



INDIGENOUS PROCUREMENT POLICY (IPP)

AND AUSTRALIAN INDUSTRY CAPABILITY

ABSTRACT

The performance results of the Indigenous Procurement Policy (IPP) would suggest establishing targets and limits to drive the right procurement behaviours work. Has the IPP created the desired long-term changes needed in the defence industry sector to achieve the expected indigenous defence industry capability? Can any lesson from this policy be applied to AIC?

Defence Industry Leadership Program 2021,
Concept Paper

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What is the IPP and how does it work?

The Indigenous Procurement Policy is a mandatory procurement-connected policy under the legislative instrument of the Commonwealth Procurement Rules (CPR) (Department of Finance 2020) that came to effect 1st July 2015 with some changes implemented in 2019 and 2020. This policy must be considered and applied by all officials when undertaking procurement and its primary purpose is to increase opportunities for Indigenous Australian to participate in the economy (Department of Defence 2021a).

As per Commonwealth of Australia (2015), by setting and committing to a procurement target for goods and services procured from Indigenous businesses, the Commonwealth creates growth opportunities and stimulates private investment on these Indigenous businesses that translate into greater employment, entrepreneurship, development, and financial independence. Increase of family and community wealth, encouragement of education and training uptake, and improvements in health and safety are also achieved.

Under this policy, an Indigenous business is any business that is 50% or more Indigenous owned. The policy target is to have 3% of domestic Commonwealth contracts awarded to Indigenous suppliers each year by 2019-20 with interim targets starting at 0.5% for 2015-16 increasing to 1.5% for 2016-17 and by 0.5% per year thereafter. A series of progressive increasing value targets were further introduced from 1st July 2019 starting at 1% for 2019-20 up to 3% for 2027-28 (National Indigenous Australians Agency 2020).

Besides this target, the policy has two other components, a Mandatory Set-Aside (MSA) and a Mandatory Minimum Requirements (MMR).

The MSA allows Indigenous SME's to demonstrate value for money before procurement official makes general approach to market and applies to all remote procurement and procurement wholly delivered in Australia with estimated total value between \$80,000 and \$200,000 (incl. GST). Procurement officials must search for suitable Indigenous businesses in Supply Nation database, determine if the suitable supplier(s) can deliver the required goods and/or services on a value for money basis consistent with CPRs, and identify if delivery is in a remote area.

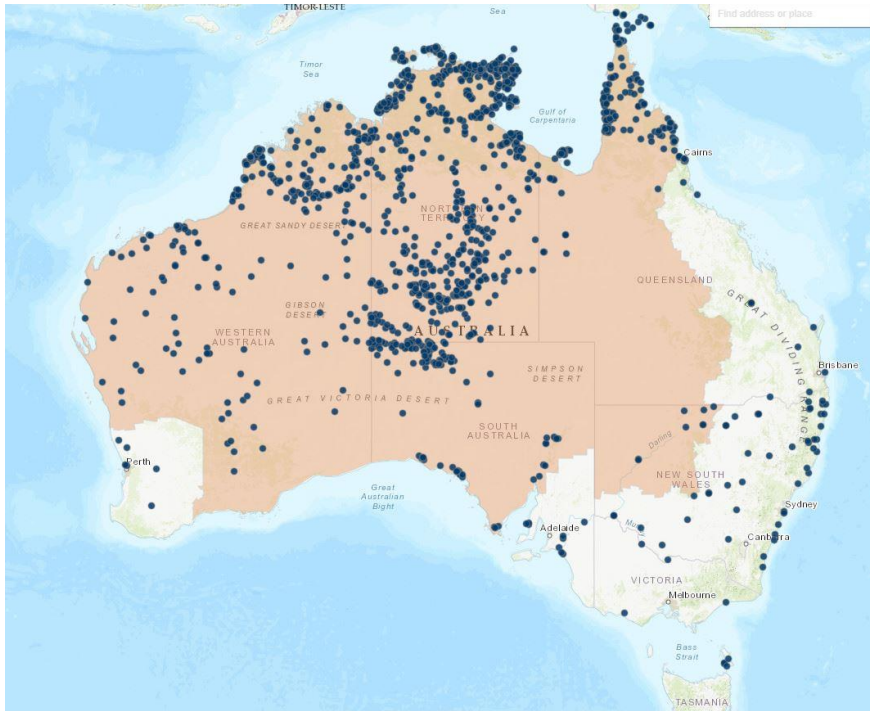


Figure 1 – Indigenous Procurement Policy (RIPP) map allows users to search Australia by location to determine remote or non-remote IPP status¹

