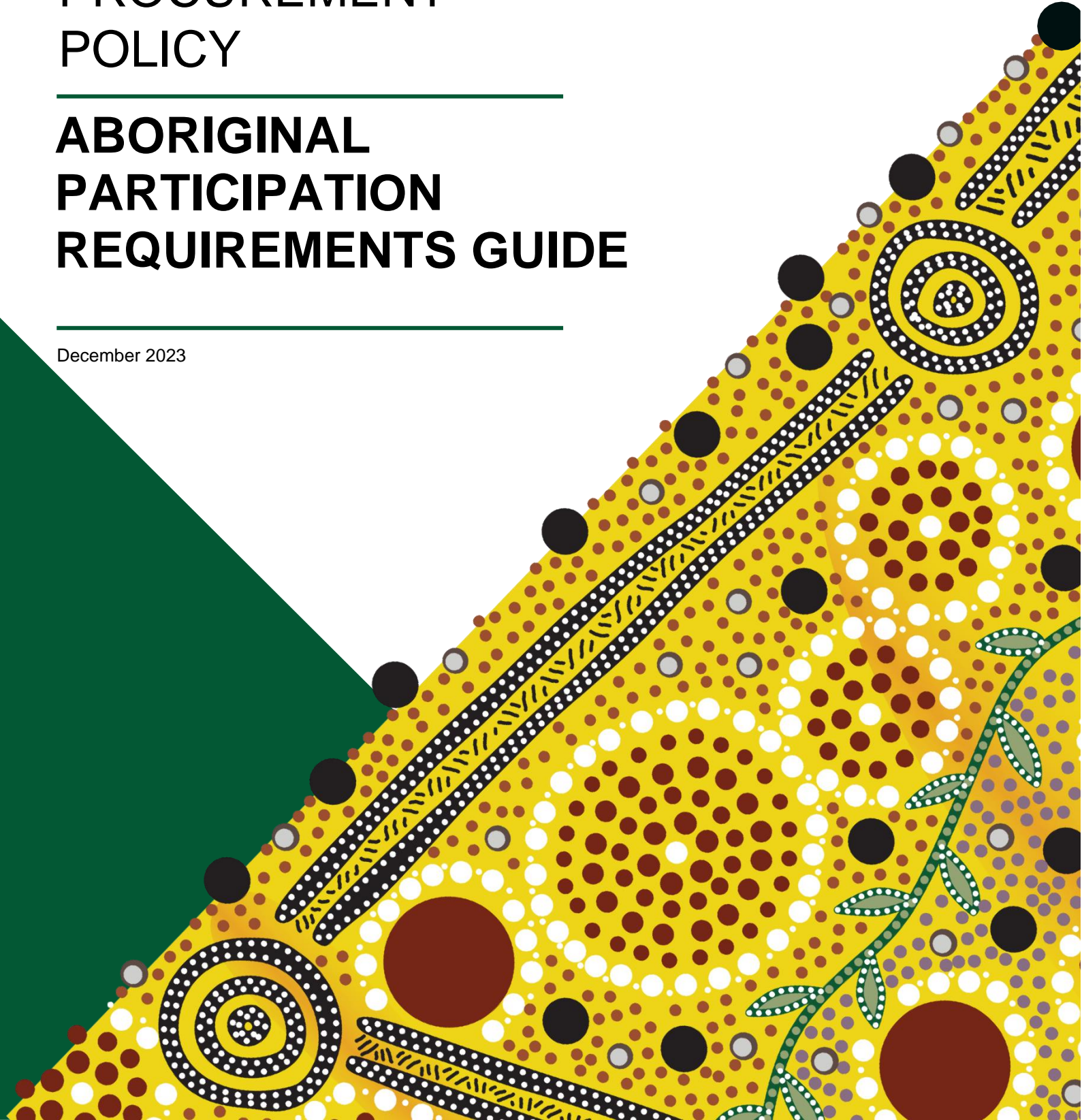




ABORIGINAL PROCUREMENT POLICY

ABORIGINAL PARTICIPATION REQUIREMENTS GUIDE

December 2023



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1. Overview

This Guide aims to help suppliers interested in tendering for Western Australian (WA) Government contracts valued at \$5 million and above in the specified categories (construction and maintenance, community services, education and training, and public administration and finance), and for services delivered to Aboriginal people, that attract the participation requirements under the [Aboriginal Procurement Policy](#) (the Policy).

