



**Australian Information  
Industry Association**

**Submission on the**

**Local Jobs First Bill 2025**

## About the AIIA

The Australian Information Industry Association (AIIA) is the nation's peak body for those in the digital ecosystem, leading strategic policy and advocacy to shape a thriving digital sector. Through strong engagement with government, industry, and the broader community, the AIIA ensures the voice of its members informs decision-making on technology, innovation, and digital capability.

Membership provides direct access to influential networks, premium events, and opportunities to collaborate on initiatives with the sector's best and brightest to drive industry growth, improve productivity, and secure Australia's place as a global technology leader. AIIA members access real collaboration, real connections, and real outcomes.

## Executive Summary

The AIIA supports the policy objective of expanding opportunities for local businesses and workers in NSW Government procurement. The NSW Government's annual procurement expenditure, exceeding \$40 billion, represents a significant lever to support domestic capability and workforce development.<sup>1</sup> However, AIIA considers that the Local Jobs First Bill 2025 and accompanying Regulation require refinement to ensure that the regime strengthens local capability without creating unnecessary cost, risk, delay or barriers to high quality digital service delivery.

In particular, Local Jobs First must be implemented in a manner that:

- preserves value for money in procurement;
- recognises the distinctive characteristics of digital and ICT supply chains;
- avoids overly rigid local content rules that undermine innovation, competition or service outcomes; and
- ensures proportionality and legal certainty in enforcement and debarment mechanisms.

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<sup>1</sup>NSW Government, *Local Jobs First Bill 2025 explanatory statement for public consultation* (Web Page, 12 December 2025)  
<https://www.nsw.gov.au/departments-and-agencies/nsw-treasury/projects-reviews-and-consultation/consultation/local-jobs-first-bill-2025-consultation>.

## Economic Context

As noted in the NSW Trade and Investment Strategy,<sup>2</sup> NSW is Australia's innovation engine, with NSW startups attracting the highest share (65%) of capital invested in Australia in 2024. Sydney in particular is ranked as:

- the number one startup ecosystem in the Southern Hemisphere, valued at \$72 billion;
- the seventh top digital city in the world;
- fourth for entrepreneurial success; and
- fourth as a foreign direct investment (FDI) destination.

The digital industry is a key pillar of this NSW economic success story. The digital sector - from small startups to major global operations - is making substantial contributions through significant investments, diverse employment creation, and comprehensive workforce development programs.

Digital sector investment and operations support the employment of many thousands of workers across NSW, spanning roles from technical specialists and trades supporting major data centre infrastructure projects, to technicians responsible for operating and maintaining critical systems, as well as a broad administrative and corporate workforce that includes highly skilled, high value professionals such as software developers, data analysts and cybersecurity specialists.

The technology industry continues to invest significantly in digital training and certification programs for learners, trainees, workers and communities, often in collaboration with NSW education and training institutions.<sup>3</sup> The sector is well positioned to further support the state's economy, strengthening opportunities for local businesses, workers and future talent pipelines.

## Debarment regime

Division 6A of the amended *Public Works and Procurement Act 1912 No 45* establishes a new supplier debarment framework. While AIIA supports strong integrity safeguards in public procurement, aspects of the proposed regime create material uncertainty and risk of disproportionate application. Given that the breadth of the enabling power is fixed in this Bill, it is important that issues of scope and proportionality are addressed at this stage to ensure the legislative framework appropriately constrains and guides the subsequent regulatory design.

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<sup>2</sup> NSW Government, NSW Trade and Investment Strategy 2035 (Investment NSW, May 2025) <https://www.nsw.gov.au/sites/default/files/noindex/2025-08/nsw-trade-and-investment-strategy-2035.pdf>.

<sup>3</sup> NSW Government, NSW Digital Skills and Workforce Compact (2023) <https://www.nsw.gov.au/education-and-training/nsw-digital-compact>.

## Uncertainty as to what constitutes a “debarment event”

The current drafting of Division 6A gives rise to material uncertainty as to the scope of conduct that may trigger debarment. A debarment event may arise from a prescribed “adverse event” or a “finding by an authority” relating to the conduct of the supplier or a principal officer. Both limbs are expressed broadly. The concept of an “adverse event” is not defined on the face of the Act and is left to future regulations, creating uncertainty as to the types of conduct that may ultimately be captured. Similarly, the term “authority” is defined to include a court, tribunal or *another body*, a formulation that is inherently expansive. Depending on how the regulations are framed, this could extend beyond criminal courts to encompass regulatory agencies, administrative decision makers, quasi judicial panels or other statutory or industry bodies.

