



AUSTRALIAN STEEL INSTITUTE

**Submission to the Department of Industry, Innovation,  
Climate Change, Science, Research and Tertiary Education**

## **AUSTRALIAN JOBS BILL 2013**



**April 2013**

Submitted by **Ian Cairns**  
(On behalf of the Australian Steel Institute)

**Australian Jobs Bill 2013 - Comments**

Australian Industry Participation Section  
Manufacturing Division  
Department of Innovation, Industry, Science and Research  
CANBERRA ACT 2601

Email: [aiplegislation@innovation.gov.au](mailto:aiplegislation@innovation.gov.au)

11 April 2013

**Re: ASI submission to Australian Jobs Bill 2013**

Dear Sir/Madam,

Please find attached the Australian Steel Institute's (ASI) comments and suggestions on the Exposure Draft of the Australian Jobs Bill 2013.

The ASI is submitting these comments on behalf of its member companies, notwithstanding that some of these companies may also submit their own individual submissions. These members include the full spectrum of companies and individuals involved in the manufacture, distribution, fabrication, design, detailing, education, surface protection and construction of steel as well as suppliers of goods and services to the steel industry. Many of these companies are engaged in and vying for work in the major project area.

To ensure effectiveness, it is ASI's view that the AIPP process is:

1. Applicable to all resource and infrastructure projects greater than \$300m
2. Transparent and subject to scrutiny by Government, industry and unions
3. Rigorous, meaningful and detailed – it must be broken down into sectors and show 'contestable' items
4. Monitored and audited by an independent expert tribunal/Board
5. Enforceable and supported by strong penalties for false declarations and non-adherence to the plan

We have also included in this submission our industry definition of 'Full, Fair and Reasonable' and our suggested amendments to the 'rules' for AIP Plans recommended by the AIP Working Group.

We look forward to reviewing the conclusions to the public comments phase. We are keen to assist this process at any time to ensure that the Australian steel industry is able to maximise the potential from major projects and the intent of the Australian Jobs Bill 2013. We believe a robust Australian Industry Participation Plan process will assist in future employment opportunities generated by current and future major projects in Australia.

Yours sincerely,

**Don McDonald**  
Chief Executive

**Ian Cairns**  
National Manager – Industry Development

# Australian Steel Institute submission

## **About ASI**

Australia's steel industry and service suppliers employ 100,000+ people and have an annual turnover in excess of \$27 billion. The Australian Steel Institute (ASI) is the peak industry association representing this important sector of the Australian economy. The ASI provides representation, technical and marketing leadership and an independent forum to facilitate steel promotion and industry competitiveness. The ASI's mission is to increase the awareness of the benefits of steel and promote Australian-made steel as the material of choice.

ASI members represent the full spectrum of companies and individuals involved in the manufacture, distribution, roll forming, fabrication, design, detailing, education, surface protection and construction of steel as well as suppliers of goods and services to the industry.

Steel is an important segment of Australia's economy. Our members and the Australian steel industry as a whole will be directly and indirectly affected by the ability of our industry to supply into major projects (resources and infrastructure). Considering this, it would be beneficial to the steel industry and our members for the ASI to have a meaningful and sustained dialogue on this issue.

## **Background/Introduction**

Traditional domestic markets for steel, such as manufacturing, industrial buildings, commercial buildings, automotive and residential construction remain weak and face considerable growth pressure. The industry is therefore looking to domestic growth markets that can satisfy both the steelmaking and fabrication capacity in the market for the next decade. It should come as no surprise that the industry has identified the resources and infrastructure sectors as those markets. There is approximately \$440 billion of investment in these sectors to be invested and built on our shores in the next five to ten years. This investment in oil and gas, iron ore, coal and other minerals and infrastructure as you will appreciate, is extremely steel-intensive.

The Australian steel value chain has been successfully involved in major projects both in the resources and infrastructure areas for decades. However, we have seen the domestic share in this work decline to approximately 10 to 12 percent in the resources sector and also reduce markedly in the infrastructure area.

This is in an environment where steel businesses are operating at well below capacity, skilled workers are underemployed, apprenticeships are at an all-time low and employment is falling. We have seen in recent years significant job losses from BlueScope Steel and OneSteel. We have also seen this trend deeper in the channel with people being laid off and businesses closing. If action is not taken, we are in danger of losing these significant businesses, skills and jobs forever.

Our industry faces an extremely serious and urgent problem due to lack of demand. It should be noted and seems quite ironic that the resources boom, which is causing challenges for non-resource, trade-exposed industries, through;

- high AUD\$,
- high interest rates,
- record high steel-making input costs (iron ore and coal), and
- higher wages,

can actually be part of the solution by providing increased domestic demand through the procurement of greater levels of Australian content in their projects.

Increased local content is good for Australia and the local economies in which the companies operate. An independent report completed for the Industry Capability Network (ICN) shows that for every \$1m of retained manufacturing business:

- A further \$985,000 of value-added is generated (metal products is the highest VA).
- \$333,900 of tax revenue is generated.

- \$95,000 worth of welfare benefits is saved.
- 10 full-time jobs are created or saved.