The MMRs require Defence suppliers to achieve a minimum percentage of Indigenous employment or supply use or a combination of both over the term of their contract. This is applicable when procurement is wholly delivered in Australia valued at \$7.5 million (incl. GST) or more, and where more than half of the value of the contract is being spent in one or more of the 19 specified industry sectors (mainly providing services). It does not apply to contracts subject to paragraph 2.6 of CPR, excluded subcategories and contracts delivered overseas in whole or in part. These MMRs can be contract-based requirements where on average 4% of indigenous employment and/or supplier use needs to be achieved over the term of the contracts, or organisation-based requirements where on average 3% of indigenous employment and/or supplier use across the organisation needs to be achieved over the term of the contract.

IPP and the defence industry sector

Defence is required to report their performance against the IPP targets to the National Indigenous Australians Agency (NIAA) every six months. To provide an overview of Defence's performance, the IPP Dashboard provides data on Defence's contracts against number and value targets, with a breakdown by Groups/Services as well as breakdown of contracts and values by category. The success

¹ Source <https://www.niaa.gov.au/resource-centre/indigenous-affairs/ripp-map-data>

of the IPP is measured by an increase in the number of Indigenous businesses awarded a contract and an increase in the volume and value of contracts awarded to Indigenous businesses (Department of Defence 2021a).

There are a few documents and initiatives that outline Defence's commitment to IPP:

- Defence Indigenous Procurement Strategy endorsed in 2018. It represents Defence's commitment and pathway to delivering IPP outcomes and strengthen awareness and compliance with IPP across Defence through committed leadership, inclusive culture and behaviour, and proactive communication (Department of Defence 2021c).
- Defence Reconciliation Action Plan (DRAP) 2019-2022. It outlines Defence's commitment to reconciliation and increasing Indigenous representation in Defence (Department of Defence 2019).

The establishment of targets and limits to drive the right procurement behaviours can be demonstrated in Industry Contractors implementing Reconciliation Action Plans, and Indigenous Procurements Policies and / or Strategies themselves as Airbus Australia Pacific and Boeing Defence Australia, amongst many other organisations, have done.

As explained by the Senior Manager Strategic Procurement, Airbus Australia Pacific (AAP) recognised it needed to go on a journey in this space as it is not something it had previously tracked. As a result, decided to create an Indigenous Procurement Strategy, as opposed to a Policy to reflect the expectation that the company focus and development on indigenous engagement would change and improve over time.

According to him, the first step for AAP is to begin to identify indigenous organisations and actively look to include them in opportunities to win business with the company. The strategy facilitates this, and sets out some guidance around what an indigenous organisation is, how the procurement team seeks them out, and a framework to record their involvement and the spend.

The next step will be to gain a better understanding of the footprint indigenous organisations have in the market, and to analyse Airbus spend and future requirements to start to determine what is the opportunity at AAP to utilise indigenous industry capability.

Finally, once AAP has a clearer view on what is possible in this space, it will look to set some targets and update its strategy document to become an Indigenous Procurement Policy.

AAP Strategic Plan 2021-2025 (Airbus Australia Pacific 2021) is also reflective of this behaviour. It identifies building local capability as one of the strategic enablers, gives high priority to meeting Government industry policy objectives, and includes economic and employment benefits to Indigenous and opportunities to Indigenous procurement as measurements of its Australia Industry Capability (AIC) performance.

AAP Reconciliation Action Plan (Airbus Australia Pacific 2020) also demonstrates the change on behaviours. Whilst supporting the company's business plan, it sets practical actions driven towards reconciliation and creating meaningful opportunities for Aboriginal and Torres Strait Islander peoples. It defines actions, deliverables and targets aimed at increasing Aboriginal and Torres Strait Islander recruitment, retention, and professional development, as well as supplier diversity to support improved economic and social outcomes.

