

**Model Clauses for**

**Grants Local Jobs First Projects**

**Under the Local Jobs First Act 2003**

For further information or assistance on the Local Jobs First Policy and processes please contact:

Office of Industry Participation and Jobs

Department of Jobs, Precients and Regions

A: 121 Exhibition Street, Melbourne, VIC, 3000

E: localjobsfirst@ecodev.vic.gov.au

Ph: 13 22 15

Approach to Market Model Clauses (Grants Projects)

***Drafting note****:*

*The following draft clauses are required for inclusion in approaches to market to inform grant applicants of the Local Jobs First requirements.*

Local Jobs First Policy

* 1. Overview
		+ 1. The Local Jobs First Policy (**LJF Policy**) issued under the *Local Jobs First Act 2003* supports businesses and workers by ensuring that small and medium size enterprises are given a full and fair opportunity to compete for both large and small government contracts, helping to create job opportunities, including for apprentices, trainees and cadets. The LJF Policy is implemented by Victorian Government departments and agencies to help drive local industry development.
			2. The LJF Policy comprises the Victorian Industry Participation Policy (**VIPP**) and the Major Projects Skills Guarantee (**MPSG**).
				1. VIPP seeks to ensure that small and medium-sized business are given full and fair opportunity to compete for government contracts.
				2. MPSG is a policy that provides job opportunities for apprentices, trainees and cadets on high value construction projects.
			3. Local Jobs First applicable projects include but are not limited to:
				1. purchase of goods and/or services, regardless of the method of procurement (including individual project tenders, State Purchase Contracts, supplier panels);
				2. construction projects (incorporating design and construction phases and all related elements), including individual projects, Public Private Partnerships, Alliance Contracts, Market Led Proposals, supplier panels and auctions; and
				3. grant and loan projects, including grant agreements or loan arrangements to private, non-government and local government organisations for a single or group of projects.
			4. The LJF Policy applies to grant projects where the value of the grant is above the threshold values of:
				1. $3 million or more in metropolitan Melbourne, and
				2. $1 million or more in regional Victoria, or
				3. any grant for a project valued at less than $3 million that the Minister has declared to be a standard project.

(e) This [Request for Grant Proposal / Grant Application] is for a project where the value of the grant meets the thresholds in (d) above.

For further information, grant applicants should refer to the LJF Policy and Guidelines which can be found at www.localjobsfirst.vic.gov.au.

* 1. Definitions

**Agency** means [insert the name of the department or public body issuing this approach to market document].

**Contestable Items** means goods or services in a procurement process where there are competitive international and local suppliers. 'Competitive' means the suppliers are able to offer comparable goods or services that meet the specifications provided in this [Request for Grant Proposal / Grant Application]. Contestable items can be goods or services at any stage of a project, including maintenance.

**Department** has the meaning given in s 3(1) the *Local Jobs First Act 2003*.

**Grant Funding Agreement** means the funding grant contract entered into between the Agency and the Grantee.

**Guidelines** means the Local Jobs First Supplier Guidelines, available at [www.localjobsfirst.vic.gov.au](http://www.localjobsfirst.vic.gov.au).

**ICN** means Industry Capability Network (Victoria) Limited of Level 11, 10 Queens Road, Melbourne VIC 3004 ACN 007 058 120.

* 1. Consultation with Industry Capability Network (ICN) Victoria
		+ 1. To increase opportunities for local businesses within their project, successful grant recipients (**Grantees**) are required to consult with ICN regarding opportunities for local businesses, particularly with regard to Contestable Items. This is to better target the application of LJF towards areas of contestable procurement.
			2. Successful Grantees are required to consult with ICN after the Grant Funding Agreement has been executed. Payment of monies under the Grant Funding Agreement is based upon Grantees' compliance with the consultation requirement.
			3. The consultation requirement involves the following steps:
				1. The Agency will advise the Grantee that they must submit an Interaction Reference Number Form (**IRN Form**).
				2. Grantees must register with ICN online at www.icnvic.org.au/ljf and go through the IRN Form submission process. The IRN Form requires Grantees to provide an indication of the nature of the grant activities to be undertaken or project being designed, and the likely services or the activity to be required.
				3. ICN will review the Grantee's IRN Form and contact the Grantee to discuss opportunities for local industry.
				4. Grantees must negotiate with ICN to determine how opportunities for local businesses or Contestable Items will be provided for in the project. This may involve ICN contributing to or reviewing draft designs or participating in particular project meetings.
				5. Consultation with ICN can take between 30 minutes and a few hours, depending upon the nature of the Contestable Items in the procurement activity.
				6. Once consultation is complete, ICN will issue the Grantee with an Interaction Reference Number (**IRN**) and a reference letter. The reference letter will set out any agreements reached between ICN and the Grantee during consultation.
				7. The Grantee must submit their IRN to the Agency's representative within 20 business days of the Grant Funding Agreement being executed to demonstrate to the Agency that they have consulted with ICN, and that ICN is satisfied local industry will be considered in the design of the project.

