



Australian Government
Department of Finance and Deregulation

Selling to the Australian Government



February 2009

A Guide for Business

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Department of Finance and Deregulation
Asset Management Group.

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Foreword



I am pleased to introduce *Selling to the Australian Government – A Guide for Business*. This is a practical guide for any business that is seeking to become a supplier to the Australian Government.

The Government is committed to ensuring small and medium enterprises have fair access to the Australian Government procurement market and to making it easier for small employers to do business with government.

Government operations quite rightly have a high degree of accountability, which means some of our processes for government procurement are a little different from private sector dealings. This guide outlines our procurement policy framework and the basic processes that apply.

The guide also provides information on where to find out about the diverse range of government business opportunities and provides helpful hints that will assist tenderers to gain business.

I trust this guide will help businesses to identify the benefits of selling to the Australian Government and to gain a share of this market.

A handwritten signature in black ink that reads "Lindsay Tanner". The signature is written in a cursive, flowing style.

The Hon Lindsay Tanner
Minister for Finance and Deregulation

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Introduction

This guide is relevant to suppliers looking to do business with Australian Government departments and agencies that are required to apply the Commonwealth Procurement Guidelines (the Guidelines).

The Australian Government is a large potential market for businesses of all sizes.

From advertising and cleaning services to engineering and office equipment, and from training and project management to research and recruitment—Australian Government departments and agencies purchase a wide variety of goods and services from the private sector.

As a potential supplier to the Government you need to know how procurement is undertaken, who to contact and, importantly, how to find the opportunities and submit a competitive tender.

If you are interested in doing business with the Australian Government, then this guide is your starting point. It answers basic questions on the essentials, such as:

- how does the government market work?
- what are the rules when the Government buys from the private sector?
- where do you find business opportunities?
- how do you win government business?

The Department of Finance and Deregulation (Finance) has developed this guide to help you identify opportunities and compete for government business.

step one Know your customer



one

step one Know your customer

Know the customer

At first glance the Australian Government market might seem like a maze of different departments, restrictive processes and bewildering jargon.

However, selling to a Government agency doesn't have to be difficult if you understand your market and focus your efforts.

To successfully sell to an Australian Government agency, you need to:

- identify the right customers
- understand what they want
- know how they operate and
- offer them best value for money.

▶ QUICK TIP

... Talk the talk

The Business Entry Point at www.business.gov.au includes a glossary, which provides definitions of common terms you may come across when dealing with government. There is also a glossary of key terms at the back of this guide.

Who are the players?

For most products, there is no single procurement market at the Australian Government level, rather a diverse range of undertakings by the many Government agencies. One exception is coordinated procurement where a whole of government approach is being adopted for selected goods and services.

There are currently more than 120 Australian Government departments, agencies, authorities and companies subject to the *Guidelines*. For the purposes of this guide, all these government bodies will be referred to as *agencies*.

While the *Guidelines* set out the overall framework for Australian Government procurement, individual departments and agencies are generally responsible for their own business decisions and processes.

Amongst these agencies, there are often many different areas responsible for buying private sector goods and services. This means that for most products there is no single 'government market', but many agencies effectively operating as separate markets. There are literally thousands of people across Australia making purchasing decisions on behalf of the Australian Government.

It is worth investing the time to get to know the particular business requirements of different agencies so you can better target the most relevant markets for your business.

▶ QUICK TIP**... Use the web**

A good place to start your research is online. All public tender opportunities are listed on a central website, AusTender (www.tenders.gov.au). Agencies also have their own websites that provide information about what they do, and strategic business opportunities are included in their Annual Procurement Plan. There is an A-Z listing of government sites at www.australia.gov.au.

step two Understand the rules



two

step two **Understand the rules**

How does the government buy?

While the responsibility for procurement is devolved to each agency, they are guided in their purchasing decisions by the overarching procurement policy framework.

The *Guidelines* are issued by the Minister for Finance and Deregulation and articulate the Australian Government's procurement policy. The *Guidelines* provide agencies with a framework of principles and standards aimed at ensuring agencies achieve value for money in their procurement activities. Included in the *Guidelines* are a set of mandatory procurement procedures which must be followed when the value of the property or services being purchased exceed the thresholds set by the Australian Government.

Value for money is the core principle underpinning Australian Government procurement. The *Guidelines* explain how value for money is to be achieved through:

- encouraging competition
- promoting the efficient, effective and ethical use of resources
- accountability and transparency.

► QUICK TIP

... Guidelines are on Finance's website

Information about the Commonwealth Procurement Guidelines and supporting guidance on the policy framework for Australian Government procurement is available at www.finance.gov.au/procurement.

Value for money and the procurement process

Value for money is not just about price. To get the best possible value for the money being spent, procurement decisions are based on an assessment of all the costs and benefits of each proposal.

A value for money assessment, based on the published conditions for participation and evaluation criteria, may include consideration of factors such as:

- the relative risk of the proposal
- the performance history of the supplier
- all direct and indirect financial costs and benefits over the life of the procurement (including any ongoing maintenance costs)
- the flexibility of the proposal to adapt to possible change
- the anticipated price that could be obtained, or cost incurred, at the time of disposal.

The Australian Government considers value for money is best achieved by adopting appropriately competitive and non-discriminatory procurement processes.

Agencies must comply with a range of mandatory obligations and procedures where the value of the goods and services they are buying exceed applicable thresholds set by the Australian Government. By following these strict procedures, agencies offer you a process that is transparent, accountable and equitable for all competing suppliers.

When purchasing, agencies also are required to comply with their own specific operational procedures and guidelines. While the details of these procedures may vary from agency to agency, all align with the overall framework provided by the *Guidelines*.

▶ QUICK TIP

... Understanding procurement thresholds

The value thresholds that trigger the mandatory procurement procedures that agencies need to follow vary according to the type of agency and the nature of the procurement. The thresholds for all non-construction procurements are \$80 000 for FMA Act agencies and \$400 000 for CAC Act agencies. The threshold for procurements of construction services is \$9 million for all agencies.

