



Australian Government  
Department of Finance

# Selling to the Australian Government



**July 2015**

A Guide for Business

BUSINESS, PROCUREMENT and ASSET MANAGEMENT





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# Introduction

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 who to contact and, importantly, how to find business opportunities and effectively compete. You also need to understand the rules and processes that apply to how the government buys goods and services.

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

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

## **Who should read this guide?**

This guide is for businesses that are interested in supplying goods or services to the Australian Government. It will help you better understand the specific demands and processes that apply when the Australian Government buys.

## **What is 'Procurement'?**

In this guide, we often use the term “procurement”. Procurement is another term for buying goods and services. Procurement encompasses the whole process of buying goods and services. It begins when a need is identified and the decision is made to buy. Procurement continues through the processes of risk assessment, seeking and evaluating alternative solutions, the awarding of a contract, the delivery of, and payment for, the goods and services and, where relevant, management of the contract and disposal of goods or transition to other services.



# Identifying Opportunities

## How does the Government usually buy goods and services?

The Australian Government uses a range of different procurement methods to meet its requirements. These are generically known as an Approach to Market (ATM).

Procedural rules apply to all procurements valued above \$80,000, unless covered by a specific exemption. You can expect these procedures to be applied on a consistent basis by all organisations.

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 tender
- prequalified tender
- limited tender

### Open Tender

Open to any business that can satisfy the requirements.

An Open Tender is advertised on AusTender as an **Approach to Market(ATM)**.

Government organisations use an open request for tender to publicly invite all potential suppliers to bid for the work:

- interested suppliers may respond by providing the required information
- all responses are evaluated against the stated selection criteria
- the preferred supplier is then selected.

### Prequalified Tender

A prequalified tender is only permitted in certain circumstances. Under this process Government organisations can approach a shortlist of suppliers and request a response.

Government organisations may conduct a prequalified tender process by:

- selecting from suppliers listed on a multi-use list established through an open approach to market (see Multi-Use Lists for further information)
- a shortlist of potential suppliers that responded to an initial approach to market
- a list of all potential suppliers that have been granted a specific licence or comply with a legal requirement that is essential to the conduct of the procurement

## **Limited Tender**

Under a Limited Tender the ATM is open only to those potential suppliers that are invited to submit a response. When applying this procurement method, many of the procedural rules that are relevant to open tendering and pre-qualified tendering are not required.

This method is common for procurements below the relevant thresholds or from existing arrangements such as a Standing Offer.

When spending over the threshold amounts Government organisations can only use the Limited Tender approach when their circumstances are permitted under an Exemption. A list of these is set out in the [Commonwealth Procurement Rules](#).

## **Is every government purchase advertised?**

Generally speaking, all Government requirements valued over \$80,000 are advertised publicly via AusTender and are open to any business that wants to respond. This promotes fair competition and helps achieve the best value for money. There are some exemptions from this rule.

Low value purchases do not have to be advertised publicly.

## **What is AusTender?**

AusTender is a free procurement information system operated by the Australian Government. It provides centralised publication of Australian Government business opportunities, annual procurement plans, multi-use lists and contracts awarded.

AusTender will automatically match business opportunities with the areas of interest that you specified in the profile for your business when you registered. You will be sent an email summarising ATMs that match your profile along with links to download the ATM documents and details about who to contact if you have any questions about the opportunity.

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

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

- Pre-release Notices
- Closed and Current Approaches to Market
- Contract Notices
- Standing Offer Notices
- Closed and Current Multi-Use Lists

- Reports
- 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 organisation name, category of goods or services, or the closing date for submissions.

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

### **How can I get information from 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 organisation 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.

#### **Tip**

You can register for AusTender at <https://www.tenders.gov.au/>. Registration is free.

Make sure to include a wide range of relevant key words in your registration profile so that the system can send you email alerts containing links to ATMs that may be suitable for your business.

### **Can I find out when the government wants to buy something?**

All open ATMs are published on AusTender which is free to join and use.

If you are invited to participate in a limited tender or a prequalified tender, you will be contacted by the Government organisation with the details. These procurement processes only happen in specific circumstances.

Government organisations may publish advanced notice of their longer term procurement plans via an Annual Procurement Plan (APP) which is published on AusTender or on their web sites. You may also decide to subscribe to a paid tender search service.

It may be useful to cultivate sound professional working relationships with potential Government users of your goods and services so that they are aware of the capabilities of your business. For example, many government organisations with standing offer panels may invite their suppliers to provide information about their goods and services for distribution to other government organisations or they may conduct supplier expos.

### **Can anyone put in a response to an ATM?**

Yes, if the ATM is classed as 'open.' Any business that can meet the requirements is able to respond.

For a procurement valued below \$80,000, the Government organisation may invite only a limited number of potential suppliers to respond to the ATM.

For a procurement from a multi-use list, only businesses that are appointed to the MUL can respond to the ATM.

For a procurement from a standing offer, the Government organisation may choose to invite one or more businesses that are appointed to that standing offer to respond to the ATM. In rare circumstances and if the terms of the standing offer permit this, the Government organisation may invite one or more businesses that are not currently appointed to the standing offer to respond to the ATM.

### **Do I have to have an ABN to respond to an ATM?**

Although you can run a business without an ABN, it is highly recommended you have one. Getting an ABN is free, and can make running your business easier in the future. For example, if you need to register for Goods and Services Tax (GST) now or in the future, you'll need an ABN first.

Without an ABN, anyone who pays you, including other businesses or a Government organisation, must withhold 49% from payments they make to you for tax purposes.

### **Do I have to be registered for GST to respond to an ATM?**

It is compulsory under the taxation legislation for your business to register for GST if it has a current or expected GST turnover of \$75,000 pa or more (\$150,000 pa or more for non-profit organisations).

The Australian Government buys from micro and small businesses that are not registered for the GST because they are below the required registration threshold.

### **Do I have to be a company to respond to an ATM?**

No you do not have to be a company to sell to the Australian Government.

## **Do I have to be Australian to respond to an ATM?**

No you do not have to be Australian to sell to the Australian Government.

In extremely limited situations relating to procurements with national security implications, you may be required to hold a security clearance in order to provide goods and services to a security organisation. Only Australian citizens can hold a security clearance.

## **Do I have to have insurance to respond to an ATM?**

That depends on the type of insurance, the value of the procurement and the risk assessment of the Government organisation that is doing the procurement. It is an increasing practice within the Australian Government to ask for proof of coverage of a specific risk if it is identified, but not to require broad insurance cover.