It makes obvious sense that a stronger policy framework to encourage this and soften the effect of the 'patchwork' economy is urgently needed. Government leadership and decisive policy support and action are required to stimulate Australian steel demand in major projects and we look forward to the implementation of the Australian Jobs Bill 2013 which will hopefully arrest this serious situation.

### **Note**

1. Text below in 'red (page # in brackets)' is taken from the Exposure Draft of the Australian Jobs Bill 2013, and followed by comments and suggestions from the ASI.
2. Comments made are generally in the context of the steel industry, although some comments are made of an overall general nature.

## Comments and suggestions relating to the proposed Australian Jobs Bill 2013

### Part 1 – Preliminary

“The key objective of an AIP plan is that Australian entities should have full, fair and reasonable opportunity to bid for:

(a) the supply of key goods or services for the project; and

(b) if the project involves establishing a new facility the supply of key goods or services for the new facility’s initial operational phase. (pg.3)”

We do not believe that the concept of ‘Full, Fair and Reasonable’ is enough. Currently this definition has delivered the steel industry just 10 to 12 percent of the contestable steel volume from new resources projects, so it is fair for our sector to presume that this is not enough. Some suggestions have been ‘Full, Fair and First’, also touted by the NSW Government. Alternatively we suggest a set of stronger definitions of Full, Fair and Reasonable as shown in the table below.

	AIP Definition	Steel Industry expectation
FULL	Australian industry has the same opportunity afforded to other global supply chain partners to participate in all aspects of an investment project (eg. design, engineering, project management, professional services, IT architecture)	<ul style="list-style-type: none"> <li>Projects specify Australian Standards as their basis for design of steel material inputs and components (mechanical properties, dimensions and tolerances etc.)</li> <li>Industry is provided with genuine and early opportunity (same time given for local and overseas bidders) to understand and (where appropriate) engage / contribute to the project design / procurement / construction strategies</li> <li>Proponents should: <ul style="list-style-type: none"> <li>- provide industry with preliminary advice of work packages and identify areas of potential imported content</li> <li>- work with industry and ICNs to understand existing capability and capacity, plus identify improvement opportunities</li> <li>- for large/strategic projects, provide dedicated resources, independent of procurement</li> </ul> </li> <li>Engagement covers all options for potential fabrication and assembly (and related activities) – wholly onshore, partly onshore or completely offshore (potential export role)</li> </ul>

	AIP Definition	Steel Industry expectation
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	<ul style="list-style-type: none"> <li>▪ AIPP/EPBS requirements promote disaggregation of modular structures into functional units to ensure clarity on areas where local industry involvement in individual components is or could be equivalent</li> <li>▪ Project proponents and their subcontractors commit to like-for-like comparisons during tender evaluation (e.g. not solely comparing offshore modules vs Australian stick build, with significant time lag between pricing of each scenario)</li> <li>▪ Where claiming duty concessions, transparent and public advice is provided regarding firm tender/work package release and award</li> <li>▪ Local industry is provided adequate time and opportunity to tender work, prior to procurement strategy being finalised (i.e. the tender is live and not pre-committed to offshore providers)</li> <li>▪ Meaningful feedback is provided to industry (upon request), facilitating learning and development outcomes</li> <li>▪ ICNs require a clear national charter, including expanded role to promote all local industry and provide information and support to industry development initiatives.</li> <li>▪ Confidentiality agreements should not be misused (e.g. as a barrier to early and effective dialogue with local industry)</li> <li>▪ To avoid a conflict of interest, ICNs should be precluded from acting on behalf of proponents for fee-based services related to EPBS applications</li> </ul>
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 investment projects	<ul style="list-style-type: none"> <li>▪ Projects do not preclude Australian produced steel products by design (e.g. by specifying compliance of structural steel with only JIS or similar)</li> <li>▪ Offshore providers of project components are evaluated on a like-for-like basis with local providers on areas of social and environmental importance defined by Government policy (e.g. environmental green star ratings, sustainability, carbon leakage, industrial safety)</li> <li>▪ Tangible evidence of the following statement:  <i>The Australian Government believes that it has a role as a model purchaser to encourage good practices from its suppliers. This includes an expectation that its suppliers comply with Australian laws. The Government can do this through a variety of mechanisms including requiring suppliers to pay attention to matters such as environmental sustainability.</i>  <b>Australian Government Procurement Statement (July 2009)</b> </li> <li>▪ The impact of global trade anomalies such as export rebates or energy subsidies is reviewed so Australian industry is not unfairly disadvantaged</li> </ul>

**"The Minister may establish the Australian Industry Participation Advisory Board (pg.3)"**

We agree and believe that this is a very important link between the Authority and industry. See more comments on this further in the submission.

**"If the total expenditure of a capital nature that has been incurred, or is reasonably likely to be incurred, in carrying out a designated project is greater than or equal to the major project threshold amount, the project is a *major project* for the purposes of this Act. (pg.12)"**

We agree that the 'greater than or **equal to**' statement is important as many projects are rounded, which may have rendered \$500m projects out of the threshold. Care should also be taken to review projects that may be within five percent of the threshold for potential avoidance.