Business opportunities below the threshold

Where the value of goods or services sought is below the threshold, agencies have more flexibility to decide on a procurement process appropriate to the scale, scope and relative risk of the proposed procurement. This may be:

- an over-the-counter purchase
- a limited invitation to one or more suppliers for oral or written quotes
- an approach to the market through limited invitations to tender
- a public approach to the market through an open tender process.

While there are few procedural rules for procurements below the thresholds, agencies are still committed to ensuring equitable treatment of competing suppliers and achieving value for money.

Many procurements below the threshold will not be advertised publicly. It is important that officials in agencies are aware of the products, skills and capacities of the marketplace. Therefore, as a potential supplier, you need to promote your products and services as a value for money proposition for the government agency in the same way as you would when dealing with other private sector consumers.

Business opportunities above applicable thresholds

Procedural rules apply to all procurements valued above applicable thresholds, unless covered by a specific exemption. You can expect these procedures to be applied on a consistent basis by all agencies.

The procedures are based on an underlying presumption that there will be an open approach to the market, unless certain limited circumstances apply. They allow for the following procurement methods, which are explained in the table below:

- open tendering
- select tendering, usually following an open process to the market, to the short listed suppliers
- direct sourcing (only permitted in limited circumstances).

▶ QUICK TIP

... AusTender website

All open approaches to the market are advertised online through AusTender at www.tenders.gov.au. Some are also advertised in the Tender sections of major newspapers and on agency websites.

Range of Procurement Methods

| Procurement method | Approach to the market | Description |
|--------------------|--|---|
| Open tendering | Open approach in the form of a Request for Tender . | Agencies use an open request for tender to publicly invite all potential suppliers to bid for the work: <ul style="list-style-type: none"> • interested suppliers may respond by providing the required information • all responses are evaluated against the stated selection criteria • the preferred supplier is then selected. |
| Select tendering | Agency selects a number of potential suppliers. | Agencies may conduct a select tender process by: <ul style="list-style-type: none"> • selecting from suppliers listed on a multi-use list • initially publishing an open expression of interest (to elicit innovative solutions or help refine product specifications) and then invite short listed suppliers • by inviting all firms listed, where the pool of suppliers is already limited by a need for special licence or other legal requirement. |

| Procurement method | Approach to the market | Description |
|------------------------|--|--|
| Direct sourcing | Direct approach to a single supplier or a limited number of suppliers. | <p>Agencies directly approach one or more potential suppliers permitted only in specific circumstances including:</p> <ul style="list-style-type: none"> • cases of extreme urgency beyond the control of the agency • where an unsolicited and highly-advantageous opportunity arises, representing an unusual value for money opportunity • where the goods or services can be provided by only one supplier, like a work of art • for additional deliveries of property or services for reasons of compatibility with existing equipment or services. <p>When applying this procurement method, many of the procedural rules that are relevant to open tendering and select tendering are not required.</p> |

Multi-use lists

Multi-use lists are lists of all suppliers who have satisfied certain preconditions to supply particular goods or services. Multi-use lists can be established by a single agency or by multiple agencies. They are typically established for property or services that agencies procure on a regular basis. Multi-use lists must be open for new applicants continuously, or at least annually.

| | |
|---|--|
| Request to be included on a Multi-use List | <p>This process creates a list of pre-qualified suppliers for specified property or services:</p> <ul style="list-style-type: none"> • one or more conditions for participation are set by the agency • interested suppliers can request inclusion • suppliers who meet the conditions for participation will be added to the list • agencies can then invite suppliers on the list to participate in competitive tender processes for the specified property or services. |
|---|--|

Multi-use lists provide only a starting point as agencies must still undertake an open or select tender process to make a purchase. However, it is a useful tool available to agencies to streamline future tender processes. Agencies can decide that being listed on a multi-use list is a condition for participation for an open tender process. Agencies are permitted to undertake select tenders where they select participating suppliers from a multi-use list.

Being included on a multi-use list that is used by more than one agency may raise your profile in the broader government market. While being on a multi-use list is no guarantee of work, it does mean that agencies have recognised your capacity to provide particular goods or services. As multi-use lists can be used to conduct select tender processes, inclusion on a list could mean the difference between being invited to compete for a particular opportunity or not.

Panel arrangements

A panel is an arrangement established through a tender process, under which multiple suppliers are selected to supply agreed goods and services. Agencies may then purchase directly from suppliers on the panel, as required. As a member of a panel, you can supply goods or services that the agency needs on an ongoing or intermittent basis without the need to repeatedly participate in tender processes. Typical services provided through panels include legal, accountancy, human resources, building and maintenance, and design services.

Panels are an attractive option for many agencies because the tender process only needs to be carried out once to test the market and to establish the panel. To be included on a panel:

- respond to a request for tender to become a panel member—this is usually issued through an open approach to the market, although in some cases select tendering may be used
- if successful, you will then enter into a contract or deed of standing offer with the agency to provide the goods or services as required for a specified time
- you can then provide your goods or services directly to the agency as required, either by invitation or through providing competitive quotations for specific jobs.

As a supplier, it is worth remembering that panels are often in place for multiple years and you will be held to the terms and conditions of the contract or standing offer, including any price/fee structure you quoted. While no minimum amount of work is guaranteed, being on a panel greatly improves your chance of receiving future work from the agency. It is not possible to later join an existing panel, so take the opportunities to bid for inclusion when they are first published on AusTender.

It should be noted that agencies may include a non-exclusivity clause to allow the purchase of similar services from suppliers outside the panel. However, in cases where the value of the proposed purchase exceeds the procurement threshold, the agency will be obliged to undertake a full tender process if it wishes to allow non-panel suppliers to participate.

