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Department of Industry,
Science and Resources

Australian Industry Participation (AIP) Policy Impact Evaluation Report

Evaluation Unit

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Abbreviations and acronyms

| Abbreviation or acronym | Full name |
|-------------------------|--|
| AIC | Australian Industry Capability program (Defence portfolio) |
| AIP | Australian Industry Participation |
| ANZGPA | Australia and New Zealand Government Procurement Agreement |
| ARENA | Australian Renewable Energy Agency |
| CEFC | Clean Energy Finance Corporation |
| CPR | Commonwealth Procurement Rules |
| DISR | Department of Industry, Science and Resources |
| DoF | Department of Finance |
| GPA | Agreement on Government Procurement |
| ICN | Industry Capability Network |
| ICNL | Industry Capability Network Limited |
| MPFA | Major Project Facilitation Agency |
| NAIF | Northern Australia Infrastructure Facility |
| PCP | Procurement Connected Policy |
| SOM | Senior Officials Meetings |
| VIA | Vendor Identification Agency |
| WTO | World Trade Organization |

Executive summary

The Australian Industry Participation (AIP) policy aims to ensure that Australian industry has full, fair and reasonable opportunity to compete for work as subcontractors in major private and public projects and to enhance industry capabilities. The Commonwealth Department of Industry, Science and Resources (DISR) is responsible for administering the AIP policy and associated requirements.

Under the *Australian Jobs Act 2013* (the Jobs Act), major projects are defined as projects with a capital expenditure of \$500 million or more. Proponents of projects meeting AIP criteria are required to prepare an AIP plan addressing how they will ensure that Australian businesses have opportunities to bid for work. Under their AIP plans, proponents must advertise all procurements of key goods and services valued \$1 million and above. Similar AIP plan requirements are in place for eligible projects receiving Commonwealth funding or investment of \$20 million or more, including procurements, grants, loans or payments to states and territories for large infrastructure projects. There is no minimum procurement contract threshold for Commonwealth funded projects.

The AIP policy gives effect to the principles outlined in the 2001 cross-jurisdictional AIP National Framework which supports a nationally consistent approach to maximising Australian industry participation. Most state and territory governments apply their own local participation policies, which are separate from the Commonwealth government AIP policy.

The DISR Evaluation Unit conducted the evaluation of the AIP policy from October 2022 to April 2023 with oversight from a Senior Executive Service (SES) Band 1 reference group. The evaluation assessed the AIP policy's design, implementation and outcomes to assess whether it was achieving its intended objectives.

The evaluation found the objectives of the AIP policy remain relevant. The underlying barriers to Australian businesses competing for work continue to exist, such as the size and complexity of tender packages, project proponents' use of established supply chains and information asymmetries. AIP policy continues to help address those barriers while also aligning with the current policy focus on Australia's sovereign capability. There are opportunities to increase the impact of the policy by improving stakeholder communication and raising awareness of AIP requirements within industry and Commonwealth agencies.

The 2001 AIP National Framework itself could benefit from a refresh to remain relevant as a guiding document into the future. This process could include deliberation on harmonising Commonwealth, State and Territory approaches to further support a nationally consistent approach.

Stakeholder sentiment indicated general support for current levels of AIP financial thresholds for Jobs Act projects and for projects receiving Commonwealth funding or investment. However, further analysis of the thresholds is needed to ensure they are set at the most appropriate levels to achieve the policy objective and balance the administrative burden for both proponents and the regulator. Consideration could also be given to aligning the scope of project types covered by the Jobs Act and how to best focus on sectors where there are currently lower levels of Australian industry participation and in line with Government priorities.

Certain elements of the Jobs Act have not been implemented. An AIP advisory board has not been established and a permanent AIP Authority has not been appointed. The latter role has been filled by DISR senior executive officer as the acting AIP Authority, in addition to their other regular duties. To fully realise the potential benefits of the Jobs Act, consideration could be given to appointing an AIP Authority and AIP advisory board in accordance with the Act.

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The Jobs Act provides the AIP Authority with considerable compliance powers in regard to projects of \$500 million or more. The evaluation identified that while these compliance powers have not been used to date, they may act to deter non-compliance and help resolve issues before compliance powers need to be enacted.

DISR, through its application of, and authority for, the Commonwealth AIP policy, does not have compliance powers and has limited visibility of any non-compliance of the Commonwealth AIP policy. This is because individual agencies are responsible for reporting any breaches of the Commonwealth Procurement Rules (CPRs) and their related policies for Commonwealth-funded projects to the Department of Finance (DoF). There are opportunities for DISR and DoF to work together to clarify Commonwealth AIP requirements, including a compliance reporting mechanism. Additionally, there would be value in developing a comprehensive governance framework for AIP requirements as they apply to Commonwealth funding.

AIP data collection and management processes have significant limitations. Regularly collected data is not formatted in a way that easily supports analysis to better inform broader AIP policy decision-making, stakeholder communication strategies and compliance activities. The policy also does not have a monitoring and evaluation framework to support the assessment of the AIP policy outcomes. Implementation of a monitoring and evaluation framework, and improved data collection and management, would support the assessment of the policy outcomes, and provide a more targeted approach to stakeholder communication and risk-based compliance.

The evaluation found that the AIP policy was contributing to the achievement of intended outcomes, such as increased supplier awareness of project opportunities; increased proponent awareness of supplier capabilities to meet their project needs; and building better connections between suppliers and proponents. However, data limitations made it difficult to quantify the contribution the program made to these outcomes and fully assess the various policy outcomes.

Summary of findings and recommendations

| Finding | Recommendation |
|---|---|
| Systematic barriers and AIP objectives | |
| 1. The underlying barriers originally driving AIP policy still exist. | |
| 2. COVID-19 had a largely negative impact on the Australian businesses that responded to the AIP survey. | |
| 3. The current objective of the <i>Australian Jobs Act 2013</i> (Jobs Act) and AIP policy remains relevant today. However, some business stakeholders do not fully understand AIP requirements. | Recommendation 1: That DISR improve communication and promotion materials to clearly explain the scope of AIP requirements. |
| 4. The AIP National Framework has overall support from State and Territory stakeholders, along with their agreement that some elements of the framework should be refreshed. | |
| 5. Within the context of the AIP National Framework, there continues to be wide variation across federal, State and Territory levels in applying their own industry participation policies | Recommendation 2: That DISR work with State and Territory jurisdictions to refresh the AIP National Framework. This could include deliberation on harmonisation of State and Territory approaches |
| AIP thresholds, scope, criteria and trigger dates | |
| 6. Most stakeholder groups supported retaining the \$500 million threshold for major projects under the Jobs Act. Most groups also supported retaining the \$1 million minimum contract threshold, although some proponents thought it should be raised and some suppliers thought it should be removed or lowered. Further analysis of the financial thresholds is needed. | Recommendation 3: That DISR undertake further analysis of financial thresholds to assess the most appropriate levels to achieve the intended policy objectives. |
| 7. Proponents and suppliers generally thought the \$20 million threshold for Commonwealth funding into projects and procurements was appropriate, while peak bodies and unions generally supported removing the threshold. Further analysis of the financial thresholds is needed. | |
| 8. There was general support for the current scope and criteria for AIP requirements under the Jobs Act. However, there were some suggestions about the types of projects that DISR could consider including in any revisions to the Jobs Act. | Recommendation 4: That DISR should consider expanding the scope of the Jobs Act to include decommissioning and rehabilitation projects and consider other opportunities as appropriate. |
| 9. Several stakeholders expressed the view that AIP plans may have less value for sectors that already tend to have high levels of Australian content. | Recommendation 5: That DISR consider how AIP policy could target sectors where there are currently lower levels of Australian industry participation and in alignment with government priorities. |
| 10. Since 2018, DISR has provided guidance on trigger dates to improve proponent understanding of when to submit a Jobs Act AIP plan. While just over half proponent respondents found the trigger date useful in determining when to submit the plan, a sizeable minority found it not at all useful. | Recommendation 6: That DISR consider consultation with stakeholders to explore whether adjustments can be made to the definition of trigger date in the Jobs Act to ensure that AIP plans are submitted at an appropriate time. |
| Implementation of the Jobs Act | |
| 11. The Jobs Act has not been fully implemented. The establishment of an AIP Authority and Advisory Board as originally intended under the Jobs Act would result in a | Recommendation 7: That DISR recommend that the Minister considers appointing an AIP Authority and AIP Advisory |

dedicated focus and profile on the challenges for Australian Industry Participation.

Board in accordance with the *Australian Jobs Act 2013*.

12. AIP approval and decision-making powers under the Jobs Act are appropriately delegated to staff supporting the AIP Authority. There would be value in clearer guidance for delegations regarding Commonwealth AIP requirements.

