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Promotion of SMEs/Local Content in Public Procurement Laws and Regulation

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?Below are sample legislation to promote SMEs or Local Content in Public Procurement Laws and Regulation:

Visit [Laws and Regulations on Inclusion of SMEs in PPPs](#) for more examples or download the summary of sample provisions [here](#).

Australia

Reference: [Victorian Industry Participation Policy Act](#)

Through this Act, the Victorian government is mandated to create a policy that promotes and incentivize the participation of small and medium enterprises in public projects and procurement financed or launched partially or wholly by the State. Some of the Act's objectives are: "promoting employment and business growth by expanding market opportunities for local industry; and providing contractors with increased access to, and raised awareness of, local industry capability"

Reference: [Victorian Industry Participation Policy](#)

The Victorian Industry Participation Policy (VIPP) was passed as an effort of the Victorian Government to create a flow of work opportunities for the local industries (small and medium enterprises) by giving them the right legal framework to participate in public procurement in an even field. "VIPP requires government departments and agencies to consider competitive local suppliers, including SMEs, when awarding contracts

valued at: \$1 million or more in regional Victoria, or \$3 million or more in metropolitan Melbourne or for state-wide activities.”

Reference: [Victorian Industry Participation Policy Guidelines](#)

This document provides guidance to public authorities and suppliers as to the Victorian Industry Participation Policy (VIPP) application. It indicates what VIPP roles and opportunities are; how the application of VIPP to procurement activities is, and it finally explains the VIPP plan.

Reference: [Victorian Industry Participation Policy Strategic Projects – Forward Plan](#)

This page shows the different pipeline of projects that are identified as strategic projects, according to the VIPP, and serves as an announcement ahead of time for the local industries so that they are able to participate in those projects.

“Strategic Projects under VIPP are major projects that have an estimated total project value of \$50 million or more, excluding maintenance and operational costs. Maintenance projects valued at \$50 million or more will be classified as Strategic Projects. For each Strategic Project, the government sets a minimum local content requirement that project proponents are required to meet. This ensures that local spending means local jobs.”

For example, for the procurement of the Melbourne Tram project, the minimum local content requirement is: 25% trams and 50% whole of life support.

Dominican Republic

Reference: [Regulation of the Goods, Services, Works and Concessions Procurement Law - Decree 543 of 2012](#)

This law promotes SMEs in public procurement. It indicates, for example, that SMEs may participate in selection processes through consortiums or different type of associations, and they may receive an advance payment of 20% of the project to strengthen their economic capacity to bid.

Reference: [Goods, Services, Works and Concession Procurement Law – Law 340 of 2006](#)

This law establishes the principles and general rules that govern public procurement in the country. Within those principles, the law indicates that the public procurement process should encourage SME participation, including designing bidding documents specifically to do so.

European Union

Reference: [Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC](#)

This Directive sets rules for the procurement procedures of works, supplies or services regarding public contracts as well as design contests. A number of forms of PPP would be covered by this directive. It is especially relevant to small, micro and medium sized because the state members recognized their importance for the development and modernization of the region and uses this directive to facilitate their participation in public procurement and their access to the market.

The directive provides guidance on how to adapt the procurement process to the needs of SMEs by applying the ‘European Code of Best Practices Facilitating Access by SMEs to Public Procurement Contracts’, for example dividing large contracts into multiple smaller contracts.

Reference: [Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts](#)

This Directive sets rules for the award of concession contracts. It notes that due to the absence of regulations on the award of concession contracts, SMEs are being left out business opportunities. Therefore, it calls for a balanced and adequate legal framework that ensures equal access to all economic operators.

Reference: [European Code of Best Practices Facilitating Access by SMEs to Public Procurement Contracts](#)

This Code aims to create fairer access to public procurement for all the economic operators, particularly for SMEs.

Ecuador

Reference: [Manual of Good Practices in Public Procurement 2015 \(Manual de Buenas Prácticas en la Contratación Pública 2015\)](#) (In Spanish)

This document is a guide for Ecuadorian public procurement. It provides the best way to address recurrent illegal, unethical or illegitimate practices by implementing basic principles of the public procurement such as legality, transparency, opportunity and equality.

Jamaica

Reference: [Public Sector Procurement Policy](#)

Jamaican public procurement policy establishes economic development as a principle that guides the contracting process, and recognizes the benefit of encouraging micro, small and medium enterprises (Section 5.1(i)).

Likewise, the Policy points out as that the government have the ability to leverage certain sectors of the economy by being its biggest purchaser. Therefore, the document provides for the “GoJ, while giving due regard to international and regional obligations, will ensure that, as far as practicable, opportunities are provided in public procurement for capable local contractors to participate in the provision of goods, services and works on a sustainable and efficient basis as an integral part of the process of national development. In pursuit of this GoJ will employ a range of measures including: i. set asides for Micro, Small and Medium Enterprises (MSME) ii. (sic) the application of domestic margins of preference; and iii. (sic) domestic content requirements.” (Provision 10.9.1)

Spain

Reference: [Policy guideline regarding the incorporation of social, environmental, SME promotion and sustainable public procurement criteria on the region of Extremadura's procurement and the entities that conform its public sector](#) (In Spanish)

This general policy guideline for the Autonomous Community of Extremadura (Spain) aims to boost SME sustainability and participation in public procurement of the region. Particularly, it establishes capacity building for SMEs to instruct them on how to access the public procurement processes and the different possibilities of temporary association to comply with financial requirements.

Tanzania

Reference: [Public Procurement Act 2011](#)

Under this Act tenderers who are either Tanzanian citizens or Tanzanian firms that form associations with foreign firms in a Bidding Process, are eligible to be granted a margin of preference if they meet the criteria set out under the Public Procurement Act 2011 and are registered with the PPRA or any other statutory body acceptable to PPRA.

Further Reading

- [Technical Report: Policies that Promote SME Participation in Public Procurement](#), a study conducted by the World Bank Group on behalf of the Business Environment Working Group (BEWG) of the Donor Committee for Enterprise Development (DCED), September 2017.

Related Content

- [SMEs and PPPs](#)
- [Laws and Regulations on Inclusion of SMEs in PPPs](#)
- [Promotion of SME Participation in PPP Laws and Regulation](#)
- [Sector-Specific Laws and Regulations Promoting SMEs/Local Content](#)
- [Bidding Documents and Contractual Provisions regarding inclusion of SMEs in PPPs](#)
- [Examples of Policies of International Contractors Promoting SMEs](#)
- [Examples of Policies that Incorporate Existing Operators into New PPPs](#)
- [Further Reading in SMEs and PPPs](#)

Additional Resources

- [Sub-national and Municipal PPPs](#)
- [Gender Equality & PPPs](#)
- [How to foster a more inclusive environment for SMEs in PPPs?](#)

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