



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

# Regulator Performance Framework

Self-Assessment Report

Submitted by: Australian Industry Participation Authority

2018-2019

[www.industry.gov.au/aip](http://www.industry.gov.au/aip)

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# 1 Introduction

## 1.1 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 principles from the Jobs Act to all levels of the project's supply chain.

Australian Industry Participation plans are expected to:

- 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 to ensure compliance with the Act. Its role is to evaluate, approve and publish summaries of AIP plans, and monitor and report on the implementation of AIP plans. 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 interacts with major project proponents with an emphasis on engagement and encouragement to ensure compliance. It is supported by departmental employees.

As a first step, the Authority promotes awareness of the Jobs Act among target entities to explain their obligations under the Act. Generally, as the first course of action, where evidence of a possible contravention is detected, targeted advice and assistance is provided to ensure proponents are aware of their 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.

As at 30 June 2019, the Authority, and the Jobs Act, have operated for five and a half years, with a legislated five year review of the implementation of the Jobs Act (Jobs Act Review) completed in late 2018. This independent review surveyed 40 stakeholders across Australia. Eight recommendations were made to improve the operation of the Act. These include updating processes, tools, communications, and guidance to take advantage of new techniques and technologies.

The AIP Authority has implemented the recommendations to streamline the AIP Plan template to reduce the time and effort required to respond and change the Compliance Report template questions to align with the questions in the AIP plan, making for a more structured reporting format. Implementation of the remaining recommendations will continue in 2019-20.

In 2018-19, the Authority:

- wrote to 31 project proponents alerting them to their potential obligations under the Jobs Act and providing guidance on meeting their obligations (up from 14 in 2017-18)
- received formal notification of 59 major projects with current or future obligations under the Jobs Act (up from 31 in 2017-18)
- approved 25 draft AIP plans (up from 18 in 2017-18) and published the AIP plan summaries at [www.industry.gov.au/aip](http://www.industry.gov.au/aip)
- received, evaluated and accepted 59 AIP plan compliance reports (up from 37 in 2017-18).

No applications were made that met the requirements under the Australian Jobs (Australian Industry Participation) Rule 2014 for an exception to providing a draft AIP plan (down from two in 2017-18).

To date, the Authority 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.

## 1.2 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	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, PM3
6	Regulators actively contribute to the continuous improvement of regulatory frameworks	PM 1, PM 4, PM 5

### 1.3 Common resources

In 2018-19, the Authority implemented an evaluation survey for regulated entities who had prepared their first AIP plan and those who had prepared their first compliance report. The responses received for the 2018-19 survey have been considered as part of an ongoing continuous improvement process for the Authority.

Resources used to inform the 2018-19 self-assessment:

- notifications register: records project details, project milestone dates, responsible officers, Authority's decision dates including exceptions granted
- compliance monitoring database: tracks 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 ([aip@industry.gov.au](mailto:aip@industry.gov.au)): emails received and sent from the email address
- the AIP website ([www.industry.gov.au/aip](http://www.industry.gov.au/aip)): hosts information about the AIP National Framework and public resources (i.e. user guides, templates) to aid stakeholders and regulated entities
- project files: electronic and hard copy files kept on projects, documenting regulatory processes, AIP Plans, approvals, stakeholder interactions and project compliance reports
- the 2018-19 evaluation survey.

This self-assessment approach primarily uses qualitative data for assessment and has previously not served well as a baseline for longitudinal monitoring. A monitoring and evaluation framework, including options for effective qualitative data collection, is being developed in response to the Jobs Act Review. This framework is determining the most appropriate methods to balance assessing the performance of the AIP Authority while considering available options to manage regulatory burden.

## 2 Performance Scorecard

Improvements and activities in 2018-19	Performance measure	Regulatory KPI
2018-19 evaluation survey provided the Authority with feedback from regulated entities to continuously improve customer service and to ensure entities are able to access regulatory assistance and guidance documents in a way that best enables them to meet 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.	PM 1, PM 4, PM 5	KPI 1, KPI 4, KPI 6
The Authority has updated templates and user guides to improve clarity and usability in response to stakeholder feedback, has developed standard operating procedures and continues to provide advice to regulated entities via a hotline and email inbox. This ongoing engagement supports and educates proponents about meeting Jobs Act obligations.	PM 2, PM 3, PM 4	KPI 2, KPI 3, KPI 4, KPI 5, KPI 6
The Authority explored options to move Jobs Act AIP plan and compliance reporting to an online process, in line with Recommendation 1 of the Jobs Act Review to streamline regulatory processes, with further work planned in 2019-20.	PM 2, PM 4, PM 5	KPI 3, KPI 4, KPI 6
Authority staff participated in 19 meetings with potential proponents in 2018-19 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 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.	PM 1, PM 3, PM 4, PM 5	KPI 2, KPI 6
Authority staff attended six 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.	PM 1, PM 3, PM 4, PM 5	KPI 2, KPI 6
Authority staff attended internal and external learning and development activities to improve their capacity to engage with program stakeholders.	PM 5	KPI 6
The Authority commenced examining whether its current metrics are appropriate to understand AIP activities and outcomes, in line with Recommendation 5 of the Jobs Act Review, with further work planned in 2019-20.	PM 4, PM 5	KPI 4, KPI 6