A checklist is provided in [Appendix 1 - Checklist of Considerations for Contracting with the WA Government](#) that summarises the key points in this Guide.

This Guide should be read in conjunction with the [Policy](#) and the [Delivering Community Services in Partnership \(DCSP\) Policy](#). The [WA Procurement Rules](#) and other procurement directions continue to apply.

This Guide aims to be useful for both businesses and not-for-profit organisations. For simplicity, 'Supplier' is used to refer to both commercial and not-for-profit providers.

State agencies use different terminology to describe 'approach to market' documentation. For example, in goods and services this is commonly called a Request, whereas in construction it is often called a specification. For clarity, the term 'Request' will be used to describe any approach to market documentation.

2. Aboriginal Procurement Policy

The WA Government implemented the [Policy in 2018](#). The Policy requires WA State agencies to achieve targets for the number of contracts awarded to registered Aboriginal businesses and, as of 1 December 2023 under the direct engagement option enabled by the DCSP Policy, Aboriginal Community Controlled Organisations (ACCOs). Under the Policy, suppliers are required to meet minimum Aboriginal participation requirements on applicable contracts.

This Aboriginal Participation Requirements Guide focusses on assisting suppliers to understand and implement the participation requirements, which will apply to relevant contracts advertised from 1 January 2022.

3. Aboriginal participation requirements

Aboriginal participation requirements only apply to certain contracts. A WA Government procurement will include Aboriginal participation requirements if the following conditions are met:

1. The tender is advertised on or after 1 January 2022
2. The pre-tender estimate is valued at \$5 million (GST inclusive) and above, and
3. The procurement is for services within one of the following industries:
 - Education and training
 - Construction and maintenance
 - Community and social services¹
 - Public administration and finance services, or

¹ The Aboriginal participation requirements will also apply to Preferred Service Provider (PSP) processes under the Delivering Community Services in Partnership Policy formalised using a new Request document. The requirements will not apply to PSP processes that are formalised through a Service Agreement Variation.

4. Where the contract does not fall within the above industry categories but will be delivered to Aboriginal people, or target the specific needs of Aboriginal people. For example, any services being delivered to remote Aboriginal communities will include the requirements.

Minimum participation targets

Participation targets are set by State agencies on an individual contract basis. It is important that suppliers thoroughly read through Request documents as participation obligations may differ even if it has been issued by the same State agency.

Each applicable Request will require suppliers to meet one of two targets: Aboriginal employment or Aboriginal subcontracting. When submitting their offer, suppliers will need to indicate whether they would like to pursue the Aboriginal subcontracting target or Aboriginal employment target.

Suppliers should note that some State agencies may set higher targets or different requirements than those specified below (where this is the case it will be specified in the Request).

Aboriginal subcontracting target

The Aboriginal subcontracting target applies as a percentage of the total contract value (at Contract Award) and requires the supplier to award one or more subcontracts directly related to the delivery of the contract to registered Aboriginal business(es) or ACCOs. Aboriginal businesses must be registered on one of two directories, either the Aboriginal Business Directory of WA, or Supply Nation’s Indigenous Business Direct to count towards the target.

The subcontracting target must be met by the expiry of the contract.²

The targets are as follows:

Financial year (contract advertisement date)	Target (per cent of total contract value)
2021-22	3 per cent
2022-23	3.5 per cent
2023-24	4 per cent

Only contracts awarded directly by the head contractor count towards the target (i.e. subcontracts awarded by a subcontractor to a lower tier subcontractor will not count towards the targets).

Aboriginal employment target

The Aboriginal employment target applies as a percentage of the total number of workers directly employed on a contract (contract labour force). This encompasses full-time,

² For works contracts, ‘expiry’ of a contract refers to the date of the practical completion of works.

part-time, casual employees, apprentices and trainees,³ workers engaged through labour hire arrangements and other employer supported employment initiatives such as cadetships and internships, with a minimum of one hour's paid work per week. Only employees that are employed by the head contractor or its direct subcontractors will count towards the targets.

The employment target must be met annually (by each anniversary of the contract commencement date).

