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| **Contracting for social and local outcomes**  GROW Gippsland Regional Toolkit  March 2019 |

**Guidance – Contracting for social and local outcomes**

***Notes to users:*** *Ensure you include any commitments your successful supplier(s) have made during the tender process in the resulting contract. The following table includes some suggestions and does not constitute legal advice. You are encouraged to engage with your organisation’s legal advisors to help you to review your existing contracts and to draft the relevant clauses as required.*

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| **Subject matter** | **Considerations for drafting the contract** |
| **Parties** | * If the successful tenderer is a consortia or joint venture, clearly specify the contracting party(ies) and the rights and obligations of each party (e.g.: which party is the key contact, who will provide reporting, how does liability work etc.). * Consider whether an unapproved change to the consortia/JV or the control of any of the parties should be a material breach of the contract. |
| **Recitals / background** | This section sets the context to the agreement. This can be a good place to record the parties’ intentions therefore you may want to refer to the GROW Gippsland program and particular social and local outcomes you hope to achieve through this arrangement. |
| **Charges and payment** | Consider the payment terms along the supply chain (including subcontractors). Is your organisation able to include shorter payment terms? Can you encourage the supplier to pay its subcontractors promptly? |
| **Reporting** | * As a GROW Gippsland Compact member, you have agreed to share appropriate data to track GROW Gippsland progress via a shared measurement framework. The framework is still be finalised, but examples of reports you may want include in the meantime are: * **Local outcomes:**   + Percentage of contract value spent within the Gippsland Region (e.g. on materials produced and manufactured in the Gippsland Region or businesses based in the Gippsland Region).   + Number of people living in the Gippsland Region employed or contracted through the delivery of the project/services.   + Any new employment opportunities, education, training, apprentices etc. provided due to the delivery of the project/services. * **Social outcomes:**   + Percentage of contract value spent with social enterprises and Indigenous businesses.   + Number of people employed or contracted through the delivery of the project/services that have barriers to work (e.g. Indigenous and ethical cultural groups, people with disabilities and young people who have not completed year 12). * Consider the time/effort required for the supplier to prepare any reports. For some information it may be suitable for the supplier to simply retain records that you could access if need be. * Include an ability to amend the reporting requirements during the contract term if need be. |
| **Targets or KPIs** | * Consider whether you want to include targets in the contract for measurable social and local outcomes such as spend and number of people employed or contracted. It may be appropriate to include committed targets and stretch targets with incentives or KPIs. * Ensure you’re collecting the relevant information from the supplier in your reporting to measure the targets or KPIs. |
| **Subcontractors** | * Ensure any subcontractors named in the tender response are specified in the contract (particularly those assisting with social and local outcomes). * Include a requirement that you must agree to any changes to subcontractors. * Consider payment terms (see above). * Consider enforcing social and local procurement reporting in line with the supplier reporting (see above). * Include necessary obligations on the supplier to ensure the subcontractors are assisting it to achieve the relevant social and local outcomes. |
| **Promotion** | * As a GROW Gippsland Compact member, you have agreed to share knowledge and lessons learned, including developing case studies and contributing to models for success. Consider how the parties could work together to promote the social and local outcomes that have been achieved (e.g. case studies, data analysis, promotion of GROW Gippsland etc.). * Ensure the confidentiality provisions help to enable this. * Consider the promotion of becoming a GROW Gippsland Compact member to sub-contractors and/or key suppliers. |
| **Governance** | Consider including an option for representatives from organisations involved in the delivery of the project/services to participate in some governance meetings to share the social and local outcomes that are being achieved as part of the delivery of the project/services. |
| **Disputes** | Consider what consequences ought to apply if the supplier does not meet its contractual social and local procurement obligations and there’s not valid reason for the non-compliance (e.g. financial disincentives, breach of contract etc.). |
| **Continuous Improvement** | Consider including a continuous improvement clause encouraging both parties to continue to consider new ways to achieve social and local outcomes throughout the life of the contract. |

**Additional considerations for users that the Victorian government’s Social Procurement Framework applies to:**

* Please refer to your organisation’s social procurement strategy to see which social and sustainable objectives it is seeking to achieve through its procurement. As part of implementing the strategy, your organisation will be required to update any relevant policies, templates and guidance to meet its SPF obligations. This template may be a good starting point.
* The requirements of the SPF are not expected to be applied retrospectively to existing contracts in place prior to 1 September 2018.
* The Department of Treasury and Finance will provide guidance on the social procurement reporting it requires from your organisation. Ensure this is reflected in the reporting obligations in your contracts.
* In relation to the recitals/background section of contracts, you may want to refer to your organisation’s social procurement strategy and/or the relevant social procurement plan for this project and any particular social objectives that are being sought through the arrangement.
* For more information refer to the guidance on the Buying for Victoria website: <https://buyingfor.vic.gov.au/social-procurement-framework>