It is your decision, as the business owner or manager whether you want to have insurance and if so, the type and amount of insurance that you think is suitable for your business. Some common types of insurance that potential suppliers may like to consider include public liability insurance, product liability insurance, professional indemnity insurance and general business insurance.

If your business holds appropriate insurances, this may reduce risks to the Australian Government in dealing with your business, and thus represent better value for money.

### **Workers Compensation Insurance**

Workers compensation insurance is compulsory by law in all states and territories of Australia. Most ATMs have a requirement for the supplier to comply with Australian laws, and this would include your business having the necessary workers compensation insurance.

A Government organisation may require evidence that your business has appropriate workers compensation insurance in place as part of the ATM process or once your business has won a contract.

### Tip

You can find out more about workers compensation insurance at the following links

ACT: [www.worksafe.act.gov.au](http://www.worksafe.act.gov.au)

NSW: [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

NT: [www.worksafe.nt.gov.au](http://www.worksafe.nt.gov.au)

QLD: [www.workcoverqld.com.au](http://www.workcoverqld.com.au)

SA: [www.workcover.com](http://www.workcover.com)

TAS: [www.workcover.tas.gov.au](http://www.workcover.tas.gov.au)

VIC: [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)

WA: [www.workcover.wa.gov.au](http://www.workcover.wa.gov.au)

For high value contracts, the Government organisation may require a specific type or amount of insurance, usually as a way of mitigating and managing risks in the contract. If this is the case, the amount and type of insurance required will be clearly stated in the ATM documentation.

If you feel that the amount or type of insurance being required is excessive, you may choose to query this with the contact officer for the ATM to see if there is any flexibility in the requirements.

### **Can a small business compete successfully for Government work?**

Most definitely. Many small businesses currently supply goods and services to the Australian Government. The Australian Government encourages small businesses to compete for Government work and is committed to sourcing at least 10 per cent of procurement by value from small and medium enterprises (SMEs).

Under the Commonwealth Procurement Rules (CPRs), which govern procurement decisions in Government organisations, all potential suppliers to government must be treated equitably based on their commercial, legal, technical and financial abilities to perform required. A Government organisation must not discriminate against a potential supplier due to their size, degree of foreign affiliation or ownership, location, or the origin of their goods and services.

To ensure that SMEs can engage in fair competition for Australian Government business, the Australian Government requires public sector officials to apply procurement practices that do not unfairly discriminate against SMEs and provide appropriate opportunities for SMEs to compete. The Australian Government requires officials to consider, in the context of

Value for Money:

- the benefits of doing business with competitive SMEs when specifying requirements and evaluating value for money
- barriers to entry, such as costly preparation of submissions, that may prevent SMEs from competing for Government contracts
- SMEs' capabilities and their commitment to local or regional markets
- the potential benefits of having a larger, more competitive supplier base by including SMEs

### **How can I let government buyers know my business is here?**

Across the Australian Government, there are different areas responsible for buying goods and services from the private sector. This means that for most goods and services there is no single 'government market.'

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

There are many steps you can take to understand the needs of Government organisations 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 organisation approaches to the market is not the only way for you to sell to government.

When seeking quotes for smaller purchases, Government organisations may choose to approach suppliers they know. In many respects, you should treat the Government as you would any other client. An active, attractive and easy to find and navigate web site is typically the best marketing tool you can have. If appropriate, you may want to have your business listed in the Yellow Pages or other relevant directory of services. You might want to participate in "meet the buyer" functions or other professional networking opportunities. All of these things make it easier for Government buyers to find your business when they are carrying out their market research.

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

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

- try to identify the organisations likely to need your goods or services, and within those organisations, 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 (don't flood organisations with advertising material or constant phone calls. Cold-calling is not an efficient marketing method)
- make sure organisation buyers know what sets you apart from your competitors
- maintain contact with organisations 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 organisation
- consider the benefits of strategic partnerships with other businesses that sell to government organisations
- build a reputation for providing value for money—bid competitively and wherever possible add extra value within the scope of the requirement. An innovative solution is often welcomed.

### **TIP - Use the web**

A good place to start your research is online. All public tender opportunities to supply to Australian Government organisations are listed on a central website, AusTender ([www.tenders.gov.au](http://www.tenders.gov.au)).

Entities also have their own websites that provide information about what they do, and strategic business opportunities are included in their Annual Procurement Plan which can usually be found on the organisation web site and also on AusTender.

There is an A-Z listing of government sites at [www.australia.gov.au](http://www.australia.gov.au).

### **I just got asked a lot of questions about my products and services. Is the government planning to buy something from my business?**

Government organisations sometimes need to gather information from potential suppliers to enable them to make out a business case to buy something, and if the business case indicates a positive return, to get a budget allocation to make the purchase. Unless you were specifically advised that the Government organisation wanted to place an order with you, they were only conducting market research, like any other client would do, before committing to buy something.



If a Government organisation intends to buy something from your business, you are likely to be asked to provide a formal quotation or tender and you should receive a written contract of some type. For lower value, less complex goods and services, the contract may take the form of a purchase order. For goods and services up to \$200,000, the contract may be the standard contract from the Commonwealth Contracting Suite. For larger value procurements, the contract may be one that is specific to the Government organisation.

The only exception to this is for very low value procurements, often those made using a corporate purchasing card. In this case, you may be asked to provide a verbal quotation, and will be given the relevant purchasing card number if the Government organisation intends to make a purchase.

If you are not sure whether the Government organisation is merely making enquiries or is actually placing an order with you, be sure to ask, specifically.

### **What is a Standing Offer?**

A Standing Offer (sometimes called a panel if it involves more than one supplier) is a procurement arrangement with a Government organisation (or group of Government organisations) which specifies a range of goods or services that it expects to purchase over a defined period. Potential suppliers indicate their willingness and ability to supply those goods and services over the defined period at a particular rate/cost, via a response to an ATM (to enter into a Deed of Standing Offer).

A standing offer is usually established for at least three years, and may contain options to extend. Once the standing offer is established, it is not usually possible for additional suppliers to be added to the standing offer until it expires and a fresh ATM is made.

Once a standing offer is established, the Government organisation can contact businesses that are appointed to the standing offer whenever they want to buy goods or services covered by the standing offer. As the open procurement process has already been conducted to establish the standing offer, specific procurements can then be undertaken directly with any supplier on the standing offer.