Cooperative procurements among agencies

These are procurement arrangements which involve more than one Government agency as the purchaser of property or services. Agencies may group together in a single approach to the market (described as ‘clustering’). In such cases, one agency is usually nominated as the lead agency to manage the tender process and be the liaison point with suppliers. Agencies are required to advise suppliers, when they publish their approach to the market, of the potential use of the contractual arrangements by other agencies and to include relevant clauses in their draft contract. To assist potential suppliers when tendering, the lead agency should include a list of names of other participating agencies, if known, in the request for tender documents.

The other form of cooperative procurement is where one agency approaches the market but signals its intention to allow other agencies to join the contractual arrangement at a later date (described as ‘piggybacking’), for the property or services specified in the approach to the market. When such requests arise, agencies should consult with their suppliers to ensure that they are willing and able to supply those property or services to the third party agency(ies).

Coordinated Procurement Initiatives

The Australian Government will undertake coordinated procurements, from time to time, for common goods and services used by all, or most, Australian Government departments and agencies. These coordinated procurement arrangements will extend to all FMA agencies.

step three Understand the process



three

step three Understand the process

Roles and responsibilities in a typical government procurement process

The business process and procedures Government agencies use when purchasing from the private sector are generally similar. The scale of the process and specific approach adopted will vary depending on the scope and complexity of the job, but the roles of the agency and supplier remain essentially the same.

The following table provides a good reference point for you, at every major stage of a procurement process.

| AGENCY ROLE | YOUR PERSPECTIVE |
|--|--|
| <p>Planning the procurement</p> <p>The agency defines its desired outcome and specifications, identifies risks and develops its business case.</p> | <p>You may be approached informally by an agency that is researching the size and maturity of the market, or sounding out the availability of products and services.</p> |
| <p>Deciding which process to use</p> <p>The agency determines which process it will use to find its supplier—this usually involves an open approach to the market, but sometimes it involves a select tender process or direct source approach.</p> | <p>To give your business the best chance of being considered, be sure you:</p> <ul style="list-style-type: none"> • register your business profile through AusTender to receive up to date information • apply for any multi-use lists relevant to your products and services • are registered or licensed, if necessary, to provide the particular goods or services. |
| <p>Approaching the market</p> <p>The agency approaches the market using whichever process it decides is most appropriate.</p> <p>The general principle is that all suppliers are provided with an equal opportunity to make a submission.</p> | <ul style="list-style-type: none"> • All open approaches to the market are advertised through AusTender (www.tenders.gov.au). • The tender period will remain open long enough to allow suppliers to submit considered responses. • The agency will advise you of any changes to the tender documents through AusTender, and provide answers to questions asked by you and your competitors. • You may have an opportunity to attend a briefing session. |

AGENCY ROLE

Evaluating submissions

The agency evaluates submissions in accordance with the procedures and criteria outlined in the request document, selects a preferred supplier(s), and notifies unsuccessful tenderers.

Concluding the process

The agency concludes the procurement process by awarding a contract. This may require some final contract negotiations, and a number of accountability measures must also be complied with, such as reporting the contract through AusTender and the finalisation of records.

Managing the contract

The agency manages the contract to ensure ongoing performance and that value for money is achieved. This may include managing contract extension options, termination or transition to a new supplier.

YOUR PERSPECTIVE

- It is essential that your submission meets all stated requirements.
- Be sure your submission is received on time and in the manner requested in the tender documentation, or it will not be considered.
- Your submission will be evaluated against the published evaluation criteria.
- You can expect your submission to be treated in confidence.
- If you are unsuccessful, you can request a debriefing to assist in the preparation of future submissions.

- If you are successful, there may be matters you wish to negotiate before signing the contract, such as how your confidential information will be recognised and treated. Make sure you are willing and able to comply with the contract before you sign.
- Details of your contract will be published on AusTender (if over \$10 000).
- If you have a concern or complaint about the conduct or outcome of the tender process, approach the agency with your concern in the first instance.

- Maintaining open communications with the agency contract manager will build a productive and amicable working relationship and reduce the chances of conflict arising through misunderstanding.
- Raise issues with the agency as they arise, don't let them grow into something that could cause lasting damage to your relationship with the agency.
- Solid contract performance, on time and meeting all requirements, will provide value for money and enhance your reputation in the Government market.

step four Watch for opportunities



four

step four **Watch for opportunities**

AusTender website

You will find all forms of publicly available business opportunities advertised online through AusTender (www.tenders.gov.au).

There are a number of basic categories of information listed on AusTender:

- proposed tenders
- current opportunities
- requests for expressions of interest
- recently closed tenders undergoing evaluation
- contracts reported
- multi-use lists
- annual procurement plans.

Search facilities on AusTender help you identify individual tenders or contracts which may be of interest. For example, you can search for relevant business opportunities based on a variety of indicators including the agency name, category of goods or services, or the closing date for submissions.

There are also links to many related government agency sites, procurement policy information, the Business Entry Point, and State and Territory Government sites.

Registering with AusTender

One of AusTender's most useful features for any potential supplier to government is the subscription service that allows you to register your area of business interest. You can then receive free **automatic email notifications** of the latest opportunities as they are advertised. Depending on the agency involved, you may also be able to:

- view and download tender documentation
- lodge submissions in response to market approaches in a secure electronic environment.

When you register with AusTender, it is important to specify the widest range of relevant product categories to make sure you are notified of all possible opportunities.

Proposed and current opportunities

Approaches to the market advertised through AusTender include requests for tender (including proposals to establish panels), requests for expressions of interest and requests for applications for inclusion on a multi-use list.

Note that there are several technological requirements for viewing and downloading tender documents, and for submitting tender responses electronically.

Annual procurement plans

The AusTender website is also where you will find agency annual procurement plans. Annual procurement plans are published before 1 July each year and give advance notice to potential suppliers about expected significant procurements for the forthcoming financial year. They:

- provide a short summary of the strategic procurement outlook for the agency
- provide information on specific procurements expected during the coming year.