***Drafting notes***

*A Local Industry Development Plan (****LIDP****) is not required for development and submission with grant proposals / applications. An Agency may choose whether to require applicants to submit an LIDP.*

***Where a LIDP Plan is required***

*If the development of a LIDP is required, the relevant Approach to Market Model Clauses should be used rather than these model clauses.*

* 1. Weighting of Commitments to Local Jobs First Policy
		+ 1. In evaluating a proposal or application for a Grant Funding Agreement, the Agency will give weighting to the following parts in the specified amounts:
				1. 10 per cent for industry development, including commitments made in relation to the VIPP; and
				2. 10 per cent for job outcomes, including, if applicable, job outcomes provided by the MPSG.
	2. Further information and assistance
		+ 1. The Department has prepared Guidelines on the application of the LJF Policy to grants projects.
			2. ICN provides free services to assist applicants in identifying and developing the above information. Applicants are advised that ICN will be available to assist them in implementing the LJF Policy. For further information or assistance, applicants can contact Industry Capability Network (Victoria):

Level 11
10 Queens Road
Melbourne VIC 3004
(03) 9864 6700
<https://icn.org.au/vic_home>

* + - 1. Applicants are advised that ICN is also available to assist them in implementing the LJF Policy during the term of the Grant Funding Agreement.

Contract Model Clauses

***Drafting Note***

*1. These model clauses are designed to form a separate Schedule to the grant funding agreement, and the agreement should include a clause to stipulate that the Local Jobs First Schedule is operative and forms part of the Agreement.*

*2 Include a clause in the grant funding agreement in the appropriate place.*

***Example:*** *'Schedule X forms part of the terms and conditions of this Agreement/Contract.' The Grantee in performing its obligations under this Agreement/Contract must comply with Schedule X.*

*3. The content of this Schedule is drafted in generic language to minimise the need to align it with the language of the grant funding agreement. Care must still be taken to ensure that any clause of the agreement is not inconsistent, which may render a clause of this Schedule inoperative by an order of precedence interpretation clause.*

*4. If the grant funding agreement used is the Victorian Common Funding Agreement* (**CFA**)*, these clauses should form part of the Schedule's 'Activity details' - for example, as part of Activity specific requirements (Item 6) or as an attachment (Item 7). If an attachment to a CFA, then the term 'Attachment' might replace 'Schedule' in this document.*

*5. Remove all drafting notes from the final grant funding agreement.*

Schedule X- Local Jobs First

* 1. Definitions

**In this Schedule:**

**Agency** means the organisation with which the Grantee has entered into this Agreement.

**Agreement** means this grant funding agreement.

***Drafting Note (optional)***

*If the grant funding agreement is not referred to as 'Agreement', replace 'Agreement' with the word or phrase used to describe the grant funding agreement. Ensure that 'Agreement' is then replaced throughout this Schedule.*

**Contract Manager** means the person (however described) appointed by the Agency as its representative for all communication and liaison with the Grantee for the purposes of this Agreement.

**Department** has the meaning given in s 3(1) the *Local Jobs First Act 2003*.

**Funds** means the monies payable by the Agency to the Grantee pursuant to this Agreement specified and payable in accordance with Schedule X.

**Grantee** means the person or entity (however described) providing the services or activity funded under this Agreement.

***Drafting Note (optional)***

*Replace with the relevant word or phrase for Grantee in the grant funding agreement. Ensure that 'Grantee' is then replaced throughout this Schedule.*

**Guidelines** means Local Jobs First Supplier Guidelines, available at www.localjobsfirst.vic.gov.au.

**ICN** means Industry Capability Network (Victoria) Limited of Level 11, 10 Queens Road, Melbourne VIC 3004 ACN 007 058 120.