### **Should my business respond to an ATM for a Standing Offer?**

Being appointed to the standing offer is not a guarantee that the Government will actually want to buy anything from your business or indeed any business appointed to the standing offer. It is important that you conduct your own cost-benefit analysis before pursuing a Standing Offer and include in your considerations, the cost of responding to the ATM, being on the panel for a number of years, and the cost of quoting and remaining job-ready for the

duration.

The contrasting consideration you need to make is that there may not be another opportunity to respond to an ATM for that Standing Offer for several years. As an alternative you may wish to seek to subcontract to a supplier on the Standing Offer, if appropriate.

### **How can my business get on a Standing Offer?**

Standing offers are usually established by an open tender ATM. Open tender ATMs are advertised on AusTender and are open for anyone to apply.

Your response to the ATM will be evaluated according to the Rules, and if your response is considered to represent value for money, your business may be appointed to the standing offer.

You will find more information about how to respond to an ATM in the section “getting selected”

### **What is a multi use list (MUL)?**

A multi-use list (MUL) is a list, intended for use in more than one procurement process, of pre-qualified suppliers who have satisfied the conditions for participation for inclusion on the list. It is a mechanism for pre-qualifying interested suppliers prior to conducting a tender process. The process of establishing a MUL is not a procurement.

A MUL can grow as large as the number of suppliers who request to join the list and meet the stated conditions for participation for inclusion. No other evaluation of the suppliers’ abilities or relative value is undertaken. Suppliers have the opportunity to join an MUL either continuously or annually depending on the operational rules of the MUL.

### **How can my business get on a multi use list?**

Please visit the Department of Finance’s MUL web page <http://www.finance.gov.au/tags/mul/> to find out what MULs are in operation and the conditions under which the MUL can be joined.

### **I’ve never sold to government before - can I still win a contract?**

There is no requirement to have previous experience supplying to Government in order to win a Government contract.

When assessing the suitability of your business to meet their requirements, Government organisations will naturally take into account the risks associated with dealing with your business. If you do not have previous experience selling to Government, it will be in your best interests to clearly demonstrate the capability and capacity of your business to perform the requirements. You

can do this by:

- showing that you have other clients for similar requirements who are satisfied with your business
- identifying the risks that the Government might be taking in dealing with your business and explaining how you will manage and reduce those risks
- applying for smaller Government contracts first to get some runs on the board before applying for larger contracts
- partnering with other businesses that have more experience in supplying to Government until you build experience and reputation, and then subsequently responding to ATMs in your own right

### **Why would I want to partner with another business?**

These 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 Government organisation. 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.

#### **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.

## **Further Useful Resources**

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**

AusTender is a useful source of information about who is buying, what they are buying, what they are paying, who is winning contracts and who to contact. AusTender can be accessed at [www.tenders.gov.au](http://www.tenders.gov.au).

### **The Government Online Directory**

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](http://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](http://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 <http://www.dsto.defence.gov.au/publication/unsolicited-innovative-proposals>

## **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](http://www.icn.org.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](http://www.austrade.gov.au).

# How Does the Australian Government Select a Supplier?

## **Does the government have to follow any rules to select a supplier?**

All Australian Government organisations have procurement rules they must follow. These are contained in the *Public Governance Performance and Accountability Act 2013* (the PGPA Act), the PGPA Rule 2014 and the Commonwealth Procurement Rules. The PGPA Act and PGPA Rule provide the general legal framework that Government officials must follow when undertaking a procurement. The Commonwealth Procurement Rules provide detailed instructions to officials undertaking procurements.

## **What is in the Commonwealth Procurement Rules?**

The Commonwealth Procurement Rules (CPRs) have two divisions. Division 1 contains the rules that apply to all procurements.

The core focus of Division 1 is achieving value for money. The CPRs require Government organisations to conduct their procurements in a way that:

- Encourages competition
- Achieves efficient, effective, economical and ethical procurement
- Provides accountability and transparency
- Ensures open and effective competition
- Manages procurement risk
- Follows procurement rules

Division 2 contains rules that apply to procurements valued above \$80,000 (with some exceptions and other thresholds applicable in certain situations).

Procurements valued at \$80,000 or more will be conducted by open tender unless there are reasons, called Exemptions, to conduct a limited tender or a pre-qualified tender. The CPRs contain descriptions of these Exemptions.

The Commonwealth Procurement rules can be downloaded from the Department of Finance web site.

## **Are there any other rules that have to be followed?**

In addition to the legislation and the government-wide policies, some Government organisations have their own procurement policies but these are in addition to the Commonwealth Procurement Rules.

## **What does the Government mean by *Value for Money*?**

Value for money means considering all the relevant financial and non-financial

costs and benefits of each response including, but not limited to:

- the quality of the goods and services;
- fitness for purpose of the proposal;
- the potential supplier's relevant experience and performance history;
- flexibility of the proposal (including innovation and adaptability over the lifecycle of the procurement);
- environmental sustainability of the proposed goods and services (such as energy efficiency and environmental impact); and
- whole-of-life costs.

### **Do I have to pay anything to get selected for a Government contract?**

Absolutely not.

Australian Government officials are required to buy goods and services in an ethical, accountable and transparent manner. They must not seek or accept 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. This will usually mean that typical private sector marketing practices such as providing entertainment or giving gifts to potential Government clients is not allowed and is discouraged.

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

### **How will my response to the ATM be assessed?**

The information below will help you understand how your response to an ATM is assessed by the Government organisation. Generally speaking, your response is evaluated against the advertised evaluation criteria. The response that offers the best combination of meeting the evaluation criteria and price considerations will be identified as the best value for money, and selected as the preferred supplier.

### **What criteria will be used to evaluate my tender?**

You must be advised of the criteria that will be used to evaluate your response. This information will be in the approach to market (ATM) documentation.

## **What are mandatory (or essential) evaluation criteria and why are these important?**

Mandatory (or essential) criteria describe the minimum requirements that must be met for your response to be considered. If there are any mandatory (or essential) evaluation criteria, these will be clearly identified as such in the ATM documents.

If your goods or services do not meet these criteria the Government organisation cannot choose your goods or services as this would not represent value for money.