The content and level of detail will vary from agency to agency.

Contracts awarded

AusTender allows you to follow procurement processes through to the stage of the contract being awarded.

Details of all contracts and standing offers valued at \$10 000 or more are reported in AusTender as Contract Notices and can be viewed online. This information may be particularly useful for unsuccessful tenderers in identifying key competitors, and for general background research on what agencies are buying.

The search facility helps you identify contracts of interest. Information available includes the name of the agency and the contractor, the total contract value, contract start and end dates, and a brief description of the contract.

step five Build relationships



five

step five **Build relationships**

Promote yourself

There are many steps you can take to understand the needs of government agencies and market your business as providing attractive, value for money solutions. You will need to invest time and resources to enter the government market with success.

Responding to agency approaches to the market is not the only way for you to sell to government.

When seeking quotes for smaller purchases, agencies may choose to approach suppliers they know.

Just like business development in the private sector, it is important to build relationships and ensure your potential government customers are aware of your capabilities and have confidence in your ability to deliver.

To help get you started, here are some basic tips on marketing to and doing business with Australian Government agencies:

- try to identify the agencies likely to need your goods or services, and within those agencies, identify the specific areas that are most likely to make purchasing decisions
- develop your relationships by meeting with the relevant officials, and provide useful information. Information could include your corporate profile, track record, testimonials, website address, pricing schedules and contact details (but don't flood agencies with advertising material or constant phone calls)
- make sure agency buyers know what sets you apart from your competitors
- maintain contact with agencies to ensure you are aware of future prospects
- be aware of any regulatory requirements, conditions, pre-qualifications, licences etc that you might need to supply to the agency
- consider the benefits of strategic partnerships with other businesses that sell to the agency you are interested in
- build a reputation for providing value for money—bid competitively and wherever possible add extra value.

▶ QUICK TIP

... Referral

A good reputation is an effective way of promoting your services within the government sector. When an agency is pleased with your goods or services, ask if you can use them as a referee for future opportunities.

Play by the rules

Officials and suppliers should at all times aim to conduct business on the basis of mutual trust and respect.

Australian Government officials are required to buy goods and services in an ethical, accountable and transparent manner. They must not seek gifts or other favours from potential suppliers, and should follow procedures and protocols designed to ensure a fair and consistent approach to procurement activities.

Likewise, potential suppliers should not approach agency officials in a way that might be interpreted as an attempt to improperly influence agency purchasing processes.

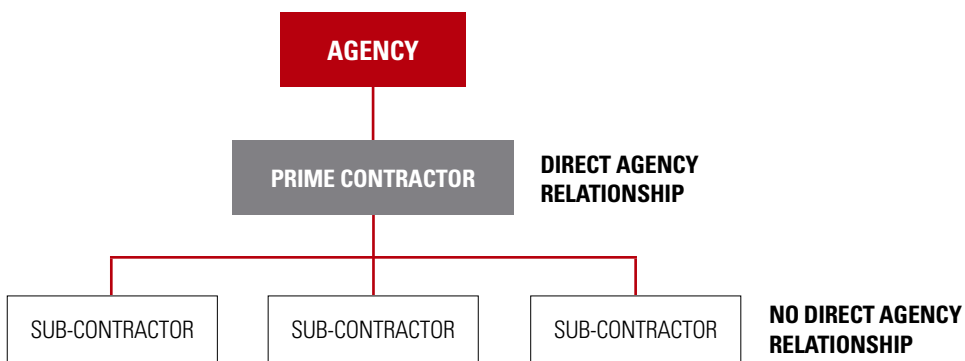
Other avenues to government

Strategic partnerships

It is not always necessary to have a direct relationship with an agency to sell to it. An important alternative way of accessing the government market is through building relationships with other businesses that are already selling or want to sell to the Australian government.

Strategic business relationships can take a number of forms and can offer substantial benefits. For example, by forming a consortium to pool resources and capabilities and submit a joint bid, you can reduce your tender costs and participate in projects you could not bid for individually.

Probably more common than joint bids are prime/sub-contractor arrangements. Under these arrangements, suppliers who are awarded prime contractor status use sub-contractors to perform some or all of the services required by the agency. Developing relationships with these prime contractors can be a relatively simple and attractive way to access the government market.



The key is to build relationships with other businesses in your industry and related industries, and make full use of your business networks. Networking can be the best way to find other suppliers to work with, but industry associations and business consultants can also act as brokers on your behalf. It is important to plan ahead—it is much easier to develop your relationships before a tender is announced than during the bidding process.

▶ QUICK TIP

... Partnering has risks as well as rewards

You need to understand all aspects of your strategic partnerships to make sure they work for you. It is worthwhile investigating your partner's record of supplying to government, their capabilities and key staff. Be sure to address issues such as payment arrangements, risk sharing and intellectual property before you enter into contractual arrangements that bind you to your partner.

Who's who?

One of the difficulties associated with marketing directly to government buyers can be how to identify which agencies might use your goods or services, and then finding the appropriate people within those agencies.

AusTender can be a useful source of information for this purpose. In addition, the Government Online Directory is another useful tool to help you understand the structure, roles and functions of the agencies that comprise the Australian Government. It provides functional descriptions of all agencies, including contact details and information on key senior staff.

The Government Online Directory can be accessed at www.directory.gov.au.

Business Entry Point

The Business Entry Point provides a wide range of information for businesses, particularly in relation to interactions between business and government. Information includes details about setting up and registering a business, licences and permits, and getting your business online.

Importantly, the website provides links to business opportunities and related information at the Commonwealth, State, Territory and local government levels.

The Business Entry Point also supports a government and business directory, providing contact details for a large number of government and business organisations.

The Business Entry Point can be accessed at www.business.gov.au.