We seek to define 'total expenditure' as given in s8(1) as "the value of the **entire** 'eligible facility'" - i.e. all expenditure relating to a major project in establishing, expanding, improving or upgrading a facility and in full accordance of the definition of an eligible facility in s6 as "whether alone or in combination with one or more other facilities that are reasonably necessary for the [facility] to operate". We see this distinction as being important to ensure that proponents are unable to split \$500m+ projects into smaller projects below the \$500m threshold to avoid the need for an AIP Plan (e.g. proponent announces Phase 1 being \$400m, then two years later announces another \$400m project and therefore avoids the need for an AIP Plan).

More on avoidance further in the submission.

***Anti-avoidance (pg.13)***

As a general comment and not targeted at any clause contained in this section, it is very important for the Authority to closely monitor any potential cases of anti-avoidance.

In the instance where a major project is split into large Tier 1 contracts, it should still remain the proponent's responsibility to lodge the AIP Plan using supporting facts provided by the sub-contractor.

**For the purposes of this Act, *trigger date*, in relation to a project means: (pgs.16 and 17)**

We strongly agree that early engagement with a project proponent is highly desirable and that the events that are outlined in this section of the Act are concise. However, we feel that while this early first step is desirable, the information included in the AIP Plan may not provide the level of information required by local suppliers. We suggest that at this early stage, general concepts on how the local industry will be engaged and utilised on the project should be outlined. More detailed information may then be required to help ascertain whether local industry has the capability and capacity to deliver certain parts of a project. This information may not be available until after FEED and major decisions are made on engineering and design. To allow for this, an updated AIP Plan is required to be submitted to the Authority and communicated to industry.



## **Part 2 – Australian Industry Participation Plans**

### **17 Project proponent must give draft AIP plan to the Authority (pg.19)**

- (1) The project proponent for a major project must give the Authority a draft AIP plan for the project:
  - (a) at least 90 days before the trigger date for the project; or
  - (b) if the Authority, by written notice given to the project proponent, specifies a later time—before that later time.
- (2) The Authority may specify a day under paragraph (1)(b):
  - (a) on the Authority's own initiative; or
  - (b) on application made to the Authority by the project proponent for the project.
- (3) Subsection (1) does not apply if the project proponent is not aware that the project is a major project.

As previously outlined in the 'trigger date' paragraph immediately above, we agree that early engagement and AIP Plan strategies by proponents are important.

In sub-section 3 above, we **do not agree** that the project proponent should be given the right to not be subject to sub-section (1) if he is 'not aware'. The Bill and the law are clear that all projects equal or greater than \$500m apply. It is the responsibility of all proponents to understand the laws of the land. This is not a difficult concept to grasp.

### **18 Approval of draft AIP plan 6 (pg.20)**

- (1) If the project proponent for a major project gives the Authority a draft AIP plan for the project under section 17, the Authority must:
  - (a) approve the plan; or
  - (b) refuse to approve the plan.

#### ***Approval of plan***

- (2) The Authority must not approve a draft AIP plan under subsection (1) unless:
  - (a) the draft AIP plan complies with the AIP plan rules; and
  - (b) the Authority is satisfied that the specified steps are adequate.
- (3) If the Authority approves the draft AIP plan under subsection (1), the plan becomes the approved AIP plan for the project.
- (4) If the Authority approves the draft AIP plan under subsection (1), the Authority must give the project proponent a written notice setting out the decision.

Following from the comments above about requiring more information to make the AIP Plan more robust and to provide Full, Fair and Reasonable opportunity for local industry, we are concerned that an AIP Plan submitted early will become the 'Approved AIP Plan' and further information or changes may be difficult to obtain. This could limit the opportunities for local industry to understand the detail of what is required and therefore prohibit full engagement by local suppliers.

### **19 Replacement of approved AIP plan before completion of project (pg.21)**

- (1) If:
  - (a) an approved AIP plan (the **original plan**) for a major project is in force; and
  - (b) the project has not been completed;
 a project proponent for the project may give the Authority a draft AIP plan that is expressed to replace the original plan.
- (2) If a project proponent gives the Authority a draft AIP plan for the project under subsection (1), the Authority must:
  - (a) approve the plan; or
  - (b) refuse to approve the plan.

Regarding the wording in sub-section 1, above. The Authority should also be able to request that an updated AIP Plan be submitted even if an existing and approved AIP Plan is in place. This would facilitate the concerns we have in the clauses above about lack of detailed information being available at early stages of a project.



In addition, the way we are interpreting the current wording, we see it is only the proponent that can decide to replace the original, approved AIP Plan – we look for this to be changed.

## 21 Duration of approved AIP plan (pg.24)

*Project involves establishing a new relevant facility*

- (1) If a major project involves establishing a new relevant facility, an approved AIP plan for the project:
  - (a) comes into force when the Authority approves the plan; and
  - (b) subject to this Division, continues in force until the end of the 2-year period beginning when the project is completed.

Following on and consistent with the comments above, we are very concerned that sub-clause (1b) above means that an early and perhaps less detailed AIP Plan can stay in force for two years or until the project is completed. Relevant information needs to be updated on the AIP Plan as key engineering, design, methodology and procurement strategies are finalised throughout the duration of the project to ensure local suppliers are given Full, Fair and Reasonable access to a major project.