Without clear statutory limits or tightly defined regulatory criteria, there is a real risk that relatively minor administrative findings, civil penalties or non-criminal regulatory determinations could trigger automatic debarment. Such an outcome would be disproportionate to the apparent policy objective of addressing serious misconduct and could capture conduct that, while regulatory in nature, does not amount to systemic integrity failure or grave wrongdoing.

This concern is consistent with AIIA’s position in its recent submission on the Digital Seller Underperformance Policy, where AIIA emphasised that sanction frameworks with significant commercial and reputational consequences must be grounded in clearly defined thresholds and objective criteria.<sup>4</sup>

**Recommendation One:** Debarment events should be limited to clearly defined serious misconduct and include an exhaustive list of qualifying offences.

## Attribution of conduct of a “principal officer”

Section 176IB provides that a supplier may be debarred based on conduct of a “principal officer”, defined to include directors, secretaries, partners, trustees and senior managers within the meaning of the *Corporations Act 2001*. While it is appropriate to address misconduct at senior levels, the automatic attribution of a principal officer’s conduct to the corporate entity raises several concerns:

- It is unclear whether debarment will apply irrespective of whether the entity had knowledge of, or involvement in, the conduct.
- There is no express consideration in the Act of whether the company had effective compliance systems in place or took reasonable steps to prevent the conduct.

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<sup>4</sup> Australian Information Industry Association, *Submission on the Digital Seller Underperformance Policy* (Submission, 9 February 2026) <https://aiia.com.au/wp-content/uploads/2026/02/2026-02-09-AIIA-Submission-on-the-Digital-Seller-Underperformance-Policy.pdf>.

- In large organisations, a senior manager's actions may not reflect systemic corporate misconduct.
- A principal officer's conduct may be unrelated to the supplier's engagement with a government agency or their ability to successfully deliver the project.

**Recommendation Two:** Clarify circumstances in which principal officer conduct does not give rise to debarment, including consideration of the relevance of the conduct to procurement activities, and whether the entity had effective governance, compliance and risk management frameworks.

## Subcontracting and flow on effects

Section 1761C prohibits a government agency from entering into a contract with a debarred supplier and from contracting with a supplier who has subcontracted their obligations to a debarred supplier. In practice, this raises complex operational questions, particularly in the ICT sector where:

- Prime contractors often rely on multiple specialised subcontractors.
- Subcontracting arrangements may evolve over time.
- Panels and standing offer arrangements involve layered supply chains.

In this context, it is unclear how the prohibition would operate where a prime contractor has engaged a subcontractor in good faith and that subcontractor is subsequently debarred after the subcontract has been entered into, including where this occurs mid project.

**Recommendation Three:** The legislation or accompanying regulations provide clear and practical guidance on how section 1761C is intended to operate in complex subcontracting scenarios, including circumstances involving layered supply chains and evolving subcontracting arrangements. A supplier should not be subject to debarment solely because a subcontractor becomes debarred after, and not prior to, the relevant subcontract being entered into in good faith.

## Local Procurement Plans

Under section 16 of the Bill, suppliers to procurements with an estimated value of \$25 million or more are required to prepare and submit a Local Procurement Plan setting out how they will meet the requirements of the local procurement policy. While this obligation will primarily apply to larger contracts, it will often have downstream impacts on smaller businesses participating as subcontractors within those projects.

In practice, many ICT procurements involve layered supply chains, where prime contractors engage multiple SMEs to deliver specialised components of a project. If Local Procurement Plan requirements are highly prescriptive, documentation heavy or require extensive data collection from subcontractors, smaller firms may bear a disproportionate compliance burden relative to their contract value or role in the project.

Contracts already incorporate detailed compliance mechanisms that are carefully negotiated, drafted and approved through established governance processes, reflecting the central role of the contract in allocating risk, responsibility, obligations and consequences between parties. Introducing additional compliance frameworks that operate separately from, or differently to, contractual arrangements risks creating duplication, increasing complexity and imposing additional administrative burden on both government and suppliers.