Boeing Defence Australia (BDA) (Boeing Defence Australia 2021) was one of the first defence prime contractors to join the RAP program in 2017. The company has already made significant in-roads across education, supply chain and in fostering an inclusive workplace, it has spent to date more than \$16 million with Indigenous suppliers over nine years and has partnered with Supply Nation and the Indigenous Defence and Infrastructure Consortium to assist strengthen Australia's sovereign capability.

The company has changed its Supply Chain policy to support Indigenous and diversity suppliers growing its Indigenous footprint in Australia by increasing Indigenous supplier spend 323% year on year from 2017 to 2019 and aiming to hit a target of \$10 million annual Indigenous supply chain spend in the coming years.

Breaching the gap for long-term changes

Reaching into the broader defence industry, the target goals being set as part of the IPP and applicable to the requisite government department have been met each year, since their introduction as percentage targets (Department of Defence 2020). However, these target goals are only applicable to government portfolios and reflect only a certain percentage of available contract opportunities.

Currently, there is no impetus on commercial organisations take up this push towards building the indigenous defence industry capability. It cannot go without saying that any commercial entity that looks to employ, partner, or go into business with an indigenous business would be looked upon favourably in contract negotiations for the award of contracts.

As shown in Figure 1, the mandated remote regions where the MSA applies, are truly remote. What does not need to be highlighted is that for a large percentage of defence industry acquisition and sustainment contracts, these are centred largely around metropolitan areas. This then brings into question whether defence industry capability for indigenous businesses will be able to rely on the IPP and performance targets as set out to truly grow to a stand-alone business capability. Below is a recommendation by PwC (2019) in their report *'Realising the potential of the Indigenous Procurement Policy (IPP)'*

'leadership from the private sector – given budget constraints, governments have a limited procurement footprint. However, they can do much more to drive market behaviour and incentivise the private sector to purchase goods and services from Indigenous businesses. Although some governments have adopted formal measures (e.g. the NSW Government's Aboriginal Participation in Construction Policy), there is scope to scale impacts if more consistent policy approaches were adopted across the country. The private sector should be supported and encouraged to take a leadership role in stimulating the Indigenous business sector, not just in terms of the size of spend but as a socially responsible leader influencing jobs and enabling communities to flourish.'

Focussing on the above, *'... [t]he private sector should be supported and encouraged...'*, shows that industry bodies are largely highlighting and pushing for the development of the indigenous business capability. Unfortunately, intent and action can be two separate agendas.

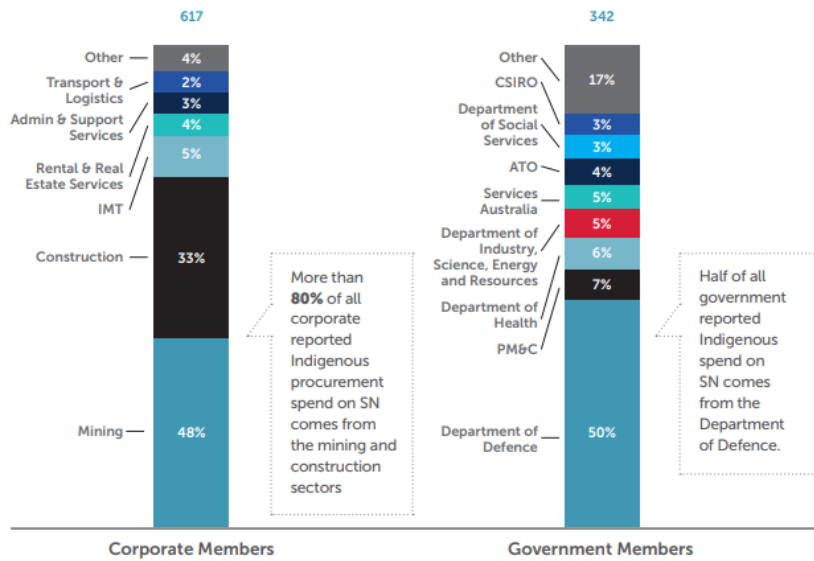
Figure 2 from Supply Nation shows a detailed yet simplistic comparison between Corporate and Government procurement spending on Supply Nation members.