Defence Unsolicited Proposals Gateway

The Department of Defence receives many 'unsolicited proposals' from industry due to its unique business requirements. These proposals may range from small, off-the-shelf supply items to more complex capability solutions. Defence has therefore established an Unsolicited Proposals Gateway to provide a single entry point for businesses and individuals to submit their proposals to Defence.

More information, including the types of proposals accepted and processes for lodgement, is available at www.defence.gov.au/dmo/id/ic/dupg.cfm.

Industry Capability Network

The Industry Capability Network is an independently managed non-profit national organisation that introduces local buyers and sellers for the development of effective supply chains using Australian and New Zealand companies. Registering with Industry Capability Network can introduce your products and services to buyers seeking competitive and capable local suppliers.

While there is no obligation for Australian Government procurement officers to use the Industry Capability Network, registering through the network may help you access business opportunities in both the public and private sectors, in Australia and internationally.

The Industry Capability Network has 24 offices located around Australia and New Zealand and all its core services are free of charge. For further information, or to contact your local Industry Capability Network office, go to www.icn.org.au.

AusIndustry

AusIndustry delivers a range of services to Australian businesses, including grant programmes, small business services and industry support. For more information, go to www.ausindustry.gov.au.

Austrade

The Australian Trade Commission (Austrade) provides practical advice and support, including financial support, to Australian business looking to develop international markets, and can assist in accessing business opportunities in international government procurement markets. For more information, go to www.austrade.gov.au.

step six Compete to win



six

step six **Compete to win**

Compete to win

When you have identified an opportunity to supply to the Australian Government, the next step is to compete for the business.

Of course there is no guarantee of success when competing for any business, but there are some basic rules and better practices that will help to ensure your bid for government work has the best possible chance of success. It is absolutely vital that you pay careful attention to the requirements set out in the tender documentation.

What is involved in a typical tender?

Tender documents will usually include some, if not all, of the following elements:

| Tender content | What does that mean? |
|--|---|
| A description of the procurement | <p>The request document describes the goods or services being procured. The description should include:</p> <ul style="list-style-type: none">• the nature and scope of work• the 'deliverables' or expected outcomes• any technical specifications, eg. performance and functional requirements• any need for installation, training, support or maintenance• timeframes for delivery of the goods or services. |
| Conditions for participation | <p>The conditions for participation are the minimum requirements you must meet to be considered for the work. Agencies include these to make sure you have the legal, financial, technical and/or commercial capabilities to perform the contract. Some examples are:</p> <ul style="list-style-type: none">• relevant licenses or professional accreditations• ability to meet security requirements• minimum occupational health and safety standards• minimum levels of insurance or financial resources• prior experience or a specific capability. |
| Evaluation criteria and methodology | <p>Your submission will be assessed against the evaluation criteria. The evaluation criteria will provide critical guidance on what you need to demonstrate to win the business. Evaluation criteria are often weighted according to their relative importance, and of course will vary from tender to tender. Some examples are:</p> <ul style="list-style-type: none">• demonstrated ability to provide the goods or services• ability to manage risk• pricing• compliance with stated contract conditions. <p>The request document should also describe the evaluation methodology including, for example, whether tenders will be short listed before a successful supplier is chosen.</p> |

| Tender content | What does that mean? |
|--|--|
| Minimum content and format requirements | Minimum content and format requirements explain what information your tender response should contain and the format that you need to use. For example: <ul style="list-style-type: none"> • in terms of content, you may need to provide certificates of insurance or evidence of a particular licence to support your submission • in relation to format, you may need to use specific schedules, or submit your response electronically. |
| Process rules | Process rules relate to how the tender will be run. For example: <ul style="list-style-type: none"> • the deadline and location for lodging your response • protocols for answering your questions and distributing answers to all tenderers • procedures to be followed if amendments to the tender documents are needed during the tender open period • how your confidential information will be treated both during the tender process and after contract award. |
| The draft contract | A draft contract is usually included in tender documents to allow you to clearly understand the requirements of the agency: <ul style="list-style-type: none"> • you may be required to indicate your willingness to comply with the clauses of the draft contract in your tender response • where you wish to negotiate alternative clauses, you should provide justification. |

► QUICK TIP

... Contract issues

Agencies will typically provide a draft contract as part of the tender documents. Draft contracts will include a number of requirements relating to public liability and professional indemnity insurance, confidentiality of both contractor and agency information, auditor access to contractor records, conflicts of interest, and the use of sub-contractors (where applicable). Agencies will generally ask that you indicate your preparedness to accept the terms of the contract. It is your responsibility to negotiate any variations to contract clauses before you sign.

Successful tenders—a quick checklist

The following checklist presents some key points to consider when preparing your tender submission.

- **Have you targeted the best opportunities?**
Participating in tender processes can involve substantial costs with no guarantee of success. Take the time to determine whether each opportunity is potentially rewarding and cost-effective to pursue, based on whether you have a reasonable chance of winning the business.

- Do you understand all the requirements?**

It may sound simple, but be sure to read the tender documents carefully, highlight key points, and seek clarification from the agency contact if you are uncertain about any issue. For example, are you required to quote prices inclusive or exclusive of Goods and Services Tax?
- Have you attended any briefing offered?**

To be fully informed, whenever an industry briefing is offered make every attempt to attend. Industry briefings provide an opportunity to ask questions and understand the process in depth. They allow you to make direct contact with the agency representative in charge of the tender process.
- Have you planned your tender preparation and allowed plenty of time to meet the deadline?**

Late tenders will not be accepted, so make sure you know where and when your tender must be lodged. If you need to form a consortium or engage sub-contractors to complete the work, be sure to allow others enough time to provide input into the tender submission.
- Is your response straightforward and to the point?**

There is no standard format for tender responses—they vary depending on the nature and complexity of the procurement. However, you will always need to complete any mandatory forms and follow suggested formatting style or templates and schedules provided. Your tender will be evaluated on content, not extravagant presentation. It is also a good idea to use simple, straightforward language and keep to the point.
- Have you addressed all mandatory conditions for participation and evaluation criteria?**