Recommendation 8:

That DISR centralise guidance for delegations regarding Commonwealth AIP requirements.

Compliance and governance

13. The Jobs Act provides adequate compliance powers for the AIP Authority. These powers and penalties have not been used but may effectively deter non-compliance.

14. Some suppliers perceive that AIP requirements are not enforced and that there are no consequences for non-compliance. The extent to which this is due to actual non-compliance or lack of supplier visibility of compliance activities is unclear, but both factors are likely important.

Recommendation 9:

That DISR increase transparency about compliance monitoring activities and actions to increase supplier visibility and confidence in AIP processes. This could include publishing examples of compliance monitoring activities, examples of good practice compliance, and sharing compliance related data.

That DISR consider introducing an audit function and provide stakeholders with the opportunity to report suspected non-compliance.

15. Proponents incur costs in developing and implementing AIP plans, with the latter accounting for the greater cost. However, the extent to which this cost is an additional burden over and above 'good' business practice is unclear.

Recommendation 10:

That DISR identify opportunities for further efficiencies in the reporting process. This should be supported by a deeper understanding of proponent experience of the reporting process.

16. Awareness of, and engagement with, Commonwealth AIP requirements appears to be low among Commonwealth entities.

17. AIP requirements for projects with Commonwealth funding are not united by a single governance framework.

Recommendation 11:

That DISR develop a comprehensive governance framework for AIP requirements as they apply to Commonwealth funding. This should include roles and responsibilities, risk management, compliance program, stakeholder engagement activities, and a performance framework.

As part of developing a governance framework for Commonwealth AIP requirements, DISR could consider moving to a self-assessment model where agencies take responsibility for implementing AIP requirements. This should be done in close consultation with stakeholders.

18. The General Manager AIP has influence, but no compliance powers, for Commonwealth-funded projects and limited visibility of non-compliance.

Recommendation 12:

That DISR:

- work with DOF on the aims and objectives of Commonwealth AIP requirements, including consideration of introducing a compliance reporting mechanism (which exists for some other Procurement Connected Policies)
- consider introducing a common data identifier to enable more efficient comparison of AusTender and AIP datasets to facilitate compliance monitoring, and
- raise awareness of Commonwealth AIP among Commonwealth agencies, including

through their procurement areas once Commonwealth AIP requirements are further clarified.

Data collection, management and analysis

19. The current data collection and management processes and system have significant limitations. They do not effectively support a targeted approach to communication, a risk-based approach to compliance, or assessment of whether the AIP Policy is achieving its outcomes.

Recommendation 13:

That DISR implement improved data collection and management to support analysis and inform future policy decision-making. This would allow DISR to better target education, information and compliance activities to particular sectors and locations. It would also support assessment of whether or not AIP Policy is achieving its intended policy outcomes.

20. The lack of a monitoring and evaluation framework and fit-for-purpose data system make it difficult to clearly establish the extent to which AIP policy is achieving its policy outcomes.

Recommendation 14:

That the AIP team work with the Analysis and Insights Division (AID) to finalise and implement a monitoring and evaluation framework as a priority to support the ongoing assessment of AIP outcomes.

Outcomes

21. There is evidence that proponents' awareness of Australian supplier capability has increased, and that AIP Policy has contributed to this outcome.

22. There is evidence that Australian suppliers have an increased awareness of opportunities. It is unclear the extent to which these changes are being driven by AIP policy.

23. Evidence from proponents indicates that they are providing opportunities for feedback to suppliers. Separately, suppliers surveyed indicate that they are not receiving feedback, however, it is not known whether these suppliers are connected to projects with AIP plans in place.

Recommendation 15:

That DISR increase communication and promotion to give greater emphasis on providing feedback and consider including activities such as industry forums, training packages for industry, as well as a community of practice within the APS. It could also include elements of positive promotion, such as best practice examples.

24. Vendor Identification Agencies (VIAs), including the Industry Capability Network (ICN), play an important role in capability matching and awareness of opportunities. Most ICN users found the ICN to be useful, although services vary by jurisdiction and some suppliers considered the cost of using ICN to be a barrier.

Recommendation 16:

That DISR encourage the use and awareness of VIAs by project proponents and suppliers in preparing and implementing AIP plans.

25. A small number of stakeholders indicated they experienced unexpected benefits of AIP, including building better connections between suppliers and proponents.

26. A small number of stakeholders experienced unexpected negative consequences or challenges from AIP requirements, including compliance costs and a perception that some proponents treat AIP plans as a box ticking exercise.

1. Introduction

1.1 Australian Industry Participation (AIP) policy

Background

The AIP policy and associated requirements aim to ensure *full, fair* and *reasonable* opportunity for Australian industry to compete for work as subcontractors in major private and public projects. These concepts are defined as¹:

- **Full:** Australian industry has the same opportunity afforded to global supply chain partners to participate in all aspects of an investment project (for example design, engineering, project management, professional services, and IT architecture).
- **Fair:** Australian industry is provided the same opportunity as global suppliers to compete on investment projects on an equal and transparent basis, including being given reasonable time in which to tender.
- **Reasonable:** tenders are free from non-market burdens that might rule out Australian industry and are structured in such a way as to provide Australian industries the opportunity to participate in projects.

AIP policy gives effect to the principles outlined in the AIP National Framework, signed in 2001 by all Commonwealth, State and Territory industry ministers. The Framework supports a nationally consistent approach to maximising Australian industry participation. Most States and Territories apply their own local industry participation policies and plans under the National Framework. Those jurisdictional initiatives typically have lower capital investment thresholds than AIP plans and some mandate minimum levels of local content.

At the Commonwealth level, the *Australian Jobs Act 2013* (the Jobs Act) and the Australian Jobs (Australian Industry Participation) Rule 2014 (the Rule) apply to Australian industry participation in major projects. These are projects with capital expenditure of \$500 million or more and establish, expand, improve or upgrade eligible facilities². This report refers to these as Jobs Act projects. The Department of Industry, Science and Resources (DISR) is responsible for administering AIP policy and associated requirements.

Where AIP requirements apply to a major project, the entity undertaking the project (proponents) must prepare an AIP plan. A proponent's AIP plan sets out the activities they will undertake to ensure that Australian businesses (suppliers) have a full, fair and reasonable opportunity to bid for work as a subcontractor.

Under Jobs Act AIP plans, proponents must advertise all procurements of key goods and services valued \$1 million and above. Jobs Act project proponents also have reporting and compliance requirements as part of implementing their plan. There are no mandated minimum levels of local content in AIP Plans.

Similar requirements apply to eligible projects receiving Commonwealth funding or investment of \$20 million or more, including procurements, grants, loans or payments to States and Territories for large infrastructure projects (the mechanisms for this are outlined below). Unlike Jobs Act projects, there is

¹ As outlined in *Section 3. Principles* of the [Australian Industry Participation National Framework](#) signed by Commonwealth, State and Territory Industry Ministers in April 2001.

² See the [Australian Jobs Act 2013](#)

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no minimum contract value threshold for these projects receiving Commonwealth funding and investment to advertise procurements of key goods and services.

Since 1 December 2013, a total of 173 AIP plans have been approved under the Jobs Act 2013. With 80% of the plans being from the 3 states of Western Australia, New South Wales, and Queensland. The AIP plans approved mostly belonged to the facilities of mine/quarry, electrical facility, petroleum facility and land transport facility. Under the Commonwealth AIP policy, a total of 345 projects have been approved through Commonwealth procurement since its inception on 1 Jan 2010.

The Jobs Act provides for the appointment of an AIP Authority (a statutory office holder) whose role is to provide guidance to major project proponents on obligations under the Jobs Act including requirements for AIP plans, approving AIP plans, and enforcing compliance. Since the inception of the Jobs Act, a senior executive officer within the department has been appointed as the acting AIP Authority, in addition to their other duties.

The Rule sets out additional functions of the AIP Authority. These functions include representing DISR in relation to the department's company membership in Industry Capability Network Limited (ICNL) and managing funding for ICNL to undertake national coordination of the state and territory Industry Capability Network (ICN) and manage the national industry capability and project opportunities database (ICN Gateway). ICNL is a Corporations Act company originally founded in 1995 (renamed as ICNL in 2003) to nationally coordinate and provide IT support to the ICN. DISR is a founding company member of ICNL. ICNL also supports other government policies, including the Department of Defence's Australian Industry Capability (AIC) program.

AIP requirements for Commonwealth funding are applied through the following mechanisms:

- The AIP Procurement Connected Policy (PCP) provides for the application of AIP to Commonwealth procurements.
- The Commonwealth Grants Rules and Guidelines provide for AIP to be applied to Commonwealth Grants.
- The Clean Energy Finance Corporation (CEFC) and Northern Australia Infrastructure Facility (NAIF) specify the application of AIP within their mandates.
- The National Partnership Agreement on Land Transport provides for the application of AIP to payments to states and territories.