Aboriginal employment targets will vary based on delivery location(s) of the contract:

Target (per cent of total contract labour force)	Contract delivery regions
2 per cent	Perth metropolitan area; South West, Great Southern, Peel; Wheatbelt and all state-wide contracts
5 per cent	Gascoyne, Mid West, Goldfields-Esperance
10 per cent	Pilbara and Kimberley
Varied	Multiple regions Where a contract will be delivered across multiple regions, the lowest applicable target applies (i.e. for a contract that will be delivered across the Gascoyne and the Pilbara, a five per cent target applies). Suppliers should carefully read Request documentation as the target will be clearly stated.

4. Responding to a Request where Aboriginal participation requirements apply

If a procurement is subject to the Aboriginal participation requirements, the Request document issued by the State agency will contain certain requirements that suppliers must meet to be considered for the work. A Request that includes Aboriginal participation requirements will include:

- a) A disclosure for the supplier to note whether they will pursue the Aboriginal business subcontracting target or the Aboriginal employment target;
- b) A condition where the supplier agrees to meet the relevant target; and
- c) Obligations for suppliers to report on Aboriginal business subcontracting.

Choosing the appropriate target

When determining whether your entity would prefer to pursue the employment or the subcontracting target, there are several questions you should ask.

³ Apprenticeships and traineeships include those directly employed by the supplier and any that are indirectly employed via a registered Group Training Organisation (GTO). See the Department of Training and Workforce Development [website](#) to find the most up to date list of GTOs.

Subcontracting:

- Is it likely that aspects of the contract are able to be subcontracted?
- Are there suitable registered Aboriginal businesses or ACCOs capable of carrying out the works?
- Are there registered Aboriginal businesses or ACCOs operating in the region or location where the contract will be delivered?

Employment:

- How many Aboriginal employees does your business already employ? Will these employees be directly involved in the delivery of the contract (the contract labour force)?
- Are there suitably capable Aboriginal people working in the sector?

Example of calculating Aboriginal participation targets

A State agency needs to release a Request for planned maintenance services in buildings across the Pilbara, Gascoyne and Mid West regions, with a pre-tender estimate of \$10 million. The Request will be advertised in March 2022.

Subcontracting target

As the Request will be advertised in the 2021-22 financial year, the percentage target is three per cent.

Using the pre-tender estimate as an example, the target would be three per cent of \$10 million, or \$300,000. The final target will depend on the contract value at Award.

Employment target

The Pilbara has a ten per cent target, while the Gascoyne and Mid West regions both have a five per cent target – therefore a five per cent target applies in each year of contract delivery. If the supplier employs 40 workers on the contract in a year of contract delivery, this equates to a target of two Aboriginal workers.

Compliance with participation requirements

Suppliers should be aware that the Aboriginal participation target they choose to pursue in their Offer, if accepted, will constitute a contractual obligation. State agency contract managers will be responsible for monitoring and ensuring supplier compliance with Aboriginal participation targets through their reporting requirements (see section 5.). If suppliers are encountering difficulties with meeting their participation targets despite making genuine efforts to do so, they should discuss this with the State agency contract manager.

Suppliers should be aware that failure to meet their Aboriginal participation requirements can be considered a breach of contract and State agencies may have rights to contractual remedies that can be exercised at their discretion. Suppliers should therefore ensure that, based on the information available to them, the Aboriginal participation target committed to in their Offer is feasible.

5. Reporting against participation targets

Suppliers will be required to report on Aboriginal participation outcomes that they have committed to pursue through Tenders WA. Aboriginal subcontracting arrangements and Aboriginal employment information must be reported periodically. Suppliers will receive an email prompt from Tenders WA when reporting is due.

Depending on Aboriginal participation requirement selected, the information must include:

- Subcontracting arrangements with registered Aboriginal businesses or ACCOs valued at \$50,000 and above (note that suppliers may voluntarily report on contracts with direct Aboriginal subcontractors below \$50,000, however contracts valued less than \$50,000 will not count against achievement of the target); or
- The number of Aboriginal and non-Aboriginal employees, apprentices and trainees employed in the delivery of the contract, both by the head contractor and by direct subcontractors.

Example of calculating the contract labour force

A supplier has been awarded a \$10 million contract for construction of a primary school in the Pilbara, and has chosen the employment target. The target for the contract is 10% of the total contract labour force – which means any employees that are directly involved in delivering the contract.

The supplier labour force consists of a total of 100 employees, but only 20 of those employees are working on the contract. The supplier will not be subcontracting any aspects of the contract. Only those 20 employees should be included in the Aboriginal participation reporting as the 'total contract labour force'. In this scenario, 10% of the total contract labour force is two employees.