It is extremely important to demonstrate that you comply with all specified conditions for participation, and that you address all the evaluation criteria and any other specified requirements. Make sure you can comply with the terms and conditions of the draft contract. Remember, if you do not address the evaluation criteria, there is no point in submitting a tender response.
- Have you demonstrated value for money?**

Value for money is the key consideration of government agencies. Price is obviously important, but so too are service standards, quality, performance and whole-of-life costs. Always bid competitively the first time; you will probably not be given a chance to improve your offer later in the process. Equally, don't underprice to win the work assuming you will be able to extend the value of the contract or increase your price once the contract is signed—you will be expected to hold to the price you have quoted.
- Have you emphasised what sets you apart from your competitors?**

Think about how you would evaluate your tender against the evaluation criteria if you were the official responsible for assessing tender responses. You may wish to emphasise areas where you exceed the requirements, and where you feel you can add value for the agency. Your tender will usually be competing against several alternative proposals, so be sure to clearly identify potential points of difference from your competitors.

▶ QUICK TIP**... Submit your bid on time**

Agencies can not accept your bid if it is submitted after the deadline, unless the delay is due solely to mishandling by the agency. It is therefore vital that your bid is submitted by the deadline for submissions.

What if you do not win the work?

Of course, not all tender responses can be successful, no matter how good they are. However, the experience of an unsuccessful tender should not be a signal to give up on doing business with government. Rather, consider an unsuccessful tender process as a chance to learn and improve your offering for the next business opportunity.

Tender debriefings

Debriefing sessions are an important part of any tender process. The primary purpose of a debriefing is to enable potential suppliers to submit more competitive bids in the future. They can be a valuable source of information on the strengths and weaknesses of your tender and help you prepare better responses to future tenders.

Many agencies will offer debriefing sessions to unsuccessful tenderers as a matter of course. If not, agencies will provide debriefings on request.

Comparative aspects of the winning offer, or any other offer, cannot be discussed—the purpose of a debriefing session is not to justify the selection of the successful tender, rather it is to give you feedback on your response.

Issues that may be discussed at debriefings include:

- performance of your offer with respect to the evaluation criteria
- the strengths of your offer
- the weaknesses of your offer
- your experience, qualifications, referee reports or past performance
- an indication of cost competitiveness
- adequacy of your administrative or management systems
- quality management issues
- the nominated personnel, eg. number, experience, skills, knowledge, and quality of management
- facilities or equipment issues
- sub-contracting issues, eg. inadequate control mechanisms.

Making the most of debriefings

Debriefings may help you identify real problems with your product, service or pricing, as well as concerns that can be addressed when you prepare submissions to future tenders.

To make the most of a tender debriefing session, prepare in advance by reviewing your tender against the evaluation criteria and scope of work set out in the request documentation. Consider any specific questions you wish to ask.

During the debriefing, take note of all issues covered and clarify any points that are not entirely clear. If the agency undertakes to get back to you on a particular issue, ask for a contact name and number so you can follow up if necessary.

▶ QUICK TIP

... **Maintain positive relationships**

Remember that you may have other opportunities to do business with the agency in the future. Take a positive approach to the debriefing, and treat it as an opportunity to continue to build your relationship with the agency.

Do you have concerns or complaints?

After a tender process is over, you may have concerns that it was in some way flawed or the evaluation was inaccurate or unfair. Such concerns can stem from poor communication, leading to misunderstandings or misconceptions about aspects of the tender process. For this reason it is always a good idea to raise your concerns informally with the agency before making a formal complaint.

A possible process for pursuing concerns or complaints relating to procurement processes is set out below.

- **Ask for a tender debrief**

If you haven't already received a debriefing session, you are entitled to request one. The feedback and information provided at the debriefing session may help to alleviate your concerns, and the meeting will give you an opportunity to raise specific questions with the people responsible for running the tender process.

- **Approach the agency responsible**

If, after the tender debrief, you would like to follow up on a particular issue, the agency responsible for the procurement process is always your first point of contact. Approaching the tender contact officer informally will often prove sufficient, but if you are unsatisfied with the response, you can put your concerns in writing to the agency's Chief Executive for a more formal review. Agencies then typically undertake an internal review of the procurement process, using senior officers not previously involved with the procurement. Be aware, however, that unless there are exceptional circumstances, your challenge is unlikely to change the tender outcome.

- **Approach the Commonwealth Ombudsman**

If you believe you have taken your concern/complaint as far as possible with the procuring agency, but remain unsatisfied, the Commonwealth Ombudsman has extensive powers to investigate procurement related complaints. The Commonwealth Ombudsman can make recommendations regarding the procurement process and decision, but cannot overturn the decision or specifically direct an agency to do so. If the Ombudsman's office cannot assist with a complaint, it will explain why and suggest other avenues for resolving the matter. The Ombudsman's website is www.ombudsman.gov.au.

- **Litigation**

The primary external review mechanism is the civil legal system, which can be used to settle disputes through a formal judicial process. A legal challenge is a serious and potentially costly step, and would obviously not be undertaken lightly or without professional legal advice. Litigation relating to Australian Government procurement processes is relatively rare.

