



New South Wales

Local Jobs First Regulation 2025

under the

Local Jobs First Act 2025

[The following enacting formula will be included if this regulation is made—]

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under the *Local Jobs First Act 2025*.

Minister for Domestic Manufacturing and Government Procurement

Explanatory note

The object of this regulation is to provide for the following—

- (a) information that must be included in the Local Jobs First Commissioner's annual report,
- (b) matters included in the local procurement policy,
- (c) the types of procurement for which a local procurement plan is required,
- (d) the circumstances in which the local procurement policy must be complied with,
- (e) the calculation of the estimated value of a procurement,
- (f) non-compliant suppliers, including—
 - (i) the performance management process carried out by a government agency to manage non-compliance, and
 - (ii) the circumstances and way in which the Commissioner may decide a supplier is non-compliant, and
 - (iii) the steps the Commissioner must take before deciding a supplier is non-compliant, and
 - (iv) the persons the Commissioner must notify of the decision.

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Part 1 Preliminary

1 Name of regulation

This regulation is the *Local Jobs First Regulation 2025*.

2 Commencement

This regulation commences on the day on which this regulation is published on the NSW legislation website.

3 Definition

In this regulation—

the Act means the *Local Jobs First Act 2025*.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

Part 2 Functions of Commissioner

4 Matters to be included in Annual Report—the Act, s 12(1)(c)

The annual report must include information about each supplier the Commissioner decides is non-compliant, including the following information—

- (a) the non-compliant supplier's full name,
- (b) the non-compliant supplier's ABN,
- (c) the non-compliant supplier's ACN or ARBN, if any,
- (d) details of the contract relating to the local procurement plan for which the Commissioner has decided the supplier is non-compliant, including—
 - (i) the title and value of the contract, and
 - (ii) the commencement date and term of the contract,
- (e) the date on which the Commissioner decided the supplier is non-compliant.

Part 3 Local procurement policy and plans

5 Local procurement policy requirements—the Act, s 15(7)

The local procurement policy must provide that, for a procurement with an estimated value of at least \$25 million, the tender for the procurement must be evaluated using a minimum total weighting of 30% for—

- (a) the extent to which the tender proposal involves—
 - (i) locally produced and supplied goods and services, and
 - (ii) local small or medium businesses, and
 - (iii) the employment of local workers, including learning workers, and
- (b) economic, social and sustainability benefits for the people of New South Wales, and
- (c) ethical practices in the supply chain, including within the supplier's business operations, for the good or service.

6 Circumstances in which compliance with local procurement policy required—the Act, s 15(6)

- (1) A government agency must comply with the requirements of the local procurement policy for a procurement (a *strategic procurement*) in one or more of the following circumstances—
 - (a) the Premier or the Minister has given written notice to the government agency that the local procurement policy applies to the procurement,
 - (b) the government agency has entered into a contract for the procurement for which the government agency must require a supplier to have a local procurement plan under the Act, section 16,
 - (c) the procurement has an estimated value of at least \$7.5 million and less than \$25 million, but not if the government agency has decided, in accordance with the local procurement policy, that—
 - (i) it is not feasible to comply with the local procurement policy, or
 - (ii) it is not in the public interest.
- (2) For subsection (1)(c), the estimated value must be calculated in accordance with section 8.
- (3) For the Act, section 24(b), if a government agency decides under subsection (1)(c) that it is not feasible to comply with the local procurement policy or it is not in the public interest, the government agency must notify the Commissioner.

7 Suppliers to have local procurement plans

- (1) For the Act, section 16(1)(a)(i), the prescribed estimated value of procurement is \$25 million.
- (2) For the Act, section 16(1)(a)(ii), goods and services of any kind are prescribed.
Note— The Act applies to goods and services by or for a government agency to which the *Public Works and Procurement Act 1912*, Part 11 applies.

8 Calculation of estimated value—the Act, s 16(3)

- (1) The estimated value of the procurement must be determined in accordance with this section.
- (2) The estimated value of the procurement must be determined by calculating an estimate of the total value of the contract, excluding GST, and must include the value of the following under the proposed contract for the procurement—

- (a) the goods and services to be procured,
 - (b) the remuneration payable by the government agency, including premiums, fees, commissions, interest and other revenue that may be provided for under the contract,
 - (c) the options, extension, renewals or other mechanisms that may be executed over the term of the contract.
- (3) If the procurement is to be conducted in multiple parts with a number of proposed contracts awarded, either at the same time or over a period, the estimated value of the procurement must include the estimated value of all the proposed contracts for the procurement.
- (4) A procurement must not be divided into separate parts if a purpose of the division is to avoid the threshold under the Act, section 16(1)(a)(i).
- (5) If the estimated value cannot be calculated in accordance with this section, the estimated value is taken to be a value that exceeds the estimated value under the Act, section 16(1)(a)(i).