## 22 Summary of specified steps (pg.24)

- (1) If a person gives the Authority a draft AIP plan for a major project, the person must also give the Authority a summary of the specified steps for the plan.
- (2) The summary must be in a form approved, in writing, by the Authority.
- (3) If the draft AIP plan is approved, the Authority may publish the summary on the Authority's website.

Wording above in 22 (3) says 'the Authority may publish'. As transparency is one of the key elements in relating to the proposed Bill, we strongly believe that the publishing of the AIP Plan summary is an agreed action, and therefore, the wording should read 'the Authority will publish'.

## 23 Register of approved AIP plans (pg.24)

- (1) The Authority must maintain a register in which the Authority includes all approved AIP plans that are in force.
- (2) The register may be kept in electronic form.

The register mentioned above in 23 (1 and 2) should be available on the Authority's website.

## 25 Compliance report—project proponent (pg.25)

*Scope*

- (1) This section applies to a major project if an approved AIP plan for the project is, or has been, in force.

*Reporting period*

- (2) For the purposes of this section, a **reporting period** for the plan is:
  - (a) the period of 6 months beginning on the day on which the plan is approved; and
  - (b) each subsequent 6-month period during any part of which:
    - (i) the plan is in force; and
    - (ii) the project proponent for the project is subject to any obligations under Part B of the plan.

*Compliance report—project proponent*

- (3) The project proponent for the project must, within 3 months after the end of each reporting period, prepare and give the Authority a report relating to compliance with Part B of the plan during the reporting period.

We would prefer if compliance reporting was at minimum every three months. This would allow for the updates on engineering, design, methodology etc and provide a better chance for local industry to be aware of the relevant information and participate in the project.

## 34 Key Objective (pg.29)

Part B of an AIP plan for a major project must state that the **key objective** of Part B of the plan is that Australian entities should have full, fair and reasonable opportunity to bid for the supply of key goods or services for the project.

We recommend that the following words be added to the end of the key objective statement above:  
**"...and the proponent will do everything practicable to maximise local content within the project."**

### 35 Primary obligations of project proponent

(1) Part B of an AIP plan for a major project must state that, until the project is completed, the project proponent for the project will take all reasonable steps to ensure that each procurement entity for the project will achieve the following objectives:

- (a) the key objective of Part B of the plan;
  - (b) the objective that the procurement entity will have a publicly accessible website;
  - (c) the objective that the procurement entity will not request bids to supply key goods or services for the project unless the procurement entity has a broad understanding of the capability and capacity of Australian entities generally to supply those goods or services;
  - (d) the objective that requirements that potential bidders must satisfy in order to bid to supply key goods or services for the project:
    - (i) will be published on the website of the procurement entity; and
    - (ii) will be so published at a reasonable time before the request for bids is made;
  - (e) the objective that:
    - (i) standards for key goods or services that are to be acquired by the procurement entity for the project will be published on the website of the procurement entity; and
    - (ii) if the standards are neither Australian standards nor internationally recognised standards—the procurement entity will publish on its website a statement explaining why neither Australian standards nor internationally recognised standards are being used;
  - (f) the objective that the procurement entity will not discriminate against Australian entities in relation to timeframes for responding to requests for bids to supply key goods or services for the project;
  - (g) the objective that the procurement entity will:
    - (i) provide feedback to Australian entities whose bids to supply key goods or services for the project have not been successful; and
    - (ii) ensure that such feedback includes recommendations about any relevant training and any relevant skills development;
  - (h) the objective that the procurement entity will:
    - (i) at all times have an employee who is designated as the procurement contact officer for the project; and
    - (ii) publish the procurement contact officer's contact details on the procurement entity's website.
- (2) Part B of an AIP plan must state that, until the project is completed, the project proponent will take specified steps directed towards ensuring that the objectives set out in subsection (1) are achieved by each procurement entity for the project.

We recommend that the following be added to sub-clause (d) above.... **"the proponent will take suitable steps to engage with local industry, such as seminars and workshops to explain and prove opportunity for discussion on key goods and services requirements for the project."**

We recommend that in sub-clause (e ii) the words are changed to the following: **"if the standards are NOT Australian Standards, the procurement entity will publish on its website a statement explaining why Australian Standards are not being used"** (i.e. delete references to internationally recognised standards as it can be easily argued that all standards used on major projects are 'internationally recognised'). This would make this important clause superfluous.

Suggestion on sub-clause (g i) is that this feedback could be done as a collective for all bidders of a similar/same package. This could be done as a roundtable with a Q&A which has been done in the past by Chevron and others. Relevant industry associations such as the ASI could also be involved to help facilitate this activity.

## **Part 5 - Consequences of non-compliance**

### **Division 1—Administrative consequences of non-compliance**

#### **57 Administrative consequences of non-compliance**

While we generally agree with the ‘Administrative’ consequences of non-compliance, we feel that a stronger form of penalty (i.e. monetary fine) is required for proponents and or sub-contractors who do not comply with the statements provided in their AIP Plan.

Additionally we would suggest the following penalties are also considered:

- Non-compliant companies who are named in parliament lose access to government support (e.g. EPBS, TCS, R&D tax concessions, support from Enterprise Connect, ICN Gateway)
- Non-compliant companies may face Government claw backs on tariff concessions and other government support.