Suppliers should note that some government agencies may require additional reporting on participation outcomes, which will be detailed in the Request documents.

Suppliers should also ensure that substantiating information used to report against participation targets is retained for auditing purposes.

6. Achieving participation targets – strategies for success

Suppliers seeking to contract with WA Government in the specified industries for contracts around \$5 million should consider strategies to support meaningful Aboriginal engagement throughout their organisation. This will assist when contracting with registered Aboriginal businesses or ACCOs and employing Aboriginal employees.

Strategies for Aboriginal engagement

Formalising plans and strategies for inclusivity and reconciliation in an organisation can assist suppliers to engage with Aboriginal communities in a more meaningful manner. It is important that a supplier's commitment to improving Aboriginal engagement in their organisation is championed and enforced from executive level through to senior management and individuals. The following strategies can be implemented by suppliers:

- Aboriginal Engagement Policy

An Aboriginal Engagement Policy is a short document that outlines how a supplier will commit to Aboriginal engagement in their organisation. This may include commitments to:

- Create an environment that enables growth and development of a sustainable Aboriginal workforce
- Establish and maintain meaningful and respectful relationships with the local Aboriginal community, including employees, customers and contractors
- Influence and encourage the participation of similar Aboriginal engagement practices within the organisation's supply chain

- Build an organisational culture that is inclusive of Aboriginal people, including supporting the development of an understanding and appreciation of Aboriginal culture across the organisation.

Suppliers should also develop a strategy to support the implementation of the Aboriginal Engagement Policy, which should be reviewed and updated periodically.

- **Reconciliation Action Plan**

A Reconciliation Action Plan (RAP) is a strategic document that supports an organisation's business plan. Reconciliation Australia provides that a RAP should include practical actions that will drive an organisation's contribution to reconciliation both internally and in the communities in which it operates.

[Reconciliation Australia](#) has resources on their website and can provide services to assist with achieving an organisation's RAP outcomes.

- **Cultural competency training**

Cultural competency training promotes a culturally inclusive workplace by increasing awareness of Aboriginal history, culture and experiences. It is recommended that suppliers provide access to cultural competence training for all, or a majority of, its employees. There are many Aboriginal businesses that offer cultural competency training. The [Aboriginal Business Directory WA \(ABDWA\)](#) and [Supply Nation's Indigenous Business Directory](#) are a good starting point to identify such businesses.

- **Aboriginal Engagement Officers**

Suppliers may also consider recruiting or contracting an Aboriginal Engagement Officer to advise their organisation on effective strategies and processes when engaging with Aboriginal communities in its day-to-day business. This may include participating in a procurement process and supporting the development and implementation of the organisational strategy to achieve participation targets. Having a dedicated Aboriginal Engagement Officer may also assist with sharing lessons learned across the business when responding to Aboriginal participation on Tenders, engaging Aboriginal businesses or employing Aboriginal people.

Achieving subcontracting targets

The Aboriginal business sector is diverse and provides goods, services, community services, and works across a wide range of industries. If a supplier chooses to pursue subcontracting targets, it is recommended that they consider the following strategies:

- Research businesses registered on [Supply Nation's Indigenous Business Direct](#) and the [Aboriginal Business Directory Western Australia](#).
- Consult ACCO peak body organisation Council of Aboriginal Services Western Australia when undertaking market research of potential ACCOs.
- Review information available in the [Aboriginal Procurement Policy Performance Reports](#), published on the WA.gov.au website (the reports include a list of Aboriginal businesses that were awarded contracts by government agencies in each financial year reporting period).
- Research businesses on [Tenders WA](#), to determine whether there are Aboriginal businesses or ACCOs that have been awarded government contracts for similar requirements.
- Attend networking events with the Aboriginal business sector, including Aboriginal

business expo events held by the Department of Finance and similar events held by other government agencies.