While the form and content of Local Procurement Plans have not yet been released, requirements should be capable of being satisfied at an organisational level, rather than requiring project specific workforce or procurement attribution for each individual engagement. This is particularly important in the ICT sector, where services are frequently delivered through distributed national teams, shared platforms and ongoing operational capability rather than personnel or infrastructure dedicated exclusively to a single procurement. For example, cloud and platform services may rely on infrastructure and employees supporting multiple customers simultaneously, meaning local economic contribution cannot always be meaningfully attributed to a single contract. Requiring procurement specific attribution in these circumstances would not reflect how digital services are delivered in practice and may create artificial compliance burdens without advancing the policy objectives.

Compliance and reporting burdens will be particularly acute where firms are already subject to existing regulatory regimes requiring planning and documentation obligations.<sup>5</sup> Arrangements concerning reporting and compliance (including plan requirements and reporting methodology) can also tend to favour industries such as construction and managed services, rather than catering to all in-scope industries. Complex compliance reporting will have the unintended effect of favouring larger incumbents with established governance infrastructure, thereby undermining competition and the intended SME benefit of the policy.

**Recommendation Four:** Local Procurement Plan requirements should be proportionate and scalable, taking into account the size, industry and role of entities within a project. Duplication of existing reporting or compliance requirements should be avoided.

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<sup>5</sup> See, for example, the NSW Government SME and Local Participation Plan, available from <https://www.info.buy.nsw.gov.au/policy-library/policies/sme-and-regional-procurement-policy>.

**Recommendation Five:** Clear guidance should be issued to ensure that compliance mechanisms integrate with existing contractual requirements where possible and do not inadvertently disadvantage smaller businesses or reduce their ability to participate in major NSW Government procurements

### **Application of the \$25 million threshold**

It is understood that the policy intention is for Local Procurement Plans to be required only for suppliers engaged in procurements with an estimated value of \$25 million or more. However, the current drafting of the Bill and accompanying Regulation leaves uncertainty as to whether this threshold applies to the value of an individual procurement or could instead be interpreted as applying to aggregate expenditure with a supplier, standing offer arrangements, panel engagements or pricing agreements spanning multiple procurements.

Clarity on this point is important to ensure proportionality and certainty in application. Government procurement arrangements, particularly in the ICT sector, frequently operate through panels, master service agreements and standing offer structures under which multiple discrete procurements may occur over time. If the threshold were interpreted by reference to cumulative or aggregated spend rather than the value of a specific procurement, suppliers participating in relatively small engagements could become subject to Local Procurement Plan obligations that were intended only for large scale projects. Such an outcome would expand the practical scope of the framework beyond its apparent policy intent and introduce unnecessary compliance burden for both suppliers and agencies.

Further complexity arises from references in the Draft Bill and Regulation to additional financial thresholds and requirements linked to the “kinds” of goods or services provided under a contract. Without clear guidance, these provisions may unintentionally broaden the circumstances in which Local Procurement Plans or associated weighting requirements apply, thereby undermining the objective of limiting the framework to high value procurements.

Providing clear legislative and policy certainty that the threshold applies at the level of an individual procurement would support consistent implementation, reduce administrative complexity and ensure that compliance obligations remain proportionate to procurement scale and risk.

**Recommendation Six:** The \$25 million threshold relevant to Local Procurement Plan requirements and associated weighting requirements under the Local Procurement Policy should apply to the value of an individual procurement, rather than aggregate expenditure with a supplier, standing offer arrangements or pricing agreements.

## Local availability and carve outs for non-domestic capability

A core objective of the Local Jobs First framework is to promote the use of locally produced and supplied goods and services and to maximise employment of local workers. AIIA supports this objective. However, it is important to recognise that in certain areas of advanced and emerging technology, equivalent products, platforms or specialist capabilities may not be available locally at the relevant time.

In the ICT sector, government procurements may involve complex, globally developed technologies, including enterprise software platforms, hyperscale cloud infrastructure, specialised cybersecurity tools, advanced data analytics systems and artificial intelligence solutions. In some cases, these technologies are proprietary, protected by intellectual property rights or embedded within global ecosystems that do not have a domestic substitute.