#### **64 Obligations of multiple project proponents**

##### *Scope*

(1) This section applies if:

- (a) there are 2 or more project proponents (the **multiple project proponents**) for a project; and
- (b) either of the following:
  - (i) this Act;
  - (ii) an approved AIP plan for the project;

imposes an obligation on the project proponent for the project.

(2) The obligation is imposed on each of the multiple project proponents, but may be discharged by any of the multiple project proponents.

We recommend that if a separate project proponent has responsibility for a certain part of a project, then it should be obliged to submit an AIP Plan for its responsible area. If this is not clear then the proponent with the majority share of the project becomes the responsible party.

#### **85 Establishment of Australian Industry Participation Advisory Board**

(1) The Minister may, by writing, establish a committee to be known as the Australian Industry Participation Advisory Board.

Note: In this Act, **AIP advisory board** means the Australian Industry Participation Advisory Board (see section 5).

(2) Before establishing the AIP advisory board, the Minister must consult the Authority.

(3) An instrument made under subsection (1) is not a legislative instrument.

#### **86 Functions of AIP advisory board**

The AIP advisory board has the following functions:

- (a) to advise the Authority, at the Authority’s request, about matters relating to the performance of the Authority’s functions;
- (b) to advise the Minister, at the Minister’s request, about AIP matters;
- (c) to do anything incidental to or conducive to the performance of either of the above functions.

This is an important and necessary Advisory Board and should be the key link between the AIP Authority and industry. The Board would ideally comprise relevant unions, industry associations and key industry representatives.

Recommend that in 86 (a) the words “...at the Authorities request...” and in 86 (b) that the words “...at the Minister’s request...” be deleted. Otherwise this Board would not be independent of Government, or function in the manner in which it should.

### **87 Membership of AIP advisory board**

The AIP advisory board consists of the following members:

- (a) a Chair;
- (b) at least 2, and not more than 4, other members.

We believe that a Board of between two and four (excluding Chair) is too small and would not adequately represent the constituents of major projects. We feel that a Board of between six and 10 is functional and will provide the necessary skills and balance of views from across the major project community.

Also refer to comments immediately above on the suggested makeup of the group.

### **NOTE:**

**Apart from the clauses specifically mentioned above, we are in general agreement with remaining Sections of the Australian Jobs Bill 2013.**

## Australian Industry Participation Plan – “RULES / GUIDELINES”.

Within the Australian Jobs Bill 2013, it refers to AIP Plan ‘rules/guidelines’. However these are not documented in either the Bill or the Impact Statement. Notwithstanding our comments above under Division 2 – AIP plan rules, we feel that the ‘rules’ of AIP Plans are a key aspect of maximising the value of the policy position and the Australian Jobs Bill 2013.

We assume that the recommendations of the previous AIP Taskforce will be adopted as the ‘rules/guidelines’ relating to the Australian Job Bill 2013. To achieve this maximum benefit for the Australian steel industry, we see that the ‘rules/guidelines’ put forward by the Working Group need to be amended as below, taking into account the preferred ASI position.

Working Group Recommendation	ASI Preferred
<i>Publishing AIP Plans and outcomes</i>	
<p><b>Recommendation 1</b></p> <p>Companies should provide a breakdown of the key goods and services to be procured for the project, and the estimated percentage of Australian industry value added as a measure of Australian content. The Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE) should produce a template, along the lines of the template in the Australian Petroleum Production and Exploration Association (APPEA) submission as a basis for this reporting. For public reporting purposes, only an aggregate percentage of Australian industry value-added should be published for each company or project.</p>	<p>Agree with the first part of this recommendation, but <b>STRONGLY</b> disagree with publicly reporting only aggregated percentages.</p> <p>We feel that this is a very important part of the process in an effort to ensure that the AIPP commitments made are transparent and can be scrutinised and, if necessary challenged, and that proponents are accountable for those commitments.</p> <p>In our view it is essential that there be public reporting at the level of key inputs, including steel products. Otherwise there is no way for Australian industry to assess potential areas for future supply, identify opportunities for capability/capacity development and to know if commitments to purchase particular goods and services from domestic suppliers have been met. We are concerned that if the current recommendations stand, companies will count non-tradeable inputs, like security, catering, transport, construction labour and the like which will ‘inflate’ the level of local content, when in fact key tradeable inputs such as fabricated steel products might be all sourced off-shore.</p> <p>The AIP Consultation Paper published in November 2011 included sample tables for estimating Australian industry value-added. An example was given of steel fabrication with a total contract value of \$4m and estimated Australian industry-value added of \$2.9m or 73%. This level of local-content statistics on key inputs such as steel fabrication should be published by project.</p> <p>Care must be taken to ensuring that the value-added work actually takes place in Australia and that an order for the work is just not provided to an Australian-based builder or EPC, who sub-contracts the work overseas.</p>