Pay careful attention to mandatory (or essential) criteria. If your tender response does not clearly show how your goods or services meet the mandatory criteria, your response will be set aside and excluded from further evaluation. This is not discretionary - the Government procurement officer must set aside any responses that do not comply with mandatory criteria. It is always disappointing for both parties if it becomes necessary to set a tender response aside.

## **What are desirable criteria and why are these important?**

Desirable criteria indicate features or characteristics of the goods or services that are not essential, but which may add value for the buyer.

When responding to desirable criteria, you have the opportunity to show how your goods or services are different from those offered by your competitors, and to demonstrate any key advantages or unique features that your goods or services provide. Your response should remain consistent with the requirements otherwise you risk extending beyond the scope of the request.

In the context of value for money, if two businesses have offered goods or services at the same price and both have met the mandatory criteria, then the business that best meets the desirable criteria would usually be assessed as offering better value for money.

## **Who will assess my response?**

For simple, low value requirements, the decision will usually be made by a single officer who understands both the client's needs and the procurement rules that apply to that purchase.

For more complex or higher value requirements, the selection will usually be made by a tender evaluation panel made up of two or more officers from the buying organisation. There will usually be a representative of the area that wants the goods or services, and a procurement professional.



## **Does the government have to choose the cheapest response?**

It is very important to understand that Government organisations are required to select their suppliers on the basis of value for money rather than just the cheapest. There is no obligation to choose the cheapest response.

Value for money includes the price, as well as other factors such as total costs of ownership (eg repairs and maintenance, end of life disposal costs), quality and suitability of the goods and services for the purpose, track record and experience of the supplier, innovation and flexibility of the proposal and environmental sustainability of the goods and services, for example.

## **Who should I use for referees?**

Reference checks are usually made when your business looks like becoming the preferred supplier. Reference checks can be quite comprehensive. You should select referees for whom you've worked so they can verify the claims you've made in your tender. You should always ask your proposed referees if they agree to provide a reference for you before you include them in your response. It is not very helpful to your chances if the referee is not expecting the contact, or worse still, does not wish to give a reference for you. It is important to note that in checking your business history the government organisation may talk to any business you have supplied, whether you have offered them as a referee or not. This is part of the due diligence process the government must follow.

## **Will they ask me questions about my response?**

You should not assume there will be a further opportunity for you to explain anything about your response. Your response should be complete, accurate and detailed enough to evaluate what you are offering and why your business should be selected.

In some circumstances you may be contacted by the person evaluating your response to clarify something that is not clear in your response. This will almost always be done in writing (including by email) to ensure that there is a proper record of the questions and your replies.

## **What if I miss the deadline for submitting the response?**

Government organisations cannot accept your offer if it is submitted after the deadline, unless the delay is due solely to mishandling by the Government organisation. It is therefore vital that you submit by the deadline. If it is late for any other reason, by even a few minutes, it will not be accepted. AusTender is an automated process and it will not allow late submissions.

## **What if I forget to include something in my response?**

The usual position is that you will not be permitted to add anything to your response once the closing time has passed. This is to comply with the policy on not accepting late tenders.

If you realise you have forgotten to include something before the closing time has passed, you can simply provide the missing information and it will be included.

If it is a small piece of administrative detail, for example, you forgot to sign something, you may be permitted to rectify that mistake, if this does not amount to accepting new information after the closing time. However, you cannot rely on this possibility: always thoroughly check your response before you submit it and make sure that you have supplied everything that is required before the closing time.

## **How can I ask questions about an ATM process once it is underway? What can they tell me?**

### **Before the closing time**

If you have questions about the ATM before it closes, you can ask questions and have them answered. Typically, you will need to submit your questions in writing (usually email) to a nominated contact officer. You will be provided with an answer, again usually in writing. Government buyers are usually very sensitive to the time pressure associated with questions during an ATM process, and will do their best to respond promptly. Many government organisations will include a closing time for questions in their ATM information. Make a note of these deadlines and read the material early so that questions can be addressed quickly.

When asking questions, please be aware that your question and the answer will be provided to every potential supplier. You will not be identified in that process. For smaller, less complex ATM processes, this is usually achieved by the contact officer sending out a collated list of questions and answers by email to all potential suppliers that are participating in the procurement process.

For ATM processes being conducted through AusTender, the contact officer will collate the questions and answers and issue these as an Addendum to the ATM on AusTender. It is your responsibility to check periodically on AusTender to see if any addenda have been issued in connection with an ATM. If you don't check this from time to time, you may miss out on important information that is useful in preparing your response. It is possible to register with AusTender and receive automatic notification of developments with an ATM. See the AusTender website for details.

### **After the closing time**

Once the closing time has passed, procurement officials are very limited in what they can tell you as a potential supplier. This is mainly for probity, fairness and transparency reasons.

Please do not contact procurement officials after closing time unless it is very urgent - for example if you wish to withdraw your response. There is no point contacting a procurement official with questions about when the process will be completed, whether your response was successful or not, or whether you should accept other work in preference to this opportunity because they cannot comment on those matters.

### **Is my response confidential? Are my design ideas at risk?**

The Government takes its responsibilities of confidentiality and probity very seriously. All Government organisations treat tender responses with the utmost confidentiality.

You can be assured that your response will not be discussed with or provided to anyone who does not have a direct and work related need to know about it. This is usually only the client and any members of a tender evaluation panel, the approval delegate who signs off on the contract, plus any administrative staff that may be involved in tasks such as downloading or printing your response.

Your design ideas are not at risk. Your ideas always remain your intellectual property, and if you are unsuccessful in winning the contract, the Government will not obtain any rights over your intellectual property.

If you are successful in winning the contract, you need to be aware of the terms of that contract, which may grant various types of licence to the Government according to the terms that were contained in the contract sent out with the approach to market documents. If intellectual property rights are of concern for your business, you may want to obtain legal advice before entering into any contracts, and ideally before investing the time and effort associated with putting in a response. The *Australian Government Intellectual Property Guidelines*, including model contract clauses, are available from the Attorney-General's Department.

### **Why does it take so long for the Government to make a decision on an ATM?**

Government organisations are aware of the need to make prompt procurement decisions, to complete tender evaluations and award the contract as quickly as possible. However, this may be slower than the private sector experience.

This may be due to the need to ensure high standards of probity, fairness and accountability in decision making. There are checks and balances in the procurement process to ensure that this money is spent wisely, that best value is obtained and that the way Government contracts are awarded is fair, transparent and justifiable.