The framework should therefore recognise that there will be circumstances in which goods, services or expertise cannot reasonably be procured locally, or where domestic capability is not yet sufficiently developed to meet project requirements. Section 15(5)(a) of the Bill expressly provides that the local procurement policy may be limited in its application by reference to specified exceptions or factors. Incorporating a clear carve out would utilise this mechanism already contemplated by the Bill, ensuring government retains appropriate discretion to prevent unnecessary cost, procurement inefficiency or delivery failure where suitable domestic capability does not exist. This approach supports the effective achievement of the Bill's objectives, including value for money and long-term job creation, while reflecting the operational realities of the ICT sector.

**Recommendation Seven:** Provide an explicit carve out from the application of the Local Procurement Policy and requirement for Local Procurement Plans and/or provide agencies with discretion to exempt application, where

- a) no reasonable local substitute exists that satisfies required technical, performance, safety, scalability, security or compliance requirements, or can be delivered domestically within the relevant project timeframe; or
- b) it is not in the public interest.

**Recommendation Eight:** Clear guidance should be issued on how agencies should assess and document market capability limitations, including technical, security and interoperability considerations.

## Information requests and protection of confidential information

Part 5 of the Bill establishes a reporting and disclosure framework under which the Local Jobs First Commissioner may require a government agency to provide information considered necessary for the exercise of the Commissioner's functions. While the Bill allows agencies to decline requests in limited circumstances, these exceptions do not expressly address risks relating to privacy or commercially sensitive information.

Government procurements routinely involve confidential material, including intellectual property, trade secrets and commercially valuable information provided by suppliers under contractual confidentiality obligations. The absence of explicit protections may create uncertainty for agencies and suppliers where compliance with an information request could prejudice privacy or commercially sensitive interests.

**Recommendation Nine:** Section 17 of the Bill should be amended to permit a government agency to decline a request from the Commissioner where disclosure would be likely to prejudice privacy, intellectual property rights, trade secrets or commercially valuable confidential information.

## Definition of a “local supplier” and implications for participation

The Bill defines a “local supplier” as a supplier primarily operating in Australia or New Zealand, with the proposed Advisory Board tasked with advising the Minister on increasing the participation and competitiveness of local suppliers in NSW Government procurement. While AIIA supports the policy objective of strengthening domestic industry capability, the concept of a supplier “primarily operating” in Australia or New Zealand introduces uncertainty.

The term is not further defined in the Bill and could give rise to differing interpretations in practice. In the ICT sector, many suppliers operate through complex corporate structures. Some are Australian founded businesses with global operations. Others are multinational enterprises with significant local subsidiaries, substantial Australian workforces, local tax presence and long-term investment in domestic capability. Conversely, some entities may have minimal substantive presence but meet formal registration requirements.

A single and consistent statutory test should be adopted to determine whether an entity qualifies as a “local supplier”, and that this test should focus on substantive economic presence, including workforce, tax presence and investment, rather than ownership

structure. Applying a uniform test would promote consistency wherever the concept of a local supplier is used throughout the framework.

Given the role of this definition in the framework, it should be included on the face of the Act rather than deferred to Ministerial guidelines or subordinate instruments, to ensure certainty and consistency.

**Recommendation Ten:** Provide clear and transparent criteria for determining whether a supplier is “primarily operating” in Australia or New Zealand, with a focus on substantive economic presence, workforce and investment rather than formal ownership.

## Transitional arrangements

Part 1 of the Bill provides that the Act will commence on assent, except for specified aspects of Schedule 3 relating to the debarment regime. Recognising that the Local Procurement Policy to be issued under Part 4 of the Act has not yet been developed, there is a risk that requirements introduced through the policy could be applied to existing procurements or contracts entered into prior to the policy being finalised.

Existing contractual arrangements have been structured and priced based on the regulatory and policy requirements in force at the time of contract execution. The retrospective application of new procurement obligations would impose significant operational and financial burdens on suppliers, including system changes, additional reporting requirements and potential contract renegotiations, which may disrupt ongoing service delivery.

A prospective only approach would provide certainty and fairness to the market, enable the NSW Government to achieve its policy objectives through natural procurement and contract renewal cycles, and allow suppliers to incorporate compliance costs into competitive tender responses for future work.

**Recommendation Eleven:** The Local Procurement Policy should apply only to new, in scope procurements and should not be applied retrospectively to existing contracts.