



# Doing business with local government

A guide to better understand how to successfully become a supplier for local government.

Based upon MAV Guide to doing business with local government

A vibrant, safe and liveable  
City accessible to all

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# INTRODUCTION

Trying to understand how to successfully become a supplier for local government can be quite daunting. There are a lot of rules and regulations, and understanding why and how decisions are made is important.

This guide is designed to encourage potential suppliers to form profitable, long term partnerships with councils. For existing suppliers, this guide should also help to reveal why councils work the way they do.

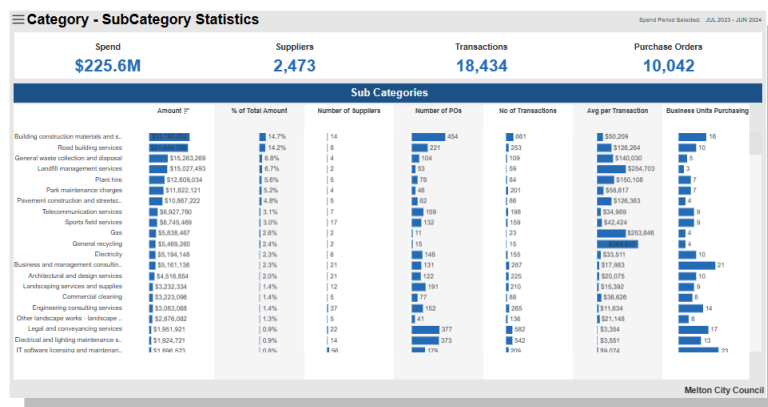
## What is 'procurement'?

Procurement is simply buying products, services and works. While textbooks have been written on the subject, it just comes down to councils trying to get best value when spending public money, in a way that is fair and transparent for everyone.

Councils have to follow certain rules set down by the State Government, operate under the Local Government Act, and also have to follow rules that their own Councillors have decided upon.

Councils spend money on a huge range of things - from roads, footpaths, recreational and community facilities, parks and trees; to heavy vehicles, office equipment, professional services, utilities and more.

Some of these are not easy to buy. It is not just like buying something off the shelf. These are likely to be customised to meet a specific requirement. That means a more complex process than just going to a local business and finding something on the shelf that suits.



## Procurement factors

When trying to decide how to best spend public money, councils will take into account a range of factors, possibly including;

- ✓ Quality and performance;
- ✓ Value for money;
- ✓ Community expectations and values;
- ✓ Balance of affordability and accessibility;
- ✓ Opportunities for local employment growth;
- ✓ Partnership building with other levels of government;
- ✓ Environmental sustainability.

# COUNCIL PROCUREMENT & THE LAW

## The Local Government Act

Councils are subject to the Local Government Act 2020 (The Act). The Act requires Councils to have a Procurement Policy and guides some of the requirements of that Policy.

Councils will have different thresholds they use to go to tender, so generally it is best to find their Procurement Policy if you are not sure. Generally you will find it on their website and should be able to search for it using a search engine, as they are public documents.

## The Procurement Policy

Each Council has a Procurement Policy. It is a document you should be able to locate on the Council Webpage.

Each policy will state what value they need to go to public tender. This will give you a feeling for the value of the engagement if it hasn't been shared with you. If the Council is asking for a quotation, then the value is below the public tender threshold they have set. If it is a public tender then the value may be below the public tender threshold or above it. They may have elected to tender as they are unfamiliar with the market or available suppliers.

The Policy outlines standard aspects of sourcing and contract management. The main areas of interest for you will be:

- The focus upon environmental, social or local matters
- Thresholds for tendering
- Any specific policy requirements the Council has
- Any complaints process

## Are all Things Bought Through Tender or Quotation?

Not all things are purchased through tender or quotation. In emergencies Councils can purchase what they need to resolve the emergency.

Councils also use credit cards to purchase retail items and things from the internet.

There are also leveraged existing contracts councils access. These are provided by the Municipal Association of Victoria, Procurement Australia, The Victorian Government and a range of other leveraged service providers. Councils can buy off these contracts either by using quotations or simply selecting and purchasing, depending upon the rules for the panel contract.