▶ **QUICK TIP**

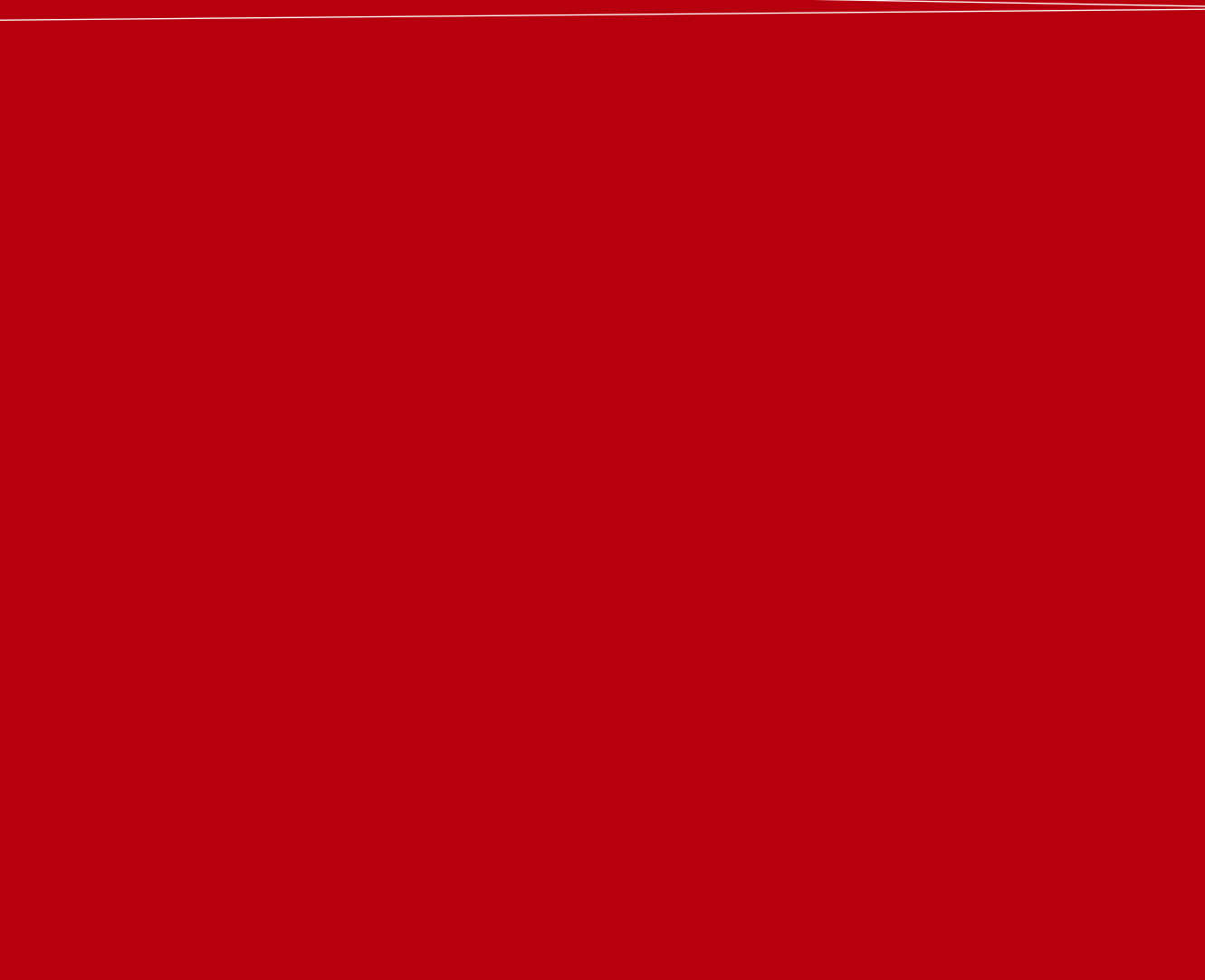
... Mutual trust and respect

As a potential supplier, you have the right to be treated fairly, impartially, consistently and equitably throughout the procurement process. You also have the right to have complaints investigated promptly and without disadvantage. Making a legitimate complaint should not prejudice your involvement in ongoing or future procurement processes.

Equally, as a supplier, you have a responsibility to attempt to resolve concerns or complaints directly with the agency involved before seeking external intervention. You are also expected not to waste time and resources by making frivolous complaints, for example in an attempt to derail a procurement process or win a contract by means other than the merits of your offering.

Agencies and suppliers should at all times aim to conduct business on a basis of mutual trust and respect.

Easy reference summary and glossary



Easy reference summary

How the Government buys

What you need to know

- For most products, there is no single Australian Government procurement market. Individual agencies are responsible for their own procurement processes and outcomes. Responsibility for purchasing is typically spread throughout the agency, which means there may be many buyers in any one agency.
- The government market has some unique features. Some aspects of doing business with the government (such as how your confidential information will be treated and the potential need for auditors to access your records and premises) are different to what you would encounter with private sector buyers. You may need to make some adjustments from your normal business practices.
- The *Commonwealth Procurement Guidelines* is the most important policy document covering Australian Government procurement, but individual agencies have their own rules to back up these guidelines at the practical level. The key focus is always on value for money and the equitable treatment of competing suppliers.
- For business opportunities below thresholds set in the *Guidelines*, agencies can determine a process appropriate to the scale, scope and risk of the proposed procurement.
- For business opportunities above the relevant threshold, there is a more comprehensive set of rules, including the presumption of an open approach to the market.

What you can do

- Gain a basic understanding of the Australian Government's procurement policies and processes.
- Carefully read the tender documents as they should tell you everything you need to know about a particular process.
- Gather background knowledge on the specific agency.

Where to find opportunities

What you need to know

- All publicly available business opportunities are advertised through the AusTender system at **www.tenders.gov.au**.
- You can register with AusTender and receive automatic emails about relevant business opportunities as they are advertised.
- Agencies publish their annual procurement plans on AusTender. The plans provide a strategic procurement outlook and detail specific procurements planned for the coming year.
- You can search AusTender for awarded contracts and standing offers valued at \$10 000 or more. This can help you to find out who is buying what and which agencies you should be targeting.

- Not all business opportunities are publicly advertised. For smaller purchases, below the covered procurement thresholds, agencies are permitted to approach suppliers directly. This provides additional opportunities to sell to government, but first agencies will need to know what you do and be confident you have the capability to supply.