- Contact relevant registered Aboriginal businesses or ACCOs to discuss their capacity and availability for contract requirements when planning to respond to a Request.
- Engage with chambers of industry and commerce, including Indigenous chambers of commerce such as [Noongar Chamber of Commerce and Industry](#), to gain insight into other members' engagement with the Aboriginal business community.
- Consult with the Department of Primary Industries and Regional Development's Local Content Advisors for insight into the local Aboriginal business community in regional areas.
- Contact the [Waalitj Hub](#), who provide services to support Aboriginal businesses and to the wider business community to achieve their Aboriginal procurement targets (for example for assistance in identifying suitable Aboriginal businesses).
- Hosting vendor forums aimed at increasing Aboriginal participation. These forums should include representatives from a range of Aboriginal service providers and organisations to inform potential suppliers on the supports available for Aboriginal businesses and employees.

Achieving Aboriginal employment targets

There are various services available to suppliers to assist with engaging and retaining Aboriginal employees. This includes support to recruit job-ready Aboriginal employees, as well as post-placement support for the supplier and its employees.

- Recruitment services
 - [jobactive](#): jobactive is a Commonwealth Government funded recruitment service that helps connect employers with job seekers. jobactive providers offer a free tailored recruitment service to suppliers. Suppliers can also advertise opportunities on the [jobactive jobs board](#).
 - [Vocational Training and Employment Centres \(VTECs\)](#): VTECs connect Aboriginal job seekers with a guaranteed work placement of 26 weeks. VTECs provide wrap-around support for employees, and operate across Australia.
 - [Community Development Program \(CDP\)](#) in remote Australia: The CDP Program is a Commonwealth Government service that can assist suppliers to recruit staff in remote Australia. Financial subsidies may also be available to employers to assist with wages and retention on application.
 - [Jobs and Skills Centres](#): The Department of Training and Workforce (DTWD) WA have Jobs and Skills Centres based in WA TAFEs that provide free advice and assistance to support employers and business owners. This includes recruitment assistance, information on training solutions and services, advice and resources to support workplace planning, and resources and advice on Aboriginal recruitment and retention strategies. There are 15 Jobs and Skills Centres located at TAFE college campuses across WA.
 - [Jobs and Skills WA](#): The Jobs and Skills WA website contains comprehensive resources for suppliers on developing a workforce. There is information on different financial incentives offered by DTWD, and they also maintain an [Aboriginal services jobs board](#) where suppliers can advertise job opportunities.

There are other Indigenous jobs boards hosted by non-government organisations that suppliers could use to advertise job opportunities.

There are businesses and service providers that also provide recruitment services focusing on Aboriginal employees. Refer to [ABDWA](#) or [Supply Nation](#) for Aboriginal entities.

- Apprenticeships, traineeships and Group Training Organisations

Suppliers could consider hiring Aboriginal apprentices and/or trainees. Suppliers may be eligible for financial incentives provided by WA and Commonwealth governments for eligible employees of apprentices and trainees. Further resources can be accessed through the following:

- Jobs and Skills WA: provides comprehensive information for suppliers, includes a summary of [WA and Commonwealth incentives and subsidies](#) to employ and train.
- [Australian Apprenticeships website](#): contains further information, including contact information for Australian Apprenticeship Support Network providers.
- The [Chamber of Commerce and Industry in Western Australia](#): Provides advice and support to WA suppliers in relation to apprentices and trainees.

Alternatively, suppliers that may not have the resources to manage an apprentice or are not able to provide full on the job training required for an apprenticeship, can consider hosting an Aboriginal apprentice or trainee through a Group Training Organisation (GTO). GTOs employ apprentices and trainees, and organise work placements for an agreed amount of time. Suppliers that host apprentices will then pay service charges to the GTO during the placement period. Suppliers can search for GTOs on the [Australian Apprenticeships website](#).

- Financial support

- Wage subsidies: the Commonwealth Government offers [wage subsidies](#) to eligible suppliers when employing new eligible employees.
- [Community Development Program \(CDP\)](#): see above.
- [National Work Experience program](#): the Commonwealth Government provides small financial incentives to employers for hosting an eligible National Work Experience program candidate.
- [Youth Jobs PaTH program](#): the Commonwealth Government offer small financial incentives for businesses to trial a young person through a supervised work experience placement through the Youth Jobs PaTH program.

- Labour hire

Suppliers may use labour hire companies to source Aboriginal employees. Local private companies that provide this service can be identified by searching the [Aboriginal Business Directory WA](#) or [Supply Nation](#).