# METHODS OF PROCUREMENT

## Quotes

Councils will often seek quotes from suppliers. Typically, councils will get at least three quotes for purchases under their tender threshold, but their policy will guide the minimum number of quotes they need. Quotes do not need to be publicly advertised, and each council's procurement policy varies.

Council officers will usually contact suppliers directly to seek a quote when the need arises. This may be via email or via an online tender box depending upon the council.

Whilst a quote may be less formal, strict rules apply. Generally quotation details and procedures follow those of a tender to ensure fairness for all. Where only one quote is being sought, more liberal discussion may be allowed, however if more than one quote is required then questions will need to be submitted in writing.

## Public tendering

A tender is a formal process for obtaining commercial offers. It will generally follow a standard process. The documents appear daunting, however much of the documentation is standard, just laying out the rules to submit a tender.

A tender can be public (open to anyone who wants to submit) or select (only open to invited parties). Regardless the process is essentially the same.

Verbal communication is usually forbidden, apart from during briefings or site visits. A formal team will evaluate your bid and they will rely on the information in your bid. Do not assume they know you.

# RESPONDING TO A TENDER OR QUOTE

## First Things First

The first thing you should do is read the documentation carefully to understand the opportunity and decide whether it suits your company. Not all business is good business.

If the opportunity is of value to your business, check that you can meet the mandatory requirements. Mandatory requirements are listed in tenders and may exist for quotes. If you cannot meet a mandatory requirement do not bid.

Mandatory requirements may be things like safety qualifications, technical qualifications, financial viability, previous experience. They will change for each tender.

## Am I competitive?

Examine the questions and the weighting. Are you strong in the heavily weighted areas? Are there critical weaknesses. Remember this is a weighted score. Each question is weighted and the weighting should be spelled out to you in the document.

If your business is not competitive then it is a good business decision not to respond. If you were invited then reply that you will not be responding. That way you don't get included in all the communications. Do not feel you need to respond to all invitations. You know your business and what suits your capability.

## Preparing your response

Read all the documentation carefully. Assemble a team and pass out requirements across the team if you have one and the tender or quote needs information from across different departments. There may be financial information, policies, methodologies, resources and previous experience requested in the document. Some quotations can be as simple as price and availability, however these are rare.

Ensure you identify any “Mandatory” questions. If you can’t meet any mandatory requirements then there is no sense continuing. These might be experience, qualifications, insurance, acceptance of terms, or may even be a ceiling on price. By making them mandatory, the council is telling you they will not award unless you meet that requirement.

Answer all questions. Provide all things that have been requested. Do not pad the response out with marketing material. It will just dilute your response and will probably not be read.

Once you believe you have completed your response, check it carefully. Some responses will give you a checklist, some will not. Ensure you have provided everything needed for mandatory questions and have responded to all other questions as completely as you can.

## What if I have questions?

Questions are normal. Make sure you have checked and understood all documentation. If you still have questions there will generally be guidance on how they are to be presented. Normally, questions are submitted via the tenderbox, in writing. If you have been given an email address because there is no tenderbox, then use this. Discussions are discouraged as the response isn’t recorded and therefore your response could be at a disadvantage. If someone verbally tells you something and you adjust your response based upon that, then they may have given incorrect advice and you have nothing to rely upon.

Always submit questions in writing and ensure you get written responses. This protects you.

## Submit on time

Make sure your submission is in before the due date and time. You can have technical difficulties, so it is recommended that you aim to put it in 24 hours ahead. If it is into a tender system, nobody can see your response prior to the tender close, and you can update it if you want to change something. But if it is late you will be unable to load your response and will have wasted your effort.

If it is a quote and you have received it by email, then there may be some flexibility around closing, but generally it is the same. Once the date and time have passed, your response will be rejected.

## Does this service suit my business plan?

- Is it the client we want?
- Does it suit the markets we want?
- Is this profitable?
- Can I manage the risks?
- Will I be competitive?
- Can I respond in the time allocated?