# Responding to An Approach to Market

## **My business is interested in responding to an ATM. What do I have to do?**

You will need to prepare a response that complies with the ATM documentation. You will find some information about the typical contents of an ATM in the section below.

You must prepare and submit your response by the specified date and time, to the specified location and in the specified format (for example electronically or a certain number of printed copies) that will be outlined in the ATM documentation.

A short checklist to assist you to prepare and submit your response has also been included.

## **What is typically contained in an ATM?**

Approach to market documents will usually include some, if not all, of the following elements:

### **A description of the procurement**

The request document describes the goods or services being procured. The description should include:

- the nature and scope of work Statement of Requirement
- 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 of participation**

The conditions for participation are the minimum requirements you must meet to be considered for the work. If you do not meet these minimum standards, your tender will not be considered. Agencies include these to make sure you have the legal, financial, technical and/or commercial capabilities to perform the contract. Some examples are:

- 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**

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:

- demonstrated ability to provide the goods or services
- ability to manage risk
- pricing
- compliance with stated contract conditions.

The request document should also describe the evaluation methodology including, for example, whether tenders will be short listed before a successful supplier is chosen.

## **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:

- 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:

- 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:

- 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 must note these and provide justification.

### **Tip**

- If you would like to see what a typical pack of ATM documentation looks like, visit the AusTender website and download a current ATM for the type of goods or services that you are interested in supplying to the Government. This is good preparation so that you see what it looks like, what you will be asked to provide and you get a sense of how long it might take to complete, before you are caught up in the pressure of responding.

### **Can I ask questions before I respond?**

Yes. Most ATMs will nominate a contact officer who will receive questions and provide responses. The question you ask and the response you receive will also be provided to all other potential suppliers. This will be done anonymously: you will not be identified in the process. You will also be provided any answers to questions asked by other respondents.

### **Why is the statement of requirements so important?**

The statement of requirement ,or statement of work, is the document by which the buyer identifies the details of the goods and/or services that it wishes to buy. It is important because it will be used in the tender evaluation process to assess the extent to which each potential supplier's response addresses the requirements. It will ultimately become part of the contract by which the delivery of the goods and services is managed. This makes it a very important document and you should pay careful attention to the contents of the statement of requirement.

### **Why do they send the draft contract with the ATM?**

This gives you the chance to see the terms and conditions under which your business would be contracted if you are successful. It allows time for you to receive legal advice about the terms and conditions. It also allows you to build your pricing schedule in the knowledge of exactly what is expected of you contractually.

You may be asked to confirm in your response whether your business complies with the terms and conditions of the draft contract.

Australian Government organisations are increasingly using the Commonwealth Contract Terms for contracts under \$200,000. It would be useful to familiarise yourself with these terms.

For higher value contracts, you may negotiate terms and conditions in the draft contract. However, you should be aware that a Government organisation will usually regard an ATM response that departs from the standard terms and conditions as higher risk and a higher cost than one which complies. This may make your response less competitive in terms of achieving value for money.

### **TIP - Contract issues**

Entities will typically provide a draft contract as part of the tender documents. Draft contracts may include a number of requirements relating to public liability and professional indemnity insurance, confidentiality of both contractor and organisation information, auditor access to contractor records, conflicts of interest, and the use of sub-contractors (where applicable).

For lower value contracts, generally no negotiations will be involved. It is not cost effective to negotiate contract clauses for low value contracts and consequently your offer is unlikely to represent the best value for money if you require special terms and conditions in the contract.

For higher value contracts, organisations will ask that you indicate your preparedness to accept the offered contract and to state any clauses that you want to negotiate. Generally you will not be able to negotiate about any contractual issues you have not flagged in your tender.

In making a decision on whether or not to accept the offered contract without negotiations, you should consider that the organisation's costs of negotiating any changes you have nominated will be included in the organisation's value for money assessment of your tender. These additional costs may be a deciding factor in your tender being unsuccessful if other suppliers are prepared to accept the contract offered.

It is your responsibility to negotiate any variations to contract clauses before you sign.

### **Is there a particular format for my response?**

Most Approaches to Market (ATMs) will include a template response for you to complete. You will simply need to answer each of the criteria.

If a template response document is not included with the ATM package you will need to ensure you have included all the mandatory requirements specified in the ATM. If specific formatting is required, this should be clearly stated in the ATM.

Be sure that your response addresses all the requirements and evaluation criteria, completes any mandatory forms and contains enough information to assist the Government buyer in understanding your offer.



Be sure that your response:

- directly addresses the requirements as laid out in the statement of requirement
- completes any mandatory forms provided in the ATM documentation, for example a declaration that you are authorised to submit the response, or a listing of proposed subcontractors
- pays attention to addressing the evaluation criteria, particularly any mandatory or essential evaluation criteria
- provides enough information and enough detail to allow the procurement staff to understand what your business is offering to supply to the Government
- meets any format and content requirements laid down in the ATM documentation

### **Is it true that the Government won't accept late tenders, even if I have a good reason?**

- Entities cannot accept your offer if it is submitted after the deadline, unless the delay is due solely to mishandling by the organisation. It is therefore vital that your offer is submitted by the deadline contained in the ATM documents. If it is late for any other reason, by even a few minutes, it will NOT be accepted. The AusTender system automatically closes at the designated time.

### **How can I give my response the best chance of success?**

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

- **Is this the right opportunity for your business?**

Participating in tender processes can involve substantial costs for your business with no guarantee of success. Take the time to determine whether each opportunity is potentially rewarding and cost-effective to pursue, based on its match with your competitive advantage, your demonstrable business history and experience, your business capacity, and the size of the market.

- **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 organisation if you are uncertain about any issue.

- **Have you attended any briefing offered?**

Be sure to attend an industry briefing if it is offered. Industry briefings provide an efficient opportunity to ask questions and hear what competitors may ask. Attending these sessions will give you a better idea if this business opportunity is right for you.

- **Have you planned your tender preparation and allowed plenty of time to meet the deadline?**

Late tenders cannot 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 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. Put your response into the same order as the information in the request documents so that it is easy to follow for the people evaluating the tender. Use headings and lists to make your content clear. Do not include merchandising material unless it is permitted AND addresses the evaluation criteria directly.

- **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, your response will be rejected. Check that you have addressed every evaluation criterion, and that your response fully demonstrates your ability to deliver the work required. Ensure you sign any declarations required.