EXHIBIT 10

Mining, construction and the Department of Defence dominate Indigenous procurement spending by Supply Nation members

Source of corporate and government reported Indigenous procurement spend on Supply Nation Suppliers

Members reported Indigenous procurement spend, \$m, 2019



Note: IMT stands for Information Media & Telecommunication. Source: Supply Nation, AlphaBeta analysis

Figure 2 – Source of corporate and government reported Indigenous procurement spend on Supply Nation Suppliers²

If there is the genuine want to drive development in the defence sector of government works to increase the indigenous defence industry capability, the following could be considered:

- Increasing of the value of the contracts, MSA and MSR's.
- Developing a secondary zoning that is not just for remote regions.
- Implanting or revising contractual incentives to businesses who actively engage with Supply Nation members as part of their contract solution.
- Indigenous businesses are given the first attempt at fulfilling the capability when certain metrics are achieved and maintained which sets them as capable and demonstrated as value for money.
- Hold an initial forum between government, private corporations, and Supply Nation (with selected representative companies from Supply Nation) to develop a planning framework to increase the participation of indigenous businesses. This could be conducted across a large

² Supply Nation, <https://supplnation.org.au/wp-content/uploads/2020/09/Supply-Nation-Driving-Growth-in-Indigenous-Business-DEC-2020.pdf>

set of business groups, or based upon individual groups i.e. defence, mining, construction, health etc.

Unfortunately, as there is no incentive for private corporations to be involved in the above, it would take the involvement of government either mandating throughout the procurement rules and documentation that indigenous businesses are to be given first right of refusal or, an incentive-based reward as part of the contracting mechanism with government.

The issue with doing this is, that the same procurement rules apply, is it value for money. In the defence infrastructure areas, we have seen this being achieved with the business partnerships being developed. However, is that going to be feasible in the defence industry sector?

The take away from this part of the question that we are required to answer is that without increasing the MSA or MMR for indigenous requirements, from a government portfolio spending requirement, or without mandating portfolios to achieve it, the sustained growth will not be achieved. As mentioned above in the dot point notes, the ability to push these requirements outside of the government portfolio percentage requirements, may not be palatable to industry, and potentially have a side effect of the indigenous defence industry capability feeling like it is just a number to make up things, rather than allowing them to navigate building themselves up organically albeit with assistance provided from government bodies and business groups such as Supply Nation and the NIAA.

AIC and IPP Lessons Learnt

The intent of the IPP is to provide Indigenous Australians with greater employment opportunities through the stimulation of Indigenous entrepreneurship. Since the policy introduction in 2015, the IPP has been successful in achieving its primary aim in:

- Increasing in the number of Indigenous businesses contracted to the Commonwealth Government; and
- Increasing the number and value of contracts awarded to Indigenous businesses.

The results of the IPP since its introduction is shown in Table 1.

IPP Performance Results	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21 ³
Total number of AusTender Contracts	51,266	64,092	73,458	78,150	81,174	84,054
Number of contracts awarded to IB	1,509	3,828	5,238		7,749	12,844
Number of contracts awarded to IB (% of Total)	2.9%	6.0%	7.1%		10%	15%
Required IPP Targets (by volume of contracts %)	0.5%	1.5%	2%	2.5%	3%	3%
Total value of contracts awarded to IB (millions)	\$284	\$331	\$1,067		\$857	\$1,094
Total value of AusTender contracts (millions)	\$62,797	\$47,357	\$71,127	\$64,454	\$53,975	\$69,794
Value of contracts awarded to IB (% of Total)	0.5%	0.7%	1.5%		1.6%	2%
Required IPP Targets (by value of contracts %)	N/A	N/A	N/A	N/A	1%	1.25%

Table 1 - Annual IPP Results

³ Results as of Sept 2021

However, a Deloitte Report (Deloitte Third Year Evaluation of the Indigenous Procurement Policy - August 2019) highlighted issues that need to be addressed for the IPP to progress in the future. These issues included:

- “Black Cladding” where businesses misrepresent themselves as Indigenous businesses by establishing shadow businesses with Indigenous owners, but the business itself does not have any staff and would subcontract to the parent business to execute the work.
- Education, communication, and language barriers preventing Indigenous people and their businesses to understand the requirements of procurement documents.
- Inability to compete competitively and not having the right skillsets to participate in government procurement.
- Delays in grants and loans for capital procurement causing missed opportunities.
- Growth opportunities for indigenous businesses are limited as they are mainly awarded lower value contracts and less long-term high value contracts which would enable them to develop new skillsets and expand.
- The Commonwealth and state government policies and programs could be confusing for indigenous entrepreneurs making the entire process a daunting endeavour.