The application and review of AIP requirements as they relate to Commonwealth funding needs to maintain an understanding and awareness of international agreements. This includes the Australia and New Zealand Government Procurement Agreement (ANZGPA) and the World Trade Organization (WTO) Agreement on Government Procurement (GPA).

Previous reviews and evaluations of the AIP policy

Previous evaluations and reviews of the AIP policy are listed in Table 1.1 below.

Table 1.1: Previous reviews and evaluations relevant to the AIP Policy

| Date | Evaluator | Type |
|------|------------------------------|---|
| 2014 | Ernst & Young | Review of Australian Industry Participation policies and programmes (not publicly released) |
| 2018 | Deloitte | Industry Capability Platform: Review and recommended approach (not publicly released) |
| 2018 | Quantum Consulting Australia | Review of the Implementation of the <i>Australian Jobs Act 2013</i> (publicly released ³) |
| 2020 | NintiOne | SMEs Participating in Major Projects Research Project (not publicly released) |
| 2021 | DISR | Review of the Australian Industry Participation Procurement Connected Policy (not publicly released) |

1.2 Authority for the evaluation

The acting AIP Authority agreed in June 2019 that an evaluation of AIP policy would be undertaken in 2022-23. In line with the department's *Evaluation Strategy 2017-2021*, the evaluation of AIP policy was identified as a Tier Two evaluation to be undertaken by the Evaluation Unit with support from Industry Participation and Major Projects Facilitation Branch (known as Australian Industry Participation Branch at the inception of the evaluation). Tier Two evaluations are for programs with moderate risk, of medium strategic importance and public profile; this corresponds to a reasonable level of rigour and resourcing in the conduct of the evaluation.

For context, under this tiering system, Tier One evaluations involve extensive public consultation and are highly resource intensive for programs involving significant funding and risk. Tier Three evaluations are less formal and are used for lower value and lower risk programs with less public engagement.

1.3 Evaluation scope, timing and questions

Scope and timing

The evaluation examined AIP policy's effectiveness in meeting the intended objectives, by focusing on the design, implementation, outcomes, and any unintended consequences. The evaluation's scope encompassed AIP requirements as they applied to Jobs Act projects and Commonwealth funded projects.

The evaluation reflected on the extent to which this policy has achieved its intended outcomes, building on the insights gained through the 2018 Review of the Implementation of the *Australian Jobs Act 2013*. The evaluation identified areas of opportunity to improve AIP policy and ensure that it is attuned to the challenges industry and businesses face within the contemporary economic landscape.

The evaluation's final scope did not look at alternative regulator models and did not include an assessment of the Industry Capability Network Limited (ICNL). An internal assessment of funding for ICNL was undertaken separately in late 2022.

This evaluation process commenced in October 2022 with data collection and analysis occurring from late 2022 to early 2023. This evaluation report reflects available data up to April 2023.

³ Available here - <https://www.industry.gov.au/sites/default/files/2019-01/review-of-the-jobs-act-2013-report.pdf>

Evaluation questions

The evaluation sought to answer the overarching question:

Has Australian Industry Participation policy provided Australian businesses full, fair and reasonable opportunity to participate in major projects and large Commonwealth Government funded projects, while minimising the regulation's burden on procurement entities?

To answer this overarching question, this evaluation sought to answer the sub-questions below.

Design and implementation

1. What was the problem that the AIP policy was intended to address? Does this problem still exist?
2. How appropriate was the design of the AIP requirements, including the thresholds, scope and criteria used?
3. Are the governance arrangements for AIP appropriate?

Outcomes

4. Has the implementation of AIP policy and requirements ensured full, fair and reasonable opportunity for Australian businesses to compete for work and supported the creation and retention of Australian jobs?
5. Describe and quantify (where possible) the impacts of the AIP on Australian industry, the average cost of meeting AIP requirements for proponents, and the range of costs across different sized businesses.
6. Have the AIP requirements had any unintended consequences (positive or negative) for Australian industry? If so, what unintended consequences have there been, who has been affected, and how have they been affected?

Lessons learned

7. What lessons can be drawn from the program to improve the efficiency or effectiveness of AIP policy and future initiatives?

1.4 Governance of the evaluation

The evaluation was governed by a Senior Executive Service (SES) level reference group, which provided strategic guidance and direction throughout the evaluation. This included endorsing the terms of reference and providing feedback on the draft report. The final report was signed off by the Chair of the reference group.

The reference group comprised the following members:

- SES Band 1, Data and Evaluation Branch (Chair).
- SES Band 1, Industry Participation and Major Projects Facilitation Branch (known as Australian Industry Participation Branch at the inception of the evaluation).
- SES Band 1, Mining Branch (known as Major Projects Branch at the inception of the evaluation).

- SES Band 1, Australian Industry Capability Delivery, Department of Defence.

1.5 Evaluation methodology

The evaluation used a mixed qualitative and quantitative approach to draw on a range of sources to answer the key evaluation questions. The evaluators:

- Surveyed businesses, and peak bodies and unions.
 - Three separate surveys were prepared with tailored questions for suppliers, proponents, and peak bodies and unions.
 - The surveys were accessible on the DISR's Consultation Hub and promoted to a large cross-section of potential respondents through direct emails and DISR social media.
 - 66 businesses completed the survey:
 - 26 business respondents identified as proponents.
 - 40 business respondents identified as suppliers.
 - 7 peak bodies and unions completed the survey.
 - Survey results are presented as a figure out of the number of respondents for a particular question. For example, (18 of 24) or (21 of 39) indicates that not all proponents (26) or suppliers (40) responded to that question.
- Conducted 14 semi-structured interviews, with a total of 20 stakeholders representing DISR and 5 external organisations.
- Reviewed AIP documentation and data, including a sample of AIP Plans, Compliance Reports (for Jobs Act projects) and Implementation Reports (for projects receiving Commonwealth funding or investment).
- Reviewed submissions from states and territories received in response to a December 2022 DISR Discussion Paper on AIP Reform.
- Drew on a literature review conducted by DISR's former PolicyLab team.

1.6 Structure of the report

Findings and recommendations are grouped under the following themes with lessons learned covered under these headings rather than in a stand-alone section.

- Design
- Implementation
- Outcomes
- Conclusion

2. Design

2.1 Systemic Barriers and AIP objectives

Systemic barriers for Australian businesses

An analysis of relevant documentation and stakeholder views indicate that the underlying barriers to the full, fair and reasonable opportunity for Australian industry to compete for work, which underpin the AIP policy, continue to exist. For example, over the last five years, three-quarters of supplier respondents (30 of 40) had experienced barriers supplying to projects, while just under half of proponent survey respondents (11 of 26) had experienced barriers to engaging Australian industry as subcontractors.

Identified barriers include the size and complexity of tender packages and the use of established supply chains by project proponents. Information asymmetries also remain with survey data indicating proponents continue to have a limited understanding of Australian industry capability, while suppliers continue to have limited awareness of project opportunities. This mirrors many of the barriers to Australian businesses securing work in major projects originally identified at establishment of the AIP policy in the 2013 [Regulation Impact Statement](#)⁴.

Finding 1: The underlying barriers originally driving AIP policy still exist.

Impact of the COVID-19 pandemic

The evaluation identified that the COVID-19 pandemic had implications for individual businesses. The majority of proponent and supplier respondents indicated that the COVID-19 pandemic had a largely negative impact on their businesses (16 of 26 proponents and 28 of 40 suppliers).

This is in line with other research findings on the pandemic's negative impact on Australian businesses. For example, business time and effort required to adjust to global supply chain and transportation disruptions and related increased costs⁵.

While the evaluation did not assess linkages between COVID-19 disruptions and AIP systemic barriers, the pandemic's impact on broader business environment and supply arrangements has added to the relevance of the AIP policy, as noted by the DISR interviewees.

Finding 2: COVID-19 had a largely negative impact on the Australian businesses that responded to the AIP survey.

AIP objectives

The objective of the AIP policy is to ensure 'full, fair and reasonable' opportunity for Australian industry to compete for work in major public and private sector projects in Australia. All stakeholder groups interviewed, comprising DISR, other Commonwealth agencies and ICN representatives, agreed with this intent of the policy.

⁴ DIISRTE (2013) [Regulation Impact Statement: Strengthening Australian Industry Participation](#). See p.18 'Statement of the Problem'

⁵ See [Reserve Bank of Australia Statement on Monetary Policy – May 2021](#) and [Bankwest Curtin Economics Centre Research Brief COVID-19 Brief 7 – July 2020](#).