What you can do

- Register with AusTender and get to know the website and the opportunities it presents.
- Try to identify which agencies might have a need for your goods or services, as well as the buyers within those agencies. Agency websites and the Government Online Directory can be good sources of information on what agencies do and how they operate.
- Provide agency buyers with relevant information about your business so they know what sets you apart from your competitors (but don't put them off with a flood of advertising material).
- Maintain contact with agencies to ensure you know when relevant opportunities arise, and they know your credentials and what you have to offer.

How to compete for government business

What you need to know

- Understand the Government's business environment.
- Understand each agency's specific requirements and business needs.
- Agencies look for suppliers who can add the most value to their activities, so try to emphasise what sets you apart from your competitors.
- Agencies cannot accept late submissions.
- Agencies cannot evaluate submissions that do not meet the required conditions. If you do not meet all the conditions for participation or address the evaluation criteria, your submission cannot be evaluated.
- As a general rule, the best value for money proposition from a reliable supplier will win the business.

What you can do

- Before you invest time and resources in preparing a tender, decide whether the opportunity is potentially rewarding and cost-effective to pursue, and if you have a reasonable chance of winning the business.
- Build relationships with agencies and make sure they are aware of your capabilities and your ability to perform—as many lower-value purchases are not advertised publicly, your reputation in the marketplace may be the key to accessing these opportunities.
- Consider the benefits of strategic partnerships and sub-contracting arrangements for reducing your tender costs and gaining access to the market.
- When submitting a tender, be sure you comply with all the specified conditions.
- Ensure that your tender is submitted on time, otherwise the agency will not accept your submission.

- Make sure you have read and can comply with the terms and conditions of a contract before you sign. The government may have specific requirements and conditions that differ from those you are familiar with in the private sector.
- If you are unsuccessful in a tender process, ask for a debriefing and treat it as an opportunity to improve future bids and build your relationship with the agency.
- If you have a concern or complaint about a tender process, approach the agency involved. If necessary, put your concerns in writing to allow the agency to respond formally.

More help

Many industry associations offer various forms of assistance to members in their business activities and dealings with government. There are also business consultants in the marketplace who specialise in helping suppliers to win government business.

Glossary

Annual Procurement Plan (APP) – a planning tool through which agencies provide a short summary of the strategic procurement outlook for the coming year and information on specific procurements they plan to undertake. APPs are published on AusTender before 1 July each year.

Approach to the market – any notice inviting potential suppliers to participate in a procurement. This may include a request for tender, request for expression of interest, or request for application for inclusion on a multi-use list.

Australian Government – this guide relates to the procurement activities of the Australian Government; it does not relate to the activities of State, Territory or local government bodies.

CAC Act – the *Commonwealth Authorities and Companies Act 1997*. Bodies subject to section 47A of the CAC Act are included in references to ‘agencies’ for the purposes of this guide.

Commonwealth Procurement Guidelines (*the Guidelines*) – the principal policy document that sets out the framework governing Australian Government procurement activity. The *Guidelines* are available at www.finance.gov.au under the *Procurement* menu, along with a range of other policy guidance material and related information.

Conditions for participation – the minimum conditions you must meet to participate in a procurement process or for your submission to be considered.

Covered procurement – a procurement, other than one that is specifically exempt, where the value of the property or services being procured exceeds the specified financial thresholds in the *Guidelines*. Covered procurements must comply with the mandatory procurement procedures.

Deadline for submissions – the precise time and date by which submissions must be received.

Direct sourcing – a procurement process, available only under certain defined circumstances, in which an agency may contact a single potential supplier or suppliers of its choice and for which only a limited set of mandatory procurement procedures apply.

Evaluation criteria – the criteria used to evaluate the compliance and/or relative ranking of tender responses. All evaluation criteria must be clearly stated in the request documentation.

Expression of interest – a response to an open approach to the market requesting submissions from businesses interested in participating in a procurement. The list of potential suppliers who have submitted expressions of interest may be used as the basis for conducting a select tender process.

FMA Act – the *Financial Management and Accountability Act 1997*. All agencies governed by the FMA Act are included in references to ‘agencies’ for the purposes of this guide.

Mandatory procurement procedures – a set of procedures, outlined in Division 2 of the *Guidelines*, which must be followed by agencies conducting a procurement valued over the thresholds specified in the *Guidelines*.

Multi-use list – a list, intended for use in more than one procurement process, of pre-qualified businesses who have satisfied the conditions for participation for inclusion on the list.

Open tender process – a procurement procedure where a request for tender is published inviting all businesses that satisfy the conditions for participation to submit tenders.

Panel – an arrangement under which a number of suppliers may each supply agreed property or services to an agency for a set period of operation and as specified in the panel arrangements.

Request for applications for a multi-use list – a published notice inviting businesses to apply for inclusion on a multi-use list. The notice must be published on AusTender, either continuously or at least once per year.

Request for expressions of interest – a published notice inviting businesses to register an expression of interest in a procurement.

Request for tender – a published notice inviting businesses who satisfy the conditions for participation to submit a tender in accordance with requirements of the request for tender and other request documentation.

Select tender process – a procurement procedure in which the procuring agency invites specific potential suppliers to submit tenders. For procurements with a value greater than the relevant specified threshold, a select tender process may only be conducted in accordance with certain procedures and circumstances set out in Division 2 of the *Guidelines*.

SME – small and medium enterprises, defined for the purposes of the *Guidelines* as an Australian or New Zealand firm with fewer than 200 full time equivalent employees.

Standing offer – often referred to as deeds of standing offer, these arrangements set out the terms and conditions, including indicative pricing, under which a supplier agrees to supply specified goods or services to an agency for a specified period.

Thresholds – the value above which a procurement, unless exempt, is subject to the mandatory procurement procedures. The procurement threshold for all non-construction services procurements is \$80 000 for FMA Act agencies and \$400 000 for CAC Act agencies, rising to \$9 million in both cases for procurements of construction services.