From the issues that have been highlighted in the Deloitte Report could be potential issues for the AIC Program that the AIC Program could learn from. First, we need to understand the aims of the AIC Program. The Aims of the AIC Program are to:

- Provide opportunities for Australian companies to compete on merit for defence work within Australia and overseas.
- Influence foreign prime contractors and original equipment manufacturers, including Australian subsidiaries, to deliver cost-effective support.
- Facilitate transfer of technology and access to appropriate intellectual property rights.
- Encourage investment in Australian industry.

The similarities in the AIC and the IPP lies within the following key areas:

- The growth of the businesses (indigenous (IPP) and Australian (AIC)).
- Encourage investment in specific businesses (indigenous (IPP) Australian (AIC)).

The IPP could be considered an extension of the AIC as it covers both Indigenous and Australian business participation. From the issues highlighted from the Deloitte Report (Deloitte Third Year

Evaluation of the Indigenous Procurement Policy - August 2019) the issues that would translate to AIC Program includes:

- Businesses setting up companies in Australia and bringing workforce from other countries.
- AIC requirements not being clearly defined could be confusing for Australian businesses (especially for small to medium enterprises) and would require education and communication of the program.
- Smaller Australian business' inability to compete competitively.

To address some of these issues the Deloitte Report made the following recommendations which could also be used as considerations for the AIC Program:

- Move from a volume-based target to value-based Targets for Commonwealth Portfolios as the volume-based target does not provide a proportionate measure of all contracts considering that 50% of all contracts in 2017-2018 were under \$10,000. This reflects how the AIC Program is measured and that is against the value of contracts.
- Provide a clear definition of an Indigenous business to prevent "black cladding". Instead of just 50% Indigenous ownership, it should consider 50% indigenous control of businesses. This is a requirement to be listed on the Supply Nation directory. Supply Nation is an entity that vets Indigenous Businesses and generates a national directory of Aboriginal and Torres Strait Islander businesses. The AIC Program needs to clearly define what an Australian Business entity is.
- Education and Engagement through Commonwealth-led, State-based Annual Trade shows that will allow for engagement between Indigenous businesses and the Commonwealth Portfolios as well as allowing for Indigenous businesses to promote their products and services. This would benefit the AIC Program and there are several trade shows across the country that allows for Australian Industry to showcase their products and services.
- Establishment of Indigenous Business Hubs focusing on providing advice and assisting Indigenous businesses to develop and connect with professional networks which can also act as brokers for Indigenous Businesses. A similar entity for Australian Businesses would also be beneficial for the AIC Program, especially for Small to Medium Enterprises that need assistance bidding for Defence contracts as the contracting mechanisms could be quite off-putting.
- Development of a "Contract Ready" business directory that has assessed the business' "contract readiness" (such as governance, finance, insurances, and service offering). The AIC

Program could also draw on such directories as larger Prime Contractors of Defence and Defence itself does not understand the Industry Capability within Australia.

Conclusion

It is the view of this paper that at the time of this paper being produced, the long-term changes needed in the defence industry sector to achieve the indigenous defence industry capability has not been achieved. This statement then leads to whether there is anything further that can be done, to attempt to create these changes into the future. For a government to effectively mandate MSA's and MSR's down to industry as metrics in their AICP's, industry would expect that an adequate framework has been setup, allowing them and indigenous businesses to understand and engage with the businesses.

As the IPP is a government to indigenous industry venture, and the AICs are an industry to industry/government setup, if the government goes down this path without creating a functional network, any benefits seen from the introduction of the IPP could quickly be lost or abused within the AIC framework.

As employees of Industry contractors within the Defence sector we all can also play a role within our organisations to promote and support the implementation of IPP, ensuring its long term goals are achieved. With most organisation embarking on the journey to support this policy, we can all start working on understanding how can we engage and promote from our different roles.

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