- **Have you demonstrated value for money?**

Value for money is the key consideration of Government organisations. Price is obviously important, but even more important 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, do not 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 required to hold to the price you have quoted.

Be sure not to over-promise as this could cause trouble for you later on if you can't deliver.

- **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 organisation. Your tender will usually be competing against several alternative proposals, so be sure to clearly identify potential points of difference from your competitors.

- **Have you clearly explained why you should be selected?**

Don't assume that the Government organisation knows you and your business, even if you have worked for them before. The people for whom you have worked in the past may not be a part of this tender process, so you cannot assume that the Government organisation will know anything about your previous work for them. Be sure to fully explain what you do and how your product or service will meet the requirements. Your offer will be judged on the information contained in your tender, so be sure to provide enough detail to demonstrate why your business should be the preferred supplier. Do not pad your tender unnecessarily or fill it with marketing waffle - just stick to the facts and give good examples of what you can do to meet the requirements.

# My Business Was Selected

## **My business's response was successful: what information about me, my business and our response will be made public?**

If the value of the contract your business won is \$10,000 or more, the title of the contract, the name of your business and the total value of the contract will be published on AusTender within 42 days of the contract being awarded. This same information may also be provided to other businesses that were unsuccessful. Similar information may be published in the Government organisation's annual report or other parliamentary reporting. No other details about your response will be made public.

## **Why are Commonwealth terms and conditions used in preference to my own standard or industry based contract?**

The Commonwealth Contract Terms are designed for contracts valued at under \$200k and have received legal clearance for use without alteration. This means that it is much faster and cheaper for Government organisations and suppliers to enter into a contract and they do not have to seek legal advice for every purchase. There is also a need to include particular requirements that have to be included in contracts with a Government organisation that are not typical of standard private sector contracts. For example, the requirement to comply with national security obligations, the emphasis on information privacy and the need to allow access to records if the Australian National Audit Office audits the contract.

The Commonwealth Contract Terms have been streamlined, had duplication and complexity removed, and written in much simpler language than previously used across government. There has also been extensive consultation with industry and suppliers to ensure that the terms are balanced and fair.

## **Why are the contracts different from one Government organisation to the next? Why can't they all be the same?**

Introduced in mid 2014, the Commonwealth Contracting Suite (CCS) is a standard streamlined and simplified contract, for use by all Government organisations, for contracts valued under \$200,000, (not currently used for IT or construction.) Almost 90% of contracts awarded by the Australian Government fall under this amount. Increasing use of the CCS across the Australian Public Service, will significantly reduce contracting issues for government organisations and suppliers.

Contracts above \$200,000 may vary between Government organisations due to the risk attitude, the contract specification and business nature of the organisation. Australian Government organisations are encouraged to reduce the red tape burden, complexity and associated costs imposed on business.

### **I don't think I have a contract. I just have a Purchase Order.**

A purchase order is actually a simple contract.

The Australian Government also has Commonwealth Purchase Order Terms and these are used across the Australian Government.

### **I don't think I have a contract. I just have a Work Order/ Consultancy Order/Official Order.**

An 'Order' is typically issued under a Standing Offer. The Order is the contract. The original agreement between the parties (the Standing Offer) is an agreement called a Deed and was only a preliminary arrangement to determine when and how an Order can be made.

The work order (or other similar document) is the contract document and will contain details of the goods or services that your business has contracted to provide, the price, the delivery details, and administrative information. While the Order Terms will have authority, they must be read together with the terms of the original Deed of Standing Offer.

### **Will someone in the government organisation manage their side of the contract?**

For short term contracts the Government organisation should appoint a contact person with whom you can discuss delivery, acceptance, administration and payment details. For smaller and shorter contracts this is typically the direct client who is using the goods and services or an office manager. For long term or more complex contracts, this may be a designated contract manager or a project manager within a business area of the Government organisation. The contract should contain the contact details for this person and you should attempt to establish an effective working relationship with them through open and regular communication.

### **Are there any tips for working successfully with a government organisation?**

The most important thing is to deliver the goods or services on time, on budget and in a professional manner.

Fill in the paperwork for your contract promptly, and give the Government contract manager any information that they need as soon as you can.

Keep your contract manager informed - let them know what is happening during the life of the contract. You might do this by phone, email or attending meetings. Regular meetings relevant to the contract timeframes are good practice.

Don't be afraid to advise of issues. Do this as soon as they arise. A professional contract manager would prefer to work with you to prevent issues rather than try to fix them afterwards.

Promptly return phone calls or emails to your contract manager - even if things are not going well. It is better to work with together to fix problems, than to make things worse by being difficult to contact.

Do not use the contract as an opportunity to tout for additional work - there are proper procurement processes that must be followed and your client can't just give you add on work even if it might seem like a good idea to you.

Provide correctly rendered invoices.

Seek permission before introducing any subcontractors or specified personnel that were not approved on the contract.

If you are at the client's premises, always follow any instructions given there, especially in relation to work health and safety and security issues.

If personnel change during the life of your contract, make sure to discuss the transition to conduct introductions early.

# My Business Was Not Selected

## **How can I find out which business did win the contract?**

If the value of the procurement is \$10,000 or more, the details of the contract will be published on AusTender within 42 days of the contract being awarded. This will include the name of the winning tenderer and the total price agreed for the contract.

## **What other details can I find out about the winner?**

You cannot obtain any more information about the winning tenderer from AusTender.

## **Can I get information about what my business needs to improve so we can win in the future?**

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. An unsuccessful tender process is a chance to learn and improve your offering for the next business opportunity.

You are entitled to request a debriefing from the procurement officer after the completion of every approach to market. Many Government organisations will offer debriefing sessions to unsuccessful tenderers as a matter of course. If not automatically offered, Government organisations will provide debriefings on request.

The primary purpose of a debriefing is to enable potential suppliers understand why their response was not successful, including both strengths and weaknesses, and help development of more competitive bids in the future. Please note that aspects of the winning response, or any other offer, cannot be discussed with you. 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.

The debriefing may be conducted by phone, email or face to face according to the policies of the Government organisation running the approach to market.