## Respond

- Have I met the mandatory requirements?
- Have I completed all questions?
- Is my response clear?
- Have my questions been submitted in writing and had written responses?
- Has our response been submitted on time?

## What happens next?

If you are responding to a tender system, you will receive a receipt. If you are responding to an email, it is recommended to select “delivery receipt” and “read receipt” and ask for an email confirming receipt, just to protect you.

## Evaluation

The evaluation may go through a number of processes.

- Firstly, responses will be checked against mandatory requirements. Those that don't meet mandatory requirements will not be assessed.
- After that each individual on the evaluation panel will evaluate the responses.
- These individual responses are then compared and debated and a mutual score agreed.
- From here there are generally Optional processes. These could be shortlisting, interviews, site inspections, further information or negotiations. You may be invited to prepare a BAFO. This is a “Best and Final Offer”.
  - **Shortlisting:** This is when the field of possible winners is reduced to a few. Only those who may potentially be awarded are asked to undertake further checks. This is to ensure the time of those who can't win is not wasted. If you are shortlisted, you have a chance of being awarded and are competing with only the best offers in any subsequent activities.
  - **Interviews and demonstrations:** These are the opportunity to clarify your proposal, meet the delivery team or demonstrate how your system or approach is best. It will normally be restricted to shortlisted providers, but not always.
  - **Site Inspections:** Site inspections may or may not be required. For construction projects these will normally be conducted as part of the tender process, however for services the Council may want to inspect potential supplier sites to check capability, safety, quality or other aspects.
  - **Requests for further information:** You may be asked to clarify aspects of your offer, improve aspects of your offer, or change your offer based upon changes in requirements. These should all be completed in writing.
  - **Negotiation:** Negotiations may be conducted as traditional negotiations, written negotiations or a BAFO – a Best and Final Offer. Traditional face-to-face negotiations are less common as written evidence of the

agreement is difficult. If you are negotiating, ensure you confirm what was agreed at each stage. Written negotiations often occur around contract terms and involve working through a table of requested changes, with offer and counter-offer. A BAFO generally occurs for shortlisted suppliers where changes may have occurred or items may have been clarified. A Best and Final Offer allows you to adjust your offer based upon any new understanding and usually allows you to change any aspect of it.

## Award Phase

The award phase can feel long and silent. Councils are spending public money and therefore need to go through a process of approval. Different staff at different levels have approval to spend funds. These are known as Delegates. If the value of the engagement exceeds the CEO's delegation then it will need to go to a Council Meeting to be approved by the Councillors. The value requiring the contract to be referred to Councillors is different for each Council and can be found in the Procurement Policy, which should be available via the Council Internet site.

If you are responding to a tender system, you will receive a receipt. If you are responding to an email, it is recommended to select "delivery receipt" and "read receipt" and ask for an email confirming receipt, just to ensure you have evidence of your submission date and time.

It is acceptable to write and ask for a progress update if the planned dates provided in the tender or quote have passed.

If you are successful you may receive a letter of intent or some form of notification. If you are unsuccessful, you normally will not be informed until Council has a signed contract. This is because the decision to award may be amended at any time up until a contract is signed.

If you receive a letter of intent or a contract to sign, this is no longer the time for negotiation. Check the documentation to ensure it reflects your agreement then sign and return the documents. They may be hard copy, however are more likely to be sent for electronic signature.

## Feedback

Unsuccessful tenderers can ask for feedback to improve their next bid. There may be feedback in the unsuccessful letter. The letter will often contain a table with scores but no company names identified. You should be advised which score was yours. You should focus upon areas where your score was weaker than others. Price is not always the determining factor.

If you want further feedback, you can request a debrief. Note, this is not a time to debate the scores. This is a chance to gain valuable feedback on how you could have improved your score in select weak areas. You will not be told what others did, the discussion will centre on your response. For example you may be able to improve your safety score by having your safety processes externally audited and accredited.

Feedback applies to the specific tender and the specific weighting that was applied. However improving your score in any areas will improve your chances of success in the future. Remember, looking at the feedback means you do not necessarily need to keep dropping your price. You may be able to improve other aspects.