<p><b>Recommendation 2</b></p> <p>Where companies can identify specific items that will be procured for the project these should be published. Companies should provide an estimate of Australian versus overseas content to DIISRTE, but this should not be published where it is commercial-in-confidence (CIC).</p>	<p>It goes without saying that companies will know what specific items will be procured for their project.</p> <p>All items should be summarised with a maximum of 50 line items for the whole project. This information with a breakdown of Aust vs overseas content should be published for each line item.</p> <p>We need to be careful that CIC is not used to avoid publishing relevant AIPP information. Companies should provide information on items that they are unable to procure in Australia, outlining specific Australian industry capability gaps. Recognising these skills gaps. There should also be encouragement for proponents to build the knowledge and skills that may currently be missing in Australia, but those that a project has the ability to teach local industry.</p>
<p><b>Recommendation 3</b></p> <p>An executive summary of AIP Plans should be provided by companies in a standardised form for publication by DIISRTE. DIISRTE will work with the companies to ensure the executive summary is an accurate reflection of the AIP Plan. The summary of the AIP Plan for publication would need to exclude any commercially confidential information.</p>	<p>Taking into account our comments in Recommendation 1.</p> <p>The executive summary should provide enough information to be meaningful to the market.</p> <p>We need to be careful that CIC is not used to avoid publishing relevant AIPP information.</p>
<p><b>Recommendation 4</b></p> <p>The executive summary of AIP Plans should include a summary of actions under each of the AIP Plan criteria, specifically incorporating:</p> <ul style="list-style-type: none"> <li>• a description of the project;</li> <li>• how the company or project will actively seek and utilise information on Australian industry capability and communicate opportunities to potential suppliers;</li> <li>• details of expected areas of opportunities for Australian suppliers, including how the company/project will provide opportunities to Australian industry through all stages of a project and through all tiers of supply;</li> <li>• an explanation of the process and criteria to assess potential suppliers (including any prequalification processes); and</li> <li>• how the company will work with suppliers (and government programs where applicable) to encourage capability development and integration into global supply chains.</li> </ul>	<p>Agreed in conjunction with 1, 2 and 3 above.</p>

<b>Recommendation 5</b> <p>The executive summary of AIP Plans should be published in a central location maintained by the government, preferably at <a href="http://www.aip.gov.au">www.aip.gov.au</a>. Executive summaries should be allowed to be updated or modified by companies in consultation with DIISRTE.</p>	<p>Agreed.</p>
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<b><i>Enhanced Project By-law Scheme</i></b>	
<b>Recommendation 6</b> <p>For major projects accessing the EPBS, evidence should be provided to demonstrate how AIP Plan commitments will cascade to tier 1 or Engineering, Procurement and Construction Management (EPCM) companies. Attention should also be focused on how projects translate the AIP Plan into the overall procurement strategy.</p>	<p>EPBS AIP Plans should also abide by all other recommendations contained within this document.</p>
<b>Recommendation 7</b> <p>Projects over \$2 billion should incorporate information on prequalification requirements when publicly listing opportunities, rather than only listing tender information.</p>	<p>Agree. Also refer below.</p>
<b>Recommendation 8</b> <p>It is suggested that projects over \$2 billion report to DIISRTE regularly (every 6 months) on:</p> <ul style="list-style-type: none"> <li>• Activities taken for local industry engagement (i.e. steps taken to implement the AIP Plan).</li> <li>• Contracts awarded in the last reporting period including information as to why Australian-based bids were unsuccessful.</li> <li>• Information on Australian industry capability gaps.</li> <li>• A summary of forthcoming major contracts.</li> </ul>	<p>Suggest threshold is changed to projects over \$1 billion and/or Govt grants/funding over \$200m.</p>



<p><b>Recommendation 9</b></p> <p>The Australian Government should seek to align with existing state and territory government processes wherever possible, including giving consideration to joint approvals where appropriate.</p>	<p>Where States have lesser or no guidelines the Federal Government guidelines should apply.</p> <p>All States should be encouraged to replicate the Federal Government guidelines within their own State policies.</p> <p>This should be done via COAG in consultation with relevant State Industry Ministers and updated through the existing National AIPP Framework.</p>
<p><b>Recommendation 10</b></p> <p>A Functional Unit guide for the EPBS should be finalised as soon as possible, as it is seen as an important step in providing greater transparency and certainty for applicants on functional units and other eligible goods for EPBS. Consideration should be given by DIISRTE in renaming functional units to avoid confusion with the Australian Customs and Border Protection Service (Customs) definition.</p>	<p>Information regarding Functional units should be made public to ensure that Australian Industry can identify any skills gaps.</p> <p>Industry should also have the opportunity to question and/or dispute a functional unit. A process for this should be set-up. More information may be required from the proponent or EPC/M to do this.</p> <p>If an F/U contains steel fabrication packages these must be separately identified and tendered in Australia, and this component should not be eligible for EPBS concession.</p>

<b>Major Commonwealth grants</b>	
<p><b>Recommendation 11</b></p> <p>Grant recipients should be required to submit a DIISRTE approved AIP Plan either prior to signing the funding agreement (as a condition of offer of the grant) or at the latest within 30 days of signing a funding agreement.</p>	<p>Agreed.</p> <p>As per comments in Recommendation 1, these plans should be publically available. Any CIC information should be flagged by the proponents and kept by DIISRTE only.</p>
<p><b>Recommendation 12</b></p> <p>DIISRTE should conduct in-depth analysis of several AIP Plans per year, to verify opportunities provided to Australian suppliers and reporting of AIP Plan outcomes.</p>	<p><u>All</u> AIP Plans should be reviewed quarterly by an independent panel including industry, unions, proponents, ICN and DIISRTE.</p>
<p><b>Recommendation 13</b></p> <p>DIISRTE should review the resources required to effectively administer AIP Plans for Commonwealth grants after 12 months. In particular, DIISRTE should examine whether there may be better value in adopting a more targeted approach in future.</p>	<p>A review of the AIP Plan process should be completed after 12 months by an independent panel including industry, unions, proponents, and DIISRTE.</p>

