</p>