Strategies to attract and retain Aboriginal employees

Having a socially and culturally inclusive workplace will be extremely beneficial in attracting and retaining Aboriginal employees. In addition to the strategies for Aboriginal engagement covered in section 5, suppliers should consider implementing the following support and progression initiatives into their workplace:

- Training and development

Ensure that employees have access to a training and development plan, which they can use to discuss any capability needs with their manager and set out a plan to meet those needs. It is also important to ensure that upcoming training sessions are communicated widely, and that employees are encouraged to attend sessions that are relevant to them.

- Mentoring programs

Consider establishing a mentoring program for Aboriginal employees with access to mentors that are Aboriginal persons. If non-Aboriginal persons are participating as mentors, ensure that they have undertaken cultural competency training.

It may also be beneficial to have a buddy system for new Aboriginal employees where they are paired with a colleague to help them to settle into the new workplace. Mentors and buddies are a good way to provide support to Aboriginal employees as well as providing an avenue to discuss any personal or work related issues that may arise.

- Culturally appropriate human resource practices

Leave entitlements and options should be clearly communicated to all employees. It may be beneficial to review your organisation's human resources policies and practices to ensure that it is able to meet the cultural needs of Aboriginal employees. For example, Aboriginal employees may require access to more flexible work arrangements to meet cultural obligations such as attending funerals.

The considerations outlined above is intended to complement the strategies for Aboriginal engagement covered in section 5. You can access more resources and information on the [Jobs and Skills WA webpage](#), which includes [Information for Employers of Aboriginal People](#).

Verifying Aboriginality

Suppliers should take reasonable steps to verify the Aboriginality of potential employees in a culturally sensitive manner. This could include requiring individuals to provide a statutory declaration that indicates their Aboriginality as part of the employment onboarding process. Suppliers should ensure that subcontractors follow the same approach when seeking to employ Aboriginal employees.

It is noted that the need to verify a person's Aboriginality has cultural and administrative complexities. For example, some people may not wish to declare their Aboriginality. If a Request document provides a specific mechanism for verifying Aboriginality and a supplier has concerns about the suitability of those methods, they should contact the State agency contact person to discuss applying an alternative approach.

7. Support from Department of Finance

The Social Procurement team within the Department of Finance can provide advice regarding the Policy, including:

- application of targets
- reporting on Aboriginal participation requirements

- questions regarding the [Aboriginal Business Directory of WA](#) and [Supply Nation's Indigenous Business Direct](#)

Please email socialprocurement@finance.wa.gov.au for more information.

The Community Services Procurement Policy team can provide advice on the DCSP Policy and community services contracting with ACCOs.

Please call 6551 1515 or email cspp@finance.wa.gov.au for more information.

For questions relating to a specific contract or advertised tender, contact the contract manager or contact person listed on Tenders WA respectively.

Appendix 1 - Checklist of Considerations for Achieving Aboriginal Participation Targets

This Guide covers considerations for suppliers that seek to contract with Government where Aboriginal participation requirements will apply. It provides a good starting point, however State agencies may have other requirements or considerations that are not listed here.⁴

The following checklist summarises the key considerations outlined in this Guide.

<input type="checkbox"/>	<p>Consider implementing plans and strategies such as a Reconciliation Action Plan and an Aboriginal Engagement Strategy within your organisation to support inclusivity and reconciliation.</p> <p>Visit Reconciliation Australia for more information.</p>
<input type="checkbox"/>	<p>Research businesses registered on the Aboriginal business directories: Supply Nation's Indigenous Business Direct (IBD) and the Aboriginal Business Directory Western Australia (ABDWA). Consider contacting relevant businesses to build relationships.</p> <p>and/or</p> <p>Research potential ACCOs by contacting ACCO peak body organisation Council of Aboriginal Services Western Australia when undertaking market research of potential ACCOs.</p>
<input type="checkbox"/>	<p>Contact your local Jobs and Skills Centres for advice on recruitment and retention strategies for Aboriginal employees.</p>
<input type="checkbox"/>	<p>Contact the contract manager if you have concerns with the participation requirements of a contract.</p>
<input type="checkbox"/>	<p>Consider contacting jobactive to discuss being a host for a job placement.</p>
<input type="checkbox"/>	<p>Consider employing an Aboriginal apprentice or trainee (and find information about incentives to employing an apprentice or trainee).</p>

⁴ Individual procurement processes will have specific requirements and considerations that are not covered in this Guide. This may include specific insurance requirements, ISO certifications, compliance with Australian standards or other requirements. These details will be specified in Requests where required.