<b><i>AIP Plans for Commonwealth funded major projects</i></b>	
<p><b>Recommendation 14</b></p> <p>State Local Industry Participation (LIP) policies, where they exist, should be applied to Commonwealth funded major projects managed by state or territory governments. This should make use of existing state and territory institutional arrangements.</p>	<p>We agree that duplication should be avoided.</p> <p>Where States have lesser or no guidelines the Federal Government guidelines should apply.</p> <p>All States should be encouraged to replicate the Federal Government guidelines within their own State policies.</p> <p>This should be done via COAG in consultation with relevant State Industry Ministers and updated through the existing National AIPP Framework.</p>
<p><b>Recommendation 15</b></p> <p>Where a state or territory LIP policy does not exist or is not applied to a project, a Commonwealth AIP Plan will be applied.</p>	<p>Agreed, as above with the difference being that the Federal Government guidelines should be used if the State guidelines are lesser or not as specific to AIPP.</p> <p>Until the State LIP's have similar levels of transparency and review this updated policy should take precedence.</p>
<p><b>Recommendation 16</b></p> <p>Effective implementation of the measures to require Industry Participation Plans for Commonwealth funded major projects will require close cooperation with states and territories. The renegotiation of the AIP National Framework Agreement may be the appropriate forum for this discussion.</p>	<p>Agreed. Refer comments made in Recommendations 9 and 14.</p>

<b><i>AIP Plans for large Commonwealth procurements</i></b>	
<p><b>Recommendation 17</b></p> <p>The Australian Government should give consideration to the Department of Defence's non-military purchases being covered by either the AIP policy or the Australian Industry Capability program.</p>	<p>This policy and guidelines should cover the Department of Defence's non-military purchases and all renewables energy projects where the Government has subsidies and/or grants &gt;\$20m, including the Clean Energy Finance Corporation grants.</p>

<b><i>Reporting on Australian Industry Participation</i></b>	
<p><b>Recommendation 18</b></p> <p>An AIP Report Card should be published annually by the Industry Minister to summarise AIP developments and achievements across various AIP programs, and to better inform public debate.</p>	<p>Agreed.</p> <p>Information should include number of AIPP's and projects lodged. Including total <b>value</b> of projects and total value of Government (Federal and State) funding. Information should include a summary by major product group (including steel) of local and overseas content. Refer Recommendation 1.</p>

<b><i>Other issues</i></b>	
<b>Recommendation 19</b> <p>The AIP National Framework should be updated by Commonwealth, state and territory governments by the end of 2012 and reviewed every five years.</p>	<p>Agreed.</p> <p>Should be reviewed every three years as industry procurement methods and supply chains are changing quickly.</p>
<b>Recommendation 20</b> <p>The Australian Government should give consideration to the requirement for AIP Plans for government procurement to include other forms of financial assistance such as loans by the Clean Energy Finance Corporation.</p>	<p>Agreed and referred to in Recommendation 17.</p> <p>And all other renewables projects where Government monies are prevalent, such as Solar Flagships.</p>
<b>Recommendation 21</b> <p>The Australian Government should consider re-establishing the Working Group within 12 months to review and report on progress on the implementation of the measures adopted by the Government.</p>	<p>Agreed.</p> <p>Refer comments in Recommendation 13.</p>

<b><i>Further suggested recommendations by the ASI</i></b>	
<b>Further recommendation 1</b>	<p>We believe that an Independent Panel should be set up to review all the AIPP reports. There should be a national group under the auspices of the DIISRTE and there may also be a need for State-based groups to review projects within their State. These groups should have representatives of industry, government and unions and have broad industry knowledge to be able to review progress of a major project. The group may also need to call on technical or other specific advice as seen necessary while reviewing progress of these reports. We feel that a quarterly (i.e. every three months) reporting regime would be appropriate for these reviews.</p>
<b>Further recommendation 2</b>	<p>Where a company has not abided by its AIP Plan obligations or does not have a sufficient reason for meeting its commitments under its original AIPP, a penalty should apply.</p> <p>These penalties could take the form of reduction or removal of the original grant monies, or a points system where continued offenders could be identified in consideration of future grants or subsidies.</p> <p>Penalties should also apply to EPBS misrepresentations.</p>