**Interaction Reference Number (IRN)** means the number issued by ICN to the Grantee.

**IRN Form** means the form submitted by the Grantee to ICN via the VMC in accordance with cl 2.1(b).

**Local Jobs First Commissioner** means the person appointed under s 12 of the *Local Jobs First Act 2003*.

**Local Jobs First Policy** means the policy of the Victorian Government made under s 4 of the *Local Jobs First Act 2003*.

**Project** means the project described in the Agreement in respect of which the Funds have been granted to the Grantee by the Agency.

**Reference Letter** means the letter provided by ICN to the Grantee after the Grantee has consulted with ICN regarding opportunities for local industry for the Project.

**Responsible Minister** means the Minister with responsibility for administering the *Local Jobs First Act 2003*.

**Victorian Local Jobs First Management Centre (VMC)** means the online system developed to manage the application of the Local Jobs First Policy by suppliers (including Grantees) and Government agencies.

* 1. Local Jobs First Policy
		1. Interaction Reference Number
			1. The Grantee must comply with this cl 2.1 as a condition precedent to it becoming entitled to payment of the Funds under this Agreement.
			2. To maximise opportunities for local business within the Project, within x days [Insert a suitable time frame to enable the IRN and Reference Letter to be produced within 20 business days] of the Contract Manager's request, the Grantee must prepare and submit an IRN Form through the VMC setting out:
				1. details of the Project; and
				2. the services or activity likely to be required to deliver the Project.
			3. When contacted by ICN, the Grantee must consult with ICN in respect of opportunities for local businesses to deliver the goods and services required under this Agreement.
			4. The Grantee acknowledges and agrees that ICN will, if required:
				1. review and contribute to planning for the Project; and
				2. participate in meetings regarding the Project.
			5. Within twenty (20) business days of entering into this Agreement, the Grantee must:
				1. provide the IRN to the Contract Manager; and
				2. inform the Contract Manager of any opportunities for local business agreed with ICN. For this purpose, the Grantee may provide the Contract Manager with a copy of the Reference Letter.
		2. Record keeping and monitoring
			1. The Grantee must prepare and maintain records demonstrating its compliance with any Local Jobs First Policy Commitments.
			2. The Grantee must monitor its compliance with any Local Jobs First Policy Commitments.
			3. The Grantee acknowledges and agrees that the Agency or the Department may consult with ICN in respect of the Grantee's compliance with any Local Jobs First Policy Commitments.
			4. The obligations set out in this cl 2.2 are in addition to and do not derogate from any other obligations under this Agreement.
		3. Use of information
			1. The Grantee acknowledges and agrees that any information provided to the Agency or the Department by ICN in accordance with cl 2.2 may be:
				1. included in the Agency's report of operations under Part 7 of the *Financial Management Act 1994* in respect of the Agency 's compliance with the Local Jobs First Policy in the financial year to which the report of operations relates;
				2. provided to the Responsible Minister for inclusion in the Responsible Minister's report to the Parliament for each financial year on the implementation of the Local Jobs First Policy during that year; and
				3. may be disclosed in the circumstances authorised or permitted under the terms of this Agreement or as otherwise required by Law.
	2. Local Jobs First Commissioner
		+ 1. The Grantee acknowledges that:
				1. it is required to comply with any information notice issued to it by the Local Jobs First Commissioner in accordance with s 24 of the *Local Jobs First Act 2003*;
				2. it is required to comply with any compliance notice issued to it by the Local Jobs First Commissioner in accordance with s 26 of the *Local Jobs First Act 2003*;
				3. its failure to comply with the compliance notice referred to in this clause 3(a) may result in the issue of an adverse publicity notice by the Responsible Minister under s 29 of the *Local Jobs First Act 2003*; and
				4. the Local Jobs First Commissioner may:

monitor and report on compliance with the Local Jobs First Policy; and

request the Agency to conduct an audit in relation to the Grantee's compliance with the Local Jobs First Policy.

* + - 1. The Grantee acknowledges that the Commissioner may recommend that the Agency take enforcement proceedings against the Grantee if the Grantee has failed to comply with the Local Jobs First Policy by:
				1. applying to a court to obtain an injunction; or
				2. taking action available under this Agreement.