AIP objectives were found to be relevant in the context of continuing systemic barriers identified above. DISR stakeholders also commented that the AIP policy had likely increased in relevance in the context of the Government's agenda to ensure sovereign capability and supporting skills, employment and productive capacity.

Interviews indicated that government stakeholders clearly understand the purpose of AIP. However, DISR interviewees noted that some stakeholders, including some proponents and suppliers, incorrectly perceive that AIP mandates the use of Australian suppliers and service providers. This indicated opportunities for improved communication around AIP objectives.

There is a perception that we do mandate use of local content... I think perhaps [it is] an unintended consequence.

There was a similar finding in 2018 review that the AIP Authority enhance its communication strategy to promote AIP plans and outcomes and raise industry awareness through information dissemination⁶.

Finding 3: The current objective of the *Australian Jobs Act 2013* (Jobs Act) and AIP policy remains relevant today. However, some business stakeholders do not fully understand AIP requirements.

Box 2.1.1 Recommendation 1

Recommendation 1: That DISR improve communication and promotion materials to clearly explain the scope of AIP requirements.

2.2 AIP National Framework

Overall support for the AIP National Framework

In April 2001, the Commonwealth along with all state and territory jurisdictions agreed to the AIP National Framework⁷. The framework committed Commonwealth, State and Territory governments to adopting a consistent national approach to maximise Australian industry participation in major projects. Under the framework, the Commonwealth operates the AIP policy while state and territory governments operate their own separate local participation policies.

State and territory submissions received as part of the evaluation indicated overall support for the framework. Furthermore, state and territory stakeholders were supportive of a refresh of the original text in collaboration with the Commonwealth to help ensure that the framework remains relevant as a guiding document into the future. Identified areas for improvement included revising out-of-date terminology and clarifying definitions.

Finding 4: The AIP National Framework has overall support from state and territory stakeholders, along with their agreement that some elements of the framework should be refreshed.

Jurisdictional differences under the AIP National Framework

Under the National Framework, state and territory governments apply different industry participation policies. Jurisdictional differences include financial thresholds, industry priorities and local content

⁶ See Recommendation 2 of the [Review of the Implementation of the Australian Jobs Act 2013](#) (2018)

⁷ See the [Australian Industry Participation National Framework](#) (April 2001)

requirements. These differences may allow flexibility for jurisdictions to apply policies which are best suited to local priorities and conditions.

However, variation across jurisdictions does create administrative and regulatory burden. For example, there is administrative burden for AIP staff to determine whether there are gaps needing to be addressed in project plans designed according to a particular state or territory's standards. In this context, there have been discussions with states and territories on the option of accrediting jurisdictional processes.

Overall, most industry participation plans require proponents to outline how they will provide a full, fair and reasonable opportunity for local industry. Where a state or territory industry participation plan complies with the conditions of the Commonwealth AIP policy or Jobs Act, an exception from providing an AIP plan can be given.

DISR stakeholders considered there is an important role for the Commonwealth in bringing jurisdictions together under a single umbrella. DISR stakeholders also commented on the need for different jurisdictional approaches to be complementary and the ongoing potential for streamlining and harmonising processes:

There are always opportunities for streamlining; there're always opportunities to reduce administrative burden on us and reduce regulatory burden on businesses in states and territories.

Currently, AIP and jurisdictional representatives engage on these issues and on opportunities for data sharing through Senior Officials Meetings (SOMs). On data sharing, submissions from State and Territory representatives indicated in principle support for enhanced cross jurisdictional data sharing arrangements. Submissions recognised the benefits of the regular sharing of data and insights.

A range of issues were identified which would need to continue to be worked through by the Commonwealth and jurisdictions. These included establishing consistent metrics and indicators against intended outcomes; consistent formatting to have comparable data across jurisdictions; and ensuring the protection of privacy and confidentiality when sharing such data. There is the potential to leverage arrangements and experience in other data sharing arrangements between the Commonwealth, states and territories involving the Department of Finance. This would build on work following the 2018 review which recommended improved data sharing with state and territory governments.⁸

Finding 5: Within the context of the AIP National Framework, there continues to be wide variation across federal, state and territory levels in applying their own industry participation policies.

Box 2.2.1 Recommendation 2

Recommendation 2: That DISR work with State and Territory jurisdictions to refresh the AIP National Framework. This could include deliberation on harmonisation of State and Territory approaches.

2.3 AIP thresholds, scope, criteria and trigger dates

Financial Thresholds – Jobs Act projects

Under the *Australian Jobs Act 2013*, eligible projects whose expected capital expenditure meets or exceeds the major project threshold amount of \$500 million are required to prepare and implement an

⁸ See Recommendation 7 of the [Review of the Implementation of the Australian Jobs Act 2013](#) (2018)

AIP plan. This threshold amount is defined in the Act⁹ and, at the time, was seen as striking a balance between capturing intended major projects and the corresponding compliance and administration burden for proponents and regulators¹⁰.

Most proponents (18 of 24) and just over half of suppliers (21 of 39)¹¹ supported retaining the current threshold level. Just under half of peaks and unions (3 of 7) considered this threshold to be appropriate. Of those who did not support the current threshold, proponents were divided as to whether it should be lowered or raised, while suppliers and peaks and unions thought it should be lowered or removed.

Evaluation interviews did not produce strong views on the appropriateness of the current threshold as there is not one correct threshold level. Different threshold levels will bring their own costs and benefits which need to be considered in a policy context. Similar to the view expressed in the original 2013 RIS, interviewees highlighted the need to balance the benefits and burden for both proponents and government when determining the threshold. A DISR interviewee expressed it as follows:

I would say the benefits of lowering the thresholds could be that more activity is captured and the base of Australian industry is broadened. The risks would be increased regulatory burden, capturing more businesses for smaller projects that maybe have less time and the need to match resourcing levels within the regulator.

Under their AIP plans, proponents must advertise all procurements of key goods and services valued \$1 million and above. This is aimed to support opportunities for Australian businesses to bid for these opportunities¹². Overall, a slight majority of stakeholders thought that the \$1 million contract threshold was appropriate. Stakeholder views generally aligned with their group interests.

Just over half of supplier respondents (22 of 38) and under half (3 of 7) peaks and unions consider the Jobs Act \$1 million contract threshold to be appropriate. Of the suppliers and peaks and unions who did not think the \$1 million contract threshold to be appropriate, most thought it should be removed or lowered to give more opportunities for small businesses. On the other hand, over half of the proponents surveyed (13 of 25) did not think the current threshold to be appropriate, with most of them indicating it should be increased to above \$2 million.

One external stakeholder commented that a negative consequence of this \$1 million threshold was that proponents often did not feel obliged to advertise smaller work packages. As a result, smaller businesses which may have the capability to deliver those smaller pieces of work are not seeing those opportunities.

Given the requirement for work packages \$1 million and above to be advertised, proponents don't feel an obligation to advertise work packages less than \$1 million. Some companies do still advertise, for example if they want to target regional or Indigenous businesses, but otherwise they don't, so smaller companies that can't deliver the larger contract work are missing out.

While the evaluation found a general level of support for current threshold levels amongst consulted stakeholders, further economic and policy analysis of thresholds would be needed to ensure they are set at the most appropriate levels under current market conditions to achieve the policy objectives. A

⁹ See the [Australian Jobs Act 2013](#)

¹⁰ DIISRTE (2013) [Regulation Impact Statement: Strengthening Australian Industry Participation](#) pp. 28-29

¹¹ Survey results are presented as a figure out of the number of respondents for a particular question. For example, (18 of 24) or (21 of 39) when not all proponents or suppliers responded to the particular question.

¹² See the [User Guide for Developing an Australian Industry Participation Plans](#) – December 2020

revision of current \$500 million project and \$1 million contract thresholds would also need to consider inflationary changes that have taken place since the introduction of those thresholds. Any changes to Jobs Act thresholds would have implications for the coverage of the policy and the administrative burden for both proponents and government, which would need to be considered as part of any changes.

Finding 6: Most stakeholder groups supported retaining the \$500 million threshold for major projects under the Jobs Act. Most groups also supported retaining the \$1 million minimum contract threshold, although some proponents thought it should be raised and some suppliers thought it should be removed or lowered. Further analysis of the financial thresholds is needed.

Box 2.3.1 Recommendation 3

Recommendation 3: That DISR undertake further analysis of financial thresholds to assess the most appropriate settings to achieve the intended policy objectives.

Financial thresholds – Commonwealth funding or investment

AIP plans are also required for eligible projects receiving Commonwealth funding or investment of \$20 million or more, including procurement, grants and loans. The evaluation found general agreement amongst surveyed proponents and suppliers that the \$20 million threshold for Commonwealth funded project is appropriate.