## **What is usually covered in a debriefing?**

A debriefing is designed to be an open conversation between the potential supplier and the government organisation. Issues that may be discussed at debriefings include:

- comparison of your offer to the evaluation criteria (not in comparison to other offers received)
- the strengths of your offer

- the weaknesses of your offer
- the suitability and attractiveness of your experience, qualifications, referee reports or past performance
- an indication of cost competitiveness
- the adequacy of your administrative or management systems
- any quality management issues
- the nominated personnel, eg. number, experience, skills, knowledge, and quality of management
- any facilities or equipment issues
- sub-contracting issues, eg. inadequate control mechanisms
- understanding of the Australian Government procurement process

### **If I didn't win this time, does that mean that I will never win?**

No it does not. Many businesses are unsuccessful at first when they try to win a government contract, but later go on to be successful suppliers to government. An unsuccessful tender response is an opportunity to get feedback that will help you learn how to put in a better response next time.

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

### **Can I complain if I did not win?**

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 stem from poor communication, misunderstanding or misconception about aspects of the tender process. Requesting a debriefing is good practice as you can obtain and genuinely consider feedback about your offer and gain a better understanding of the process. If you do not feel the matter is resolved you should indicate that clearly to the government organisation before making a formal complaint.

Approaching the tender contact officer informally will often prove sufficient, but if you are not satisfied with the response, you can put your concerns in writing to the organisation's Chief Executive for a more formal review.

Complaints should be in relation to the process followed by the Government organisation and your concerns that it did not follow the Commonwealth Procurement Rules. You cannot complain simply because your offer was not selected, or because your offer was cheaper than the winning supplier. It is very important to understand that Government organisations select on the



basis of value for money rather than just the cheapest. Be aware that unless there are exceptional circumstances, your complaint is extremely unlikely to change the tender outcome.

You may also get useful information about resolving disputes in general, from the Australian Small Business Commissioner's web site <http://www.asbc.gov.au/node>.

The Procurement Coordinator is an official position at the head of procurement policy and is also responsible for accepting complaints and feedback from the community on Australian Government procurement issues.

## **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 response.

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

# Getting Paid

## **When will my business get paid?**

The payment terms will be contained in the contract between your business and the Government organisation.

The most common payment terms are 30 days after satisfactory delivery of the goods or services AND receipt of a correctly rendered invoice.

If the contract allows for it, you may be paid progressively for satisfactory completion of the work. This is commonly called milestone payment. In this case, the contract will indicate dates or work completion targets that must be met before you can submit your invoice for payment. Milestone invoices are paid under the same terms.

## **How will my business get paid?**

The Australian Government prefers to pay by electronic funds transfer (EFT) directly to your business's bank account.

For amounts up to \$10,000, the Australian Government may prefer to pay by credit card if your business offers this facility. It is not a requirement that your business offers credit card facilities.

## **Do I have to use a particular format for my invoice?**

No, you can use your normal invoice format as long as it meets requirements for a correctly rendered invoice. It is very important to provide a properly rendered invoice because the Government's usual payment terms are 30 days after receipt of a properly rendered invoice. If there are errors or omissions on your invoice, your payment may be delayed.

## **What is a correctly rendered invoice?**

Your contract will define the specific requirements for a correctly rendered invoice and the typical inclusions are shown below. Some important things to note from the contract are the name, work title and address of the person to whom you must send invoices, and whether you can send the invoice electronically.

The specific requirements for a correctly rendered invoice may vary a little from entity to entity, but will usually include the following items:

- the identity of the supplier, such as the business name
- the ABN of the supplier
- the date of issue of the invoice
- that the document is intended as a tax invoice, such as including the words 'tax invoice' on the invoice

- an invoice number shown prominently on the invoice
- the purchaser's identity, such as name, or ABN, for goods or services costing \$1,000 or more
- a units of supply
- The description of the goods or services provided
- The quantity provided
- The per unit cost
- The amount of GST that has been included (if relevant)
- The total amount to be paid
- The payment terms (usually 30 days after receipt by the Government organisation of a correctly rendered invoice)
- The name and contact details of the relevant Government official that manages the contract
- The purchase order, work order, official order or the contract reference
- Details of how the Government can make payment to your business, for example your bank account details or instructions for credit card payment.

Most of this information is already required if you are registered for GST so it should not be too much extra work to provide a correctly rendered invoice.

### **I'm a small business. What happens if I don't get paid on time?**

It does not matter what size your business is, if you have satisfactorily delivered the goods and services subject to your contract, and have submitted a correctly rendered invoice, you are entitled to be paid on time. Where payment is not made within the maximum payment terms, the Government organisation is required to pay interest to your business if the amount of interest accrued is more than A\$10.

Interest will not be payable if your business does not submit a correctly rendered invoice that meets the requirements of the written contract, including a purchase order contract. Interest will also not be payable where your business has not satisfactorily delivered the goods or services.

#### **Tip**

You can find an interest calculator at [http://www.finance.gov.au/archive/procurement/late\\_invoice\\_calculator.html](http://www.finance.gov.au/archive/procurement/late_invoice_calculator.html)

## **What if there is dispute about my invoice?**

It is Australian Government policy to pay the undisputed part of an invoice within the normal payment terms.

The Government organisation is required to let you know as soon as practicable if there is an issue with your invoice so that you can address the problem and get paid.

You can help minimise invoice disputes by:

- carefully following the requirements laid down in your contract for a correctly rendered invoice
- checking all details on the invoice are correct before submitting your invoice (for example quantities, per unit costs, total costs, tax codes for GST or GST free products)
- talking regularly with the Government organisation contract manager to be sure that s/he is satisfied with the work you have provided
- promptly fixing any errors detected on your invoices

# 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. Purchasing decisions can occur 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 Rules is the most important policy document for procurement officers as it covers all Australian Government procurement, but individual agencies may also have their own rules to supplement these guidelines at the practical level. The key focus is always on value for money and the equitable treatment of competing suppliers.
- Value for money does not mean only buying the cheapest goods and services.
- For business opportunities below thresholds set in the Rules, agencies can determine a process appropriate to the scale, scope and risk of the proposed procurement. This means that an agency does not have to run an open tender for these procurements, and that it is permitted to approach a small number of suppliers, or even a single supplier to meet its purchasing requirements.
- For business opportunities above \$80,000, there are more rules, including the presumption that there will be an open approach to the market. There are some very limited exceptions to the requirement for an open tender, and these can be found in the Rules.