<p><b>Further recommendation 3</b></p>	<p>We would like to see the word 'grant' be extended to grants, subsidies and significant Government support. These would then have to be defined.</p> <p>In the true spirit of this policy change and the PM's speech and intentions, it is hoped that the implementation and definition of 'grants' will not be limited. It is hoped and anticipated by industry that where the Federal or State Governments have "...significant skin in the game....", then proponents and builders will be held to account via an AIP Plan.</p> <p>We believe the working group should consider the overall intentions of the PM's statement and also take into account the industry's expectations.</p>
<p><b>Further recommendation 4</b></p>	<p>There should be no projects exempt from fulfilling an AIP Plan. The AIPP is a perfect test on 'contestable opportunities' and 'industry capability'.</p>
<p><b>Further recommendation 5</b></p>	<p>There is continual reference to the concept of 'Full, Fair and Reasonable' opportunity being given to Australian Industry. The ASI would like to see a more thorough definition of F, F &amp; R.</p> <p>See F, F &amp; R appendix table below.</p> <p>A tighter definition along these lines should be adopted as part of these guidelines.</p>

## **Summary of key points from Bill and Impact Statement**

1. The ASI maintains that the \$500m threshold is too high, we would suggest a figure of minimum \$300m.
2. An alternative to point 1 above would be to have a code of practice for all projects between \$200–500m similar to the recently launched Queensland Resources Council system in that state.
3. Many CleanTech projects, including the majority of wind farms will likely be below the \$500m threshold. This is of concern as these projects are highly steel intensive in nature and within the manufacturing capability of local suppliers. Points 1 or 2 will assist this; however we believe that we should have a separate scheme for CleanTech projects as they are ultimately being subsidised by the Australian public through Renewables Energy Certificates (REC) and the Renewables Energy Target (RET) and the high energy costs associated with both.
4. Need to be mindful of proponents potentially splitting projects to avoid the \$500m limit. ESAA comments on page 56 of the impact statement confirm that proponents will likely split projects, reducing the cap ex figure to avoid the AIP process.
5. Timing of AIP Plans should be as early as possible, at environmental approval/feasibility study time. These should then be defined in more detail following the FEED stage when engineering and design is finalised.
6. Important that the Federal AIP Plans take precedent over State LIPs as it seems this is a more rigorous process. We agree that duplication of effort should not occur, but strongly recommend that the Federal system takes precedent.
7. Full, Fair and Reasonable is an important concept within the AIP process. The ASI feels that the definition of F, F & R should be more precise. Please refer above to the ASI and steel industry definition and expectations of F, F & R.
8. The Government needs to be mindful that the specification for procurement of 'key goods or services' has the potential to change from Australian Standards (as may be outlined in the approved AIP Plan) to other standards such as Chinese or Japanese Standards without notification during a project's initial operational phase. The ASI argues that 'key goods and services' outlined in approved AIP Plans must not be subject to change without reasonable engineering reason to do so.
9. Strongly argue that investment should not be tied to procurement or design favours or 'strings' for the origins of the country investing.
10. More detailed breakdown required for public accountability of key goods and services to be procured. (e.g. steel should be separated and highlighted percentage of local and imported). Disagree with aggregated percentages as these become meaningless. There is more detail on this in the Rules/Guidelines table above.
11. Also important to identify 'Contestable' percentage. This has been explained well in the Impact Statement and must be put into practice via the AIP Plans.
12. Guidelines for AIPs need to be stronger. Please read above the ASI recommendations and compare against the AIP Working Group's final recommendations that are intended to be used.
13. The AIP Authority Advisory Board is a key element in the process and a vital link between the Authority and industry. This must be set up in an independent and transparent fashion with a free and clear flow of information from industry.

## **Conclusions**

The ASI is supportive of the Federal Government's decision to establish a stronger and extended Australian Industry Participation Framework through the Australian Jobs Bill 2013. We appreciate the opportunity to provide comment on behalf of our members. We would look forward to a positive outcome for our members and the steel and heavy engineering sector at large from major projects in Australia.

- The Australian steel industry is in a dire situation due to lack of demand and urgent Government action such as this is required to stimulate this demand.
- Despite the Australian steel industry investing heavily in anticipation of opportunities arising from the resources boom and other major infrastructure projects, these opportunities have not been forthcoming, due largely to the 'crowding out' impact of the resources boom causing a higher AUD, interest rates, input costs of labour and materials.
- The ASI has advocated AIPPs and associated supportive policies as an urgently required mechanism for Governments to enact to stimulate demand for Australian steel industry supply (refer attached AIPP policy)
- To ensure effectiveness, it is the ASI's goal that the AIPP process is:
  1. Applicable to all resource and infrastructure projects greater than \$300m
  2. Transparent and subject to scrutiny by Government, industry and unions
  3. Rigorous, meaningful and detailed – it must be broken down into sectors and show "contestable" items
  4. Monitored and audited by an independent expert tribunal/Board
  5. Enforceable and supported by strong penalties for false declarations and non-adherence to the plan.
- The ASI is firmly of the view that the AIPP mechanism can be rigorous without drawing upon Commercial-in-Confidence information.

It is in the Nation's interest that we maximise local content from major projects and the jobs and skills development that flow from these activities. The ASI is keen to see the suggestions and recommendations above looked upon favorably and adopted. We stand ready to assist or clarify any part of this submission.

We look forward to the passing of the Australian Jobs Bill 2013 and the speedy implementation of the Authority and the new AIP Process.

***Further information on the ASI and the member companies involved in this submission can be found by following the web link:***

**[www.steel.org.au](http://www.steel.org.au)**

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