Most proponents (20 of 25) and most suppliers (27 of 39) surveyed considered the current threshold to be appropriate. Proponents who did not agree with the current \$20 million threshold thought it should be higher than \$31 million based on dollar ranges in the survey (1 proponent respondent supported a threshold range of \$31 - \$50 million, while four supported a range of \$51 - \$70 million). In contrast, suppliers who did not agree with the current \$20 million threshold thought it should be removed altogether believing that projects receiving any amount of government funding should be subject to AIP requirements.

Unlike Jobs Act projects which have a \$1 million contract threshold, there is no minimum contract threshold value for projects receiving Commonwealth funding or investment of \$20 million or more requiring AIP plans. Most proponents (20 of 25) and almost all suppliers (37 of 39) surveyed supported the current arrangement of no minimum contract value threshold. Of those proponents in favour of establishing minimum contract threshold, four suggest a range of \$2 to 3 million to be a more appropriate threshold for these projects.

Most peak bodies and unions surveyed (5 of 7) did not consider the current \$20 million threshold to be appropriate and generally supported removing the threshold for these projects. Similarly, most peak bodies and unions surveyed (4 of 7) thought not having a minimum contract value threshold was appropriate.

Similar to any changes in the Jobs Act financial thresholds, changing the financial thresholds for eligible projects receiving Commonwealth funding or investment would have implications for administrative burden and practices. For example, DISR interviewees noted that lowering the \$20 million threshold would increase the administrative burden for DISR, would require more resourcing and potentially a change in procedures to process more plans.

While the evaluation found a general level of support for current threshold levels amongst consulted stakeholders, further economic and policy analysis of thresholds would be needed to ensure they are set at the most appropriate levels under current market conditions to achieve the policy objectives. A revision of current \$20 million threshold for projects receiving Commonwealth funding or investment

would also need to consider inflationary changes that have taken place since the introduction of the threshold. Any changes to thresholds would have implications for the coverage of the policy and the administrative burden for both proponents and government, which would need to be considered as part of any changes.

Finding 7: Proponents and suppliers generally thought the \$20 million threshold for Commonwealth funding into projects and procurements was appropriate, while peak bodies and unions generally supported removing the threshold. Further analysis of the financial thresholds is needed.

Scope and criteria

The evaluation found general support for the current scope and criteria of AIP requirements under the Jobs Act. All stakeholder groups agreed that no project types currently within the scope of the Jobs Act should be removed. However, a small number of respondents from the different stakeholder groups did identify opportunities for expanding the scope of the Jobs Act to include additional project types.

Suggested inclusions comprised decommissioning and rehabilitation projects, 'non-productive facilities' such as health, aged care, correctional, justice and education, cultural facilities, IT projects and scientific projects. Other projects currently outside the scope of the Jobs Act because they are not considered to be a physical facility were also suggested including rolling stock, ship/boat building and ship chartering.

Finding 8: There was general support for the current scope and criteria for AIP requirements under the Jobs Act. However, there were some suggestions about the types of projects that DISR could consider including in any revisions to the Jobs Act.

Box 2.3.2 Recommendation 4

Recommendation 4: The DISR should consider expanding the scope of the Jobs Act to include decommissioning and rehabilitation projects and consider other opportunities as appropriate.

Locally sourced sectors

The DISR and ICN interviewees stated that the ability of AIP plans to increase opportunities for domestic suppliers varies by industry sector. Specifically, projects in industry sectors with greater contestability and international procurement stand to benefit more from the AIP policy. There would be value in considering how AIP policy could target key sectors.

Conversely, the AIP policy is of less value to industries which are predominantly locally sourced such as the construction industry. However, there may be other benefits of AIP policy for these sectors, for example, AIP plans may encourage companies to increase their awareness of a range of local suppliers.

Finding 9: Several stakeholders expressed the view that AIP plans may have less value for sectors that already tend to have high levels of Australian content.

Box 2.3.3 Recommendation 5

Recommendation 5: That DISR consider how AIP policy could target sectors where there are currently lower levels of Australian industry participation and in alignment with government priorities.

Trigger dates

Jobs Act projects requiring an AIP plan are subject to a 'trigger date' which determines when an AIP plan must be submitted to the Authority. A project's trigger date is determined by an event early in the

lifecycle of a project. This procedure is aimed at ensuring that 'proponents develop AIP plans early in their project's timeline to enable them to consider and include Australian industry in the design and procurement'¹³.

The 2018 Jobs Act Review identified that the trigger date for projects needed further clarification¹⁴. In response, DISR provided updated guidance on the department's website. According to a DISR interviewee, there had been fewer queries and concerns over trigger dates since the publication of that updated guidance. In practice, AIP officials apply trigger dates pragmatically and negotiate an appropriate time with proponents to have an AIP Plan in place.

Of the 22 proponent respondents who had been required to prepare an AIP plan, just over half (12) had found the trigger date either 'moderately' or 'very' useful in determining when to submit the plan. However, a sizeable minority (9) found it 'not at all useful'.

Proponents who found the trigger date 'not at all useful' noted that many early project milestones considered as trigger dates resulted in AIP plans being developed too early in the project's lifecycle and well before packages are tendered to suppliers. Others noted that the trigger date is too generic and should be tied to a specific project development activity or milestone, which could be an interim step in updated guidance material.

Finding 10: Since 2018, DISR has provided guidance on trigger dates to improve proponent understanding of when to submit a Jobs Act AIP plan. While just over half proponent respondents found the trigger date useful in determining when to submit the plan, a sizeable minority found it not at all useful.

Box 2.3.3 Recommendation 6

Recommendation 6: That DISR consider consultation with stakeholders to explore whether adjustments can be made to the definition of trigger date in the Jobs Act to ensure that AIP plans are submitted at an appropriate time.

3. Implementation

3.1 Implementation of the Jobs Act

AIP Authority and board

While the Jobs Act¹⁵ originally intended the appointment of an AIP Authority and an AIP advisory board, a permanent AIP Authority and advisory board have not been appointed. As such, the Jobs Act has not been fully implemented and the potential benefits of the Jobs Act may have not been fully realised.

The AIP Authority was intended to be an individual working on a full-time basis with, according to the Act, substantial experience or knowledge and significant standing in at least one of the following fields: economics, industry or public administration. However, instead of a permanent AIP Authority with a 5-year appointment, a part-time acting AIP Authority has been appointed every 12 months (a public servant at the substantive SES Band 1 or 2 levels). While the people in the part-time acting AIP Authority

¹³ See the [Guideline for Australian Industry Participation Plan Trigger Dates](#) (September 2019)

¹⁴ See Recommendation 3 of the [Review of the Implementation of the Australian Jobs Act 2013](#) (2018)

¹⁵ See the [Australian Jobs Act 2013](#)

position generally have deep knowledge of industry for the purpose of their public service position, they have not been specifically recruited for the Authority role. The part-time acting AIP Authority also performs that role in addition to their responsibilities as a General Manager, reducing their capacity to focus on the AIP Authority position.

In addition to the AIP Authority, the Jobs Act outlines a ministerially appointed AIP advisory board's main functions would be to advise the Authority on matters relating to the performance of the Authority's functions and to advise the Minister about AIP matters. However, an advisory board has not been appointed.

Some DISR interviewees commented on the benefit of fully utilising the governance structures provided in the Act. The appointment of an AIP Authority and an advisory board would provide greater continuity, direction and facilitate building relationships with stakeholders.

If you have someone for five years who really has the background... they could provide some really good direction on where to move it and keep track on things that are happening internationally, things that are happening across States and Territories, help just bring it all together and actually continually optimise it and make sure that it's being reformed and strengthened.

Finding 11: The Jobs Act has not been fully implemented. The establishment of an AIP Authority and Advisory Board as originally intended under the Jobs Act would result in a dedicated focus and profile on the challenges for Australian Industry Participation.

Box 3.1.1 Recommendation 7

Recommendation 7: That DISR recommend that the Minister considers appointing an AIP Authority and AIP Advisory Board in accordance with the Australian Jobs Act 2013.

Delegation of powers

Under the Jobs Act, certain approvals and decision-making are required to be made by the AIP Authority. For example, the approval of AIP plans and agreeing to an extension for compliance reporting periods. DISR interviewees indicated that where decision-making powers are not legislated, some decisions are pragmatically delegated, taking into account the level of risk. This has been articulated in the Jobs Act standard operating procedures (SOPs).

For Commonwealth AIP requirements, the SOPs guidance on decision-making powers is distributed throughout the document, according to the type of Commonwealth funding or investment. There would be value in clearer guidance for delegations regarding Commonwealth AIP requirements and centralising information about decision-making powers.

Finding 12: AIP approval and decision-making powers under the Jobs Act are appropriately delegated to staff supporting the AIP Authority. There would be value in clearer guidance for delegations regarding Commonwealth AIP requirements.