### 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 government organisations, what they do, what buy and when.

## 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](http://www.tenders.gov.au).
- You can register with AusTender and receive automatic emails about relevant business opportunities as they are advertised.
- Registration with AusTender is free.
- Agencies publish their annual procurement plans on AusTender. The plans provide a strategic procurement outlook and detail specific procurements anticipated for the coming year. You can use this as early indication of what government organisations are planning to buy and when they might be approaching the market.
- 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 could be targeting. It can also tell you which suppliers are selling to Government.
- Not all business opportunities are publicly advertised. For smaller purchases agencies are permitted to approach suppliers directly. This provides your business with additional opportunities to sell to government, but first agencies will need to know what your business does. They will also need to be confident your business has 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. This will require creative marketing. Cold-calling is not recommended. A strong internet presence is a good foundation.
- Use networking opportunities to establish a professional relationship with government organisations to get a sense of what is happening in the marketplace, and to promote your business.

## **How to compete for government business**

### **What you need to know**

- Understand the Government's business environment.
- Understand each organisation's specific requirements and business needs.
- Government organisations look for suppliers who can add the most value to their activities, therefore, emphasise how you can assist them meet their needs, and clearly show what sets you apart from your competitors. Innovative business solutions within the scope of the business requirement are usually attractive to organisations.
- Put your response in on time. 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.
- The intention is that 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, if your business can meet all the required conditions and if your business has a reasonable chance of winning.
- Build relationships with government organisations and make sure you have a marketplace presence (ie website)—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, gaining access to the market and increasing your chance of being successful.
- 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 the private sector standard.
- 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. The Australian Small Business Commission is an excellent resource.



# Glossary

## **Annual Procurement Plan (APP)**

a summary document advising of the strategic procurement outlook for each of the Australian Government organisations for the coming year and information on significant procurements they will potentially undertake. APPs are published on AusTender before 1 July each year.

## **Approach to the market (ATM)**

any notice inviting potential suppliers to participate in a procurement. While the term, ATM, is preferred, other terms are used, and may include a Request for Tender (RTF), Request for Quote (RFQ), or request for Expression of Interest (EOI).

## **AusTender**

the web-based facility for the publication and reporting of Australian Government procurement information, including business opportunities, annual procurement plans and contracts awarded.

## **Australian Government**

this guide relates to the procurement activities of the Australian Government at the federal level; it does not relate to the activities of State, Territory or local government bodies. Australian Government refers to bodies subject to the Public Governance, Performance and Accountability Act (2013).

## **Commonwealth Procurement Rules (the Rules)**

the policy document that sets out the framework governing Australian Government procurement activity. The Rules and supporting procurement policy and procedural information is available from [www.finance.gov.au](http://www.finance.gov.au) under the Procurement menu.

## **Conditions for participation**

minimum conditions that potential suppliers must demonstrate compliance with, in order to participate in a procurement process or for your submissions to be considered. This may include, for example, submission of a signed Statutory Declaration or a requirement to undertake an accreditation or validation procedure.

## **Contract**

an arrangement between two parties (Supplier and Government) that includes the details of what is required, how the parties will interact and what is payable.

## **Evaluation criteria**

the quality descriptions used to compare responses to an ATM and evaluate their value for money. Evaluation criteria must be clearly stated in the

request documentation.

### **Goods**

every type of right, interest or thing which is legally capable of being owned. This includes, but is not restricted to, physical goods and real property as well as intangibles such as intellectual property, contract options and goodwill.

### **Limited Tender**

involves an agency approaching one or more potential suppliers to make submissions, where the process does not meet the rules for open tender or prequalified tender.

### **Open approach to market**

any notice inviting all potential suppliers to participate in a procurement which may include a request for tender, request for quote, request for expression of interest, request for application for inclusion on a multi-use list, request for information and request for proposal.

### **Open tender**

involves publishing an open approach to market and inviting submissions.

### **Potential Supplier**

an organisation or person who may respond to an approach to market

### **Prequalified Tender**

involves publishing an approach to market inviting submissions from all potential suppliers on:

- a shortlist of potential suppliers that responded to an initial open approach to market on AusTender;
- a list of potential suppliers selected from a multi-use list established through an open approach to market; or
- a list of all potential suppliers that have been granted a specific licence or comply with a legal requirement, where the licence or compliance with the legal requirement is essential to the conduct of the procurement.

### **Procurement**

encompasses the whole process of procuring goods and services. It begins when a need has been identified and a decision has been made on the procurement requirement. Procurement continues through the processes of risk assessment, seeking and evaluating alternative solutions, the awarding of a contract, delivery of and payment for the goods and services and, where relevant, ongoing contract management and consideration of disposal of goods. Procurement does not include:

- grant (whether and form of a contract conditional gift or deed);
- investment (or divestment);
- sales by tender;
- loans;
- procurement of goods and services for resale or procurement of goods and services used in the production of goods for sale;
- any property right not acquired through the expenditure of public money (for example, a right to pursue a legal claim for negligence); or
- statutory compliance;
- appointments made by a Minister using the executive power (for example, the appointment of a person to an advisory board); or
- the engagement of employees, such as under the Public Service Act 1999, the Parliamentary Services Act 1999, an agency's enabling legislation, or the common law concept of employment.

### **Procurement Above the Threshold**

a procurement, other than one that is specifically exempt, where the value of the goods or services being procured exceeds the specified financial thresholds in the Rules. These procurements must comply with the mandatory procurement procedures set out in both Division 1 and Division 2.

### **Procurement Thresholds**

the procurement thresholds (including GST) are:

for PGPA Act Non-Corporate Commonwealth Entities, other than for procurements of construction services, the procurement threshold is \$80,000;

for PGPA Act Corporate Commonwealth Entities, other than for procurements of construction services, the procurement threshold is \$400,000; or

for procurements of construction services, the procurement threshold is \$7.5 million

### **Request Documentation**

documentation provided to potential suppliers to enable them to understand and assess the requirements of the procuring agency and to prepare appropriate and responsive submissions. This general term includes documentation for expressions of interest, multi-use lists, open tender, prequalified tender and limited tender.

**Standing Offer**

an arrangement setting out the terms and conditions, including a basis for pricing, under which a supplier agrees to supply specified goods and services to an agency for a specified period.

**Response**

any formally submitted reply from a potential supplier to an approach to market for the purpose of potentially entering into a contract. While the term Response is preferred, the following may also be seen in documentation; tenders, submissions, and expressions of interest.

**Supplier**

an entity or person who has entered into a contract with the Commonwealth

**Tenderer**

an entity or person who has responded with a submission to an approach to market