Part 4 Performance management process

9 Grounds for giving notice of performance management process—the Act, s 19(3)(a)

The following are grounds on which a notice may be given by the Commissioner under section 19(2)—

- (a) in the Commissioner’s opinion, the supplier is non-compliant with a provision of the local procurement plan,
- (b) the supplier has notified the government agency of the supplier’s non-compliance with a provision of the local procurement plan.

10 Variation or revocation of notices—the Act, s 19(3)(c)

- (1) The Commissioner may vary a notice if, in the Commissioner’s opinion, the grounds on which the notice was given have changed.
- (2) The Commissioner may revoke a notice if, in the Commissioner’s opinion—
 - (a) the grounds on which the notice was given are no longer applicable, or
 - (b) it is not feasible for the supplier to comply with the local procurement plan.

11 Requirements to consult before issuing notice—the Act, s 19(3)(d)

Before giving a notice to the government agency, the Commissioner must consult with the government agency about the proposed notice, including in relation to the effect the proposed notice may have on the following—

- (a) the supply of goods or services by the supplier to the government agency,
- (b) the delivery of government services and projects,
- (c) the supplier’s business operations.

12 Details to be included in notice—the Act, s 19(3)(e)

A notice given under the Act, section 19(2) must include the following details—

- (a) the grounds on which the notice is given,
- (b) information in relation to the supplier’s non-compliance,
- (c) the period of time within which the performance management process must be carried out.

13 Reporting obligations for government agencies—the Act, s 19(3)(f)

A government agency carrying out a performance management process must give the Commissioner a report about the performance management process as follows—

- (a) if a period is specified in the notice for the performance management process—within the period specified,
- (b) otherwise—no later than 12 months after the government agency receives the notice for the performance management process.

14 Extension of performance management process—the Act, s 19(3)(g)

The Commissioner may extend the period by which the performance management process must be carried out if the supplier will be, or is likely to be, non-compliant with the local procurement plan after the expiry of the notice.

15 Termination of performance management process—the Act, s 19(3)(g)

The Commissioner may terminate the performance management process if the Commissioner is satisfied the supplier is, or is likely to be, compliant with the local procurement plan.

Part 5 Non-compliant suppliers

16 Circumstances in which supplier is non-compliant—the Act, s 20(1)

The Commissioner may decide a supplier is non-compliant in the following circumstances—

- (a) the supplier has failed to comply with the performance management process,
- (b) the supplier has notified the government agency the supplier is unable to comply with the performance management process.

17 Steps before deciding supplier non-compliant—the Act, s 20(2)(a)

- (1) Before deciding a supplier is non-compliant, the Commissioner must do the following—
 - (a) give written notice to the supplier of the Commissioner’s intention to make the decision,
 - (b) invite the following persons to make submissions to the Commissioner by a date specified by the Commissioner—
 - (i) the supplier,
 - (ii) the government agency,
 - (iii) if the Commissioner knows another government agency has entered into a contract with the supplier—the other government agency,
 - (c) consult with the Procurement Board about the Commissioner’s intention to make the decision,
 - (d) notify the Minister and the Procurement Minister of the Commissioner’s intention to make a decision.
- (2) In considering whether to make a decision, the Commissioner must consider the following matters—
 - (a) submissions made to the Commissioner under subsection (1),
 - (b) the effect on the following—
 - (i) the supply of goods or services by the supplier to government agencies,
 - (ii) the delivery of government services and projects,
 - (c) the nature and severity of the supplier’s non-compliance,
 - (d) other matters the Commissioner considers relevant.

18 Notifying supplier who is non-compliant—the Act, s 20(2)(b)

A notice given under the Act, section 20(1) must—

- (a) be given in writing to the supplier, and
- (b) include the following details—
 - (i) all contracts to which the notice relates,
 - (ii) all government agencies who are parties to the contracts,
 - (iii) the date on which the performance management process commenced,
 - (iv) the circumstance in which the Commissioner decided the supplier is non-compliant,
 - (v) the date the decision was made.

19 Persons the Commissioner must notify of decision—the Act, s 20(2)(c)

The Commissioner must notify the following persons after making a decision a supplier is non-compliant under the Act, section 20(1)—

- (a) the Minister,
- (b) the Procurement Minister,
- (c) the Procurement Board,
- (d) the supplier,
- (e) all government agencies the Commissioner is aware of who has entered into a contract with the supplier.