Box 3.1.2 Recommendation 8

Recommendation 8: That DISR centralise guidance for delegations regarding Commonwealth AIP requirements.

3.2 Compliance and Governance

Compliance powers under the Jobs Act

The *Australian Jobs Act 2013* legislates powers for the AIP Authority to monitor and ensure compliance with AIP requirements. This legislative approach was taken due to a number of reasons, including ‘a history of systematic non-compliance with industry-led or softer regulatory approaches and existing industry bodies either lacking comprehensive industry coverage or lacking commitment to the need to change industry practices¹⁶.

DISR interviewees indicated that the Jobs Act provides the AIP Authority with appropriate and sufficient compliance powers, such as the Authority’s power to apply for a court injunction against a project¹⁷. DISR interviewees also noted, however, that these powers have not been used to date.

I don't think there's been any issues that have arisen that we haven't been able to address either informally or formally through the Jobs Act.

DISR interviewees also noted that the Authority’s compliance powers have a strong deterrent effect on non-compliance. In practice, issues have been able to be resolved before getting to the point where the AIP Authority needed to exercise the available powers.

[This] probably points in the direction that they [the AIP Authority’s compliance powers] are doing what they're meant to do, which is stopping the behaviour before it gets to that point.

However, proponent awareness of the AIP Authority’s compliance powers should also not be assumed. ICN interviewees noted that proponents often asked about the penalties during AIP training run by ICN.

Finding 13: The Jobs Act provides adequate compliance powers for the AIP Authority. These powers and penalties have not been used but may effectively deter non-compliance.

Enforcement and non-compliance

The evaluation found a perception amongst some suppliers that AIP requirements are not enforced and that there are no consequences for non-compliance. While a majority of supplier respondents were not aware of proponent non-compliance with Jobs Act requirements, about a third of supplier respondents (12 of 39) did indicate awareness of varying degrees of non-compliance by proponents. Examples included proponents breaking down projects and using Australia registered subsidiaries of international companies. Supplier responses also indicated a perceived lack of consequences for non-compliance.

ICN interviewees noted that the extent to which proponents adhere to AIP requirements is mixed. For example, ICN interviewees noted that some project proponents engage effectively with suppliers, while others (often smaller proponents) do not, and without apparent consequence. As a result, suppliers view the AIP framework as a bit ‘toothless’, in the words of one ICN interviewee, and would like to see AIP requirements enforced.

The survey results and interview data are consistent with the 2018 Jobs Act Review, which identified that suppliers perceive non-compliance but do not see AIP Authority investigating it. In addition, most

¹⁶ DIISRTE (2013) [Regulation Impact Statement: Strengthening Australian Industry Participation](#) p. 27

¹⁷ See the [Australian Jobs Act 2013](#)

stakeholders thought there was an absence of information and lack of transparency about AIP processes.

The extent to which these responses were due to actual non-compliance, or a lack of supplier visibility of compliance activities, is unclear. In either case, there would be value in DISR increasing transparency about compliance monitoring activities and actions to increase supplier visibility of compliance activities and confidence in AIP processes.

The introduction of an audit function could be considered. ICN interviewees thought the AIP Authority would benefit from having an audit function, like the Victorian model. A Defence interviewee also commented that their Australian Industry Capability (AIC) audit function had been beneficial. In the AIP Authority's case, Section 50 of the *Australian Jobs Act 2013* appears to give it powers to obtain information or documents relevant to the operation of the Act¹⁸ that would appear to provide scope for an audit function of compliance with AIP requirements. However, formal legal advice would be required to confirm that the Act authorises an audit function.

Finding 14: Some suppliers perceive that AIP requirements are not enforced and that there are no consequences for non-compliance. The extent to which this is due to actual non-compliance or lack of supplier visibility of compliance activities is unclear, but both factors are likely important.

Box 3.2.1 Recommendation 9

Recommendation 9: That DISR increase transparency about compliance monitoring activities and actions to increase supplier visibility and confidence in AIP processes. This could include publishing examples of compliance monitoring activities, examples of good practice compliance, and sharing compliance related data. That DISR consider introducing an audit function and provide stakeholders with the opportunity to report suspected non-compliance.

Cost for proponents to implement AIP requirements

AIP requirements inevitably place a cost on proponents to develop, implement and report on AIP plans. For example, the internal DISR Procurement Connected Policy (PCP) review, which collected responses from 9 proponents who had AIP plans in place between July 2016 to June 2021, noted that proponents reported that the preparation of AIP plans required the investment of significant effort. The PCP review also noted the burden of AIP on businesses organisations will vary depending on the scale and complexity of their organisation and the project.

As part of this evaluation, DISR interviewees expected the main cost would be the time to develop the AIP plan. However, proponent survey responses indicate that more time is needed to implement rather than develop AIP plans. But it is unclear to what extent this cost is an additional burden over and above 'good' business practice, such as in a business regularly investigating supplier capabilities to maximise value for money and cultivate competition in their supply chains.

For project proponents, the median average staff time to develop and submit an AIP plan was 61-80 hours and, from start to finish, the median average length of time taken to develop and submit an AIP plan was four to five weeks. Finally, the median average total staff time per annum spent on implementing an AIP plan including undertaking compliance reporting activities was greater than 80 hours. However, based off these results, the AIP survey design did not provide sufficient response

¹⁸ See the [Australian Jobs Act 2013](#)

options to get a more granular breakdown of information about how long the implementation process takes.

Just over half of proponents who had prepared an AIP plan incurred costs in addition to staff time. Other costs noted by proponents included consultant fees, vendor identification agency (VIA) fees, maintenance of communication platforms, compliance costs passed on by the head contractor, increased administrative costs to flow down AIP requirements to subcontractors, supplier capability development including briefing sessions, and generally costs incurred when changing procurement practices.

The 2018 Review recommended the review and improvement of AIP plan templates and reporting templates streamline information administration¹⁹. The AIP team since 2018 has introduced SmartForms for new projects to improve efficiencies and the user experience. This reform was in line with Recommendation 1 of the 2018 Review. It is not clear from the survey whether proponents have used the SmartForms process.

Future data collection, informed by a monitoring and evaluation framework (see *Finding 20* and *Recommendation 13*) could record the time proponents spend on these activities. This would inform future analysis of the costs, including a comparison of proponent costs based on size of the business and project.

Finding 15: Proponents incur costs in developing and implementing AIP plans, with the latter accounting for the greater cost. However, the extent to which this cost is an additional burden over, and above 'good' business practice is unclear.

Box 3.2.2 Recommendation 10

Recommendation 10: That DISR identify opportunities for further efficiencies in the reporting process. This should be supported by a deeper understanding of proponent experience of the reporting process.

Awareness of Commonwealth AIP requirements

Commonwealth entities' awareness of, and engagement with, Commonwealth AIP requirements appear low. The evaluation team approached a range of nominated Commonwealth stakeholders. However, most of these Commonwealth stakeholders advised that they did not have an adequate level of experience working with AIP requirements to comment. This was due to a combination of staff turnover and limited experience with AIP requirements.

The external entity stakeholders with whom the evaluation team spoke were positive about their interactions with, and advice provided by, the AIP team. Three DISR interviewees and one external entity interviewee identified that awareness of Commonwealth AIP requirements varies depending on the entity.

Finding 16: Awareness of, and engagement with, Commonwealth AIP requirements appears to be low among Commonwealth entities.

¹⁹ See Recommendation 1 of the [Review of the Implementation of the Australian Jobs Act 2013](#) (2018)

Governance for Commonwealth AIP requirements

There is no single policy or framework that outlines AIP requirements as they apply to Commonwealth funding or investments. Rather they are applied in at least 6 different ways. These are:

- Commonwealth procurements (since 1 January 2010)
- Commonwealth grants (from 1 July 2012)
- Australian Government Payments under the Federal Financial Relations Act 2009 to states and territories through the National Partnership Agreement on Land Transport Infrastructure Projects for large infrastructure projects (since 1 July 2012)
- Northern Australian Infrastructure Facility (NAIF) loans (from 1 July 2016)
- Clean Energy Finance Corporation (CEFC) investments (from 1 July 2013), and
- grants from the Australian Renewable Energy Agency (ARENA) (from 2013 on a voluntary basis).

As demonstrated above, AIP requirements for projects with Commonwealth funding are not united by a single governance framework. A coherent framework could outline roles and responsibilities, risk management, compliance program, stakeholder engagement activities, and a performance framework.

As part of developing a single governance framework for Commonwealth AIP requirements, DISR would have the opportunity to consider different models for governance and compliance. For example, 2DISR interviewees highlighted the idea of moving towards a self-assessment model for individual agencies and DISR playing an advisory rather than regulatory role. This would reduce administrative burden, encourage agencies to take greater responsibility for meeting AIP requirements and potentially increase compliance, which may lead to better outcomes.

If we move to a self-assessment model... [with] individual agencies and procurement agencies and bodies and grant bodies, et cetera, taking on that responsibility, then you might see a much broader application of AIP, or understanding of AIP, and that might help in getting some more favourable outcomes.

Finding 17: AIP requirements for projects with Commonwealth funding are not united by a single governance framework.

Box 3.2.3 Recommendation 11

Recommendation 11: That DISR develop a comprehensive governance framework for AIP requirements as they apply to Commonwealth funding. This should include roles and responsibilities, risk management, compliance program, stakeholder engagement activities, and a performance framework.

As part of developing a governance framework for Commonwealth AIP requirements, DISR could consider moving to a self-assessment model where agencies take responsibility for implementing AIP requirements. This should be done in close consultation with stakeholders.

Compliance powers for Commonwealth procurements and grants

For Commonwealth procurements, non-compliance is a breach of the Commonwealth Procurement Rules since mid-2022 and individual agencies are responsible for reporting breaches. Furthermore, there is no common identifier between AusTender and AIP datasets, which would support compliance monitoring, and there does not appear to be any consequences for non-compliance.

Under these arrangements, DISR and the AIP general manager has influence, but no compliance powers for Commonwealth-funded projects and limited visibility of non-compliance. For Commonwealth grants, DISR's visibility of non-compliance is further reduced.

The findings of this evaluation align with those of the 2014 review of AIP policies and programs. That review identified that the 'owner' of the AIP framework (DISR) is detached from the 'implementation' agencies and that there were not 'effective mechanisms in place to ensure compliance'.

To address these factors, further work is required on the aims and objectives of Commonwealth AIP requirements, monitoring and compliance arrangements, and awareness raising of Commonwealth AIP obligations among Commonwealth agencies.

Finding 18: The general manager AIP has influence, but no compliance powers for Commonwealth-funded projects and limited visibility of non-compliance.

Box 3.2.4 Recommendation 12

Recommendation 12:

That DISR:

- work with DOF on the aims and objectives of Commonwealth AIP requirements, including consideration of introducing a compliance reporting mechanism (which exists for some other Procurement Connected Policies)
- consider introducing a common data identifier to enable more efficient comparison of AusTender and AIP datasets to facilitate compliance monitoring, and
- raise awareness of Commonwealth AIP among Commonwealth agencies, including through their procurement areas once Commonwealth AIP requirements are further clarified.

3.3 Data collection, management and analysis

Data collection, management and analysis

The current approach to data collection and management has significant limitations. While data is being collected, it is gathered in various types of forms and formats. This makes the collation and analysis of data both manual in nature rather than automated. In the case of SmartForms, while this format may have improved the user experience for businesses, the forms do not allow for easy data extraction. Data first needed to be manually extracted from PDFs and collated into a useful format for analysis. A DISR interviewee observed that:

We collect a lot of data, but the way we utilise that data, I think there's room for improvement there, because we can mine it a lot better, and I think connect it a lot better to outcomes."

Current arrangements including the lack of a monitoring and evaluation framework (see below), do not effectively support data analysis, compliance monitoring and the tracking of outcomes and impacts. It also does not effectively support evidence-based insights for a more targeted approach to communication and risk-based compliance.

In relation to Commonwealth procurements, the evaluation also found the lack of a common identifier between AusTender and AIP datasets limits DISR's ability to monitor compliance and support targeted communication with the suppliers on non-compliance.

ICN interviewees noted that the Victorian system better facilitated outcome tracing due to the early engagement of ICN and cascading reporting required through the supply chain. They also emphasised that ICN benefits from the common systems and processes established throughout the organisation.

Finding 19: The current data collection and management processes and system have significant limitations. They do not effectively support a targeted approach to communication, a risk-based approach to compliance, or assessment of whether the AIP Policy is achieving its outcomes.

Box 3.3.1 Recommendation 13

Recommendation 13: That DISR implement improved data collection and management to support analysis and inform future policy decision-making. This would allow DISR to better target education, information and compliance activities to particular sectors and locations. It would also support assessment of whether or not AIP policy is achieving its intended policy outcomes.

Monitoring and evaluation framework

The AIP policy lacks a monitoring and evaluation framework and fit-for-purpose data system which make it difficult to clearly establish the extent to which AIP policy is achieving its intended outcomes. As noted above, the current data collection and management processes also have significant limitations and do not effectively support data analysis.

Previously work was done on preparing a framework. In response to recommendation of the 2018 Jobs Act Review²⁰, a draft evaluation framework for AIP was prepared in 2019. However, it was not finalised and approved due to other priorities and staff turnover.

The 2018 Review noted that ‘without specific measurements and quantifiable data captured over time it is difficult for stakeholders (and the AIP Authority) to develop knowledge, make decisions and continually improve. It is important that the AIP Authority has a framework in place that aims to generate credible information to measure progress toward achieving outcomes and for regulatory improvement, learning and accountability.’

In connection with this, monitoring the implementation of AIP review and evaluation recommendations can be built into a framework. This would support the implementation of recommendations, measurement of impacts and assessing whether the intended benefit had occurred due to their implementation.

Thus, the AIP Authority needs to implement a monitoring and evaluation framework detailing inputs, key outputs and outcomes; clear metrics and indicators for monitoring; and evaluation planning.

Finding 20: The lack of a monitoring and evaluation framework and fit-for-purpose data system make it difficult to clearly establish the extent to which AIP policy is achieving its policy outcomes.

Box 3.3.2 Recommendation 14

Recommendation 14: That the AIP teamwork with the Analysis and Insights Division (AID) to finalise and implement a monitoring and evaluation framework as a priority to support the ongoing assessment of AIP outcomes.

²⁰ See Recommendation 5 of the [Review of the Implementation of the Australian Jobs Act 2013](#) (2018)

4. Outcomes

4.1 Awareness of supplier capability and project opportunities

Proponent awareness of supplier capability

Just over half of proponent survey respondents who had prepared an AIP plan (12 of 22) had experienced benefits from implementing it. The most common benefits that these proponents had experienced included: 'gaining increased awareness of potential Australian suppliers', 'evidencing to local communities that our business has offered Australian suppliers a fair opportunity to compete for work', and 'establishing a clear framework for engaging Australian suppliers'.

For the respondents that had not experienced benefits, the most frequent reason was that they already had processes in place to support engagement with Australian suppliers.

The evaluation reviewed a sample of proponent compliance reports, covering the newer SmartForms design and earlier versions. Of 11 proponent compliance reports that provided ratings, most considered AIP to be 'effective' to 'highly effective' in increasing their awareness of Australian industry capability to supply to their project.

Finding 21: There is evidence that proponents' awareness of Australian supplier capability has increased, and that AIP policy has contributed to this outcome.

Supplier awareness of project opportunities

Most supplier respondents advised that over the last five years they 'somewhat' or 'to a greater extent' had visibility of project opportunities and improved their capability to supply goods and/or services to projects. However, these changes could have been driven by factors other than AIP and the survey did not determine to what extent these changes can be attributed to AIP plans.

Of the proponent respondents who had prepared an AIP plan, half said it had changed their approach to procuring subcontractors. The most common changes these proponents made were advertising more broadly for expressions of interest, requiring AIP head contractors to implement AIP plan activities, reviewing pre-qualification requirements and using VIAs to understand supplier capability.

Finding 22: There is evidence that Australian suppliers have an increased awareness of opportunities. It is unclear the extent to which these changes are being driven by AIP policy.

4.2 Feedback to suppliers

Feedback to suppliers to raise capabilities

Feedback to suppliers on their bids from project proponents is intended to support suppliers develop their capabilities to compete for major projects and access global supply chains. In interviews, an ICN stakeholder noted the critical importance of feedback to raise the capabilities of suppliers which had unsuccessfully bid for work packages. This element of AIP objectives aligns well with current policy focus on sovereign capability, skills, employment and productive capacity.

Proponents with AIP plans in place under the Jobs Act are required to provide evidence of how they ensure suppliers are offered and provided feedback. Based on the assessment of the compliance reports, the AIP team advised that proponents are complying with the requirement of providing the feedback opportunities to suppliers. Evidence from proponent survey also indicates that they are providing opportunities for feedback to suppliers.

In contrast, most supplier respondents indicated that they received 'not at all' or only 'very little' useful feedback from proponents on their bids and performance. They also indicated that they were offered 'not at all' or only 'very little' opportunities for capability development and for entering the global supply chains. However, due to the methodology and delivery of the survey, it is not known whether these suppliers were connected to projects with AIP plans in place. The conflicting feedback from proponents and suppliers indicates that there is an opportunity to improve communication on feedback opportunities.

The above survey evidence aligns with the findings of the 2018 Jobs Act Review. The review recommended that the 'AIP Authority consider enhancing its communication strategy to promote AIP plans and outcomes and raise industry awareness through information dissemination'²¹.

The Department of Defence advised that it has recently started an industry forum for the Australian Industry Capability (AIC) program (held on a quarterly basis). It also holds AIC training sessions for Defence industry, as well as a community of practice within the department. AIP can consider leveraging any lessons learned from Defence's AIC experiences in working to raise supplier and proponent awareness on the feedback opportunities.

Finding 23: Evidence from proponents indicates that they are providing opportunities for feedback to suppliers. Separately, suppliers surveyed indicate that they are not receiving feedback, however, it is not known whether these suppliers are connected to projects with AIP plans in place.

Box 4.2.1 Recommendation 15

Recommendation 15 That DISR increase communication and promotion to give greater emphasis on providing feedback and consider including activities such as industry forums, training packages for industry, as well as a community of practice within the APS. It could also include elements of positive promotion, such as best practice examples.

4.3 Role of vendor identification agencies (VIAs)

Advances in digital technology since the introduction of the AIP policy have likely improved access to market information. Despite this technological change, information asymmetries remain. In this context, vendor identification agencies (VIAs), including the Industry Capability Network (ICN), still perform a positive and useful function for project proponents and suppliers.

Most proponent respondents (16 of 26) used one or more VIAs. Of those that used ICN, most (13) found the service to be 'moderately', 'very' or 'extremely' useful. However, some noted that the quality of services offered by ICN varied by jurisdiction. Just under half of supplier respondents (18 of 40) used one or more VIAs. Of those that used ICN, most found the service to be 'slightly', 'moderately' or 'very' useful'. However, some suppliers felt the cost of ICN services was high.

Finding 24: Vendor identification agencies (VIAs), including the Industry Capability Network (ICN), play an important role in capability matching and awareness of opportunities. Most ICN users found the ICN to be useful, although services vary by jurisdiction and some suppliers considered the cost of using ICN to be a barrier.

²¹ See Recommendation 2 of the [Review of the Implementation of the Australian Jobs Act 2013](#) (2018)

Box 4.3.1 Recommendation 16

Recommendation 16: That DISR encourage the use and awareness of VIAs by project proponents and suppliers in preparing and implementing AIP plans.

4.4 Support for the creation and retention of Australian jobs

The supplier survey found that most supplier respondents (26 of 40) had been able to increase the number of employees in their business over the last five years. 16 respondents added 1-10 new jobs, 7 added 11-40 new jobs and 1 added 41-100 new jobs. However, this job creation could have been driven by factors other than AIP and the survey did not determine to what extent these changes can be attributed to AIP plans.

AIP plans and compliance and implementation reports do not collect data on job creation and retention claims. The collection of employment data in the future under a monitoring and evaluation framework would build an evidence base on the policy's achievement of employment outcomes.

4.5 Unintended consequences

In addition to those outcomes intended by the policy, evaluators asked survey respondents whether they experienced unintended consequences, either positive or negative.

Unexpected benefits

A small number of stakeholders identified unexpected benefits. Proponent respondents identified unexpected benefits. These included attracting more interest in their expression of interest and finding new suppliers that delivered costs and technology benefits.

Unexpected benefits for supplier respondents included being introduced to other subcontractors. Unexpected benefits highlighted by peaks and unions included instances of project proponents contacting ICN consultants to identify local content services due to AIP requirements, and foreign companies having been encouraged to engage with domestic industries on terms other than commercial.

Finding 25: A small number of stakeholders indicated they experienced unexpected benefits of AIP, including building better connections between suppliers and proponents.

Unexpected negative consequences

Just under a third of proponent survey respondents noted negative consequences or challenges of AIP policy. Examples included challenges getting contractors to provide the information needed for accurate reporting and higher costs of compliance than originally indicated by government without clarity on the benefit.

Just under half the peak and union respondents indicated negative consequences. This included perceptions that some proponents treat AIP plans as a tick and flick exercise. An ICN interviewee noted this perception amongst some project proponents:

For project proponents AIP policy is often just a box ticking exercise. This is because they know that it is unlikely there will be ramifications if they don't fulfil their obligations

Finding 26: A small number of stakeholders experienced unexpected negative consequences or challenges from AIP requirements, including compliance costs and a perception that some proponents treat AIP plans as a box ticking exercise.

5. Conclusion

The evaluation found that AIP Policy objectives remain relevant within the current policy context and that underlying barriers to Australian businesses competing for work continue to exist. It also identified opportunities to improve stakeholder communication and the awareness of AIP requirements within industry and Commonwealth agencies.

The Policy gives effect to the principles outlined in the 2001 AIP National Framework. The framework could benefit from a refresh alongside deliberation amongst Commonwealth, state and territory governments on harmonising approaches to further support a nationally consistent approach.

The evaluation found general support for the AIP Policy's design amongst consulted stakeholders, while highlighting potential changes such as extending project scope and criteria and the need for further analysis on financial thresholds. It also found that certain elements of the *Australian Jobs Act 2013* have not been fully implemented and consideration could be given to appointing an AIP Authority and Advisory Board in accordance with the Act.

While the AIP Authority has considerable compliance powers regarding Jobs Act projects, DISR could work with the Department of Finance (DoF) to clarify Commonwealth AIP requirements, including a compliance reporting mechanism. Additionally, there would be value in developing a comprehensive governance framework for AIP requirements as they apply to Commonwealth funding.

The evaluation identified that AIP data collection and management processes have significant limitations. It recommended improved data collection and management and the implementation of a monitoring and evaluation framework. This would support the ongoing assessment of AIP policy outcomes, future decision-making and risk-based compliance.

The evaluation found that the AIP policy was contributing to the achievement of intended outcomes, such as increased supplier awareness of project opportunities; increased proponent awareness of supplier capabilities to meet their project needs; and building better connections between suppliers and proponents. However, data limitations made it difficult to quantify the contribution the program made to these outcomes and fully assess the various policy outcomes.

6. Appendix A – Consultation methodology

Survey questions

Three separate surveys were prepared with tailored questions for suppliers, proponents, and peaks and unions. The surveys included multiple choice, free text and Likert scale questions.

- The proponent survey had 35 questions.
- The supplier survey had 28 questions.
- The Peaks and Unions survey had 14 questions.

Administering surveys

- The online surveys were accessible on the DISR's Consultation Hub and opened on 21 November 2022 with an initial closing date of 9 December 2022 which was later extended to 19 December 2022.
- The surveys were promoted via direct email and DISR social media (Twitter, LinkedIn and Facebook).
 - Survey link emailed by DISR to 19 peak bodies and unions.
 - Survey link emailed by DISR to 283 proponent contacts.
 - The survey link emailed by ICNL on 12 December 2022 to 32,315 contacts on their database.

Survey respondents

A total of 66 businesses completed the survey.

- 26 business respondents identified as proponents who had engaged with the AIP policies in the last 5 years:
 - 16 of them had engaged with the *Australian Jobs Act 2013*.
 - 7 with NAIF.
 - 6 with CEFC.
 - 6 with Commonwealth Procurements of \$20 million or more.
 - 6 with Commonwealth Grants of \$20 million or more.
 - 4 with ARENA.
 - 1 with Commonwealth payment to States/Territories, and
 - 5 with 'Other'. Those who selected other didn't provide any useful details in the text description for this option.
- 40 business respondents identified as suppliers. They represented project suppliers from different industry sectors who might or might not have submitted a bid for projects with AIP requirements.

A total of 7 peak bodies and unions completed the survey.

Interviews

The evaluators conducted semi-structured interviews asking questions related to the key evaluation questions. The questions were adjusted to suit the interviewee. A total of 14 interviews were held involving 20 interviewees representing 6 organisations:

- Five internal interviews involving 8 internal DISR interviewees
- Five external interviews involving 6 interviewees representing 5 external Commonwealth agencies:
 - Clean Energy Finance Corporation (CEFC)
 - Department of Defence
 - Department of Finance
 - Department of Infrastructure, Transport, Regional Development, Communications and the Arts
 - Northern Australia Infrastructure Facility (NAIF)
- Four interviews involving 6 interviewees representing the Industry Capability Network (ICN).

Written submissions

Submissions from States and Territories were received in response to a December 2022 DISR Discussion Paper on AIP Reform. Submissions were received from 7 jurisdictions:

- Queensland
- New South Wales (consolidated response from multiple agencies)
- New Zealand
- South Australia (two separate responses)
- Northern Territory
- Tasmania; and
- Victoria.