# Policy Four: Market approach

## Context

This policy outlines the requirements for market approach. It is mandatory for all Victorian Government departments and any public bodies (hereafter referred to as ‘organisations’) that are subject to the supply policies of the Victorian Government Purchasing Board (VGPB) except where supply policies are not mandatory for a public body in accordance with Policy One (Governance).

In meeting the VGPB mandatory requirements, the level of detail in the organisation’s procurement policies and processes will be determined by the Chief Procurement Officer or equivalent and will be commensurate with the organisation’s procurement profile.

The *Market approach policy* covers two components:

* market approach
* evaluation, negotiation and selection

## Market approach

Market approach involves informing the potential supply market about your requirements. It is part of the Sourcing Phase and occurs after market analysis and review.

## Evaluation, negotiation and selection

Evaluation, negotiation and selection involves identifying a supplier(s) best able to satisfy your procurement requirements. Your organisation may decide not to proceed with engaging a supplier if the evaluation and negotiation process cannot satisfy the requirements of the procurement activity.

## Market approach

### Approaching the market is predominantly a process task to ensure all potential suppliers are treated fairly, have access to similar information and that standards of probity, confidentiality and security are applied in the conduct of all actions between the organisation and suppliers.

### 1.1 Mandatory requirements for market engagement

Your organisation must develop and apply an appropriate market approach that:

* encourages participation from the market segment relevant to the procurement activity;
* adopts a market engagement strategy that is cost effective for buyer and supplier;
* applies a market approach that eliminates barriers to participation by small to medium enterprises (SMEs);
* engages with potential suppliers in a fair and equitable manner;
* has processes in place to ensure the confidentiality and security of bids from suppliers;
* provides sufficient time for potential suppliers to prepare a submission taking into account the complexity of the procurement activity and market factors; and
* makes any material change to a procurement requirement available to all suppliers selected or registered to participate in the procurement process.

Your organisation must detail requirements that:

* identify the conditions for participation;
* foster innovative or alternative supply solutions, where appropriate;
* structure specifications that have relevance to Australia and New Zealand SMEs, where appropriate;
* specify applicable broader government policy where relevant, including but not limited to any supplier charters or codes of conduct;
* adopt an evaluation plan for carrying out supplier selection;
* specify the criteria and weightings to be used when evaluating submissions;
* indicate if the selection process will apply a process for shortlisting; and
* do not adopt processes, technical specifications, conditions or a market engagement strategy that precludes relevant suppliers from participating in the potential supply arrangement.

Your organisation must provide the following minimum information:

* name and address of your organisation;
* headline details of the supply requirement;
* process timelines;
* address/site/method where documentation can be obtained;
* address/site/method where further information will be provided (if relevant);
* address/site/method for receiving submissions; and
* contact details for person(s) managing the market approach.

### 1.1.1 Management of submissions received

Your organisation must:

* provide a secure, physical submission facility and/or the facility to receive electronic submissions
* allocate responsibility for managing either system to a business unit in the organisation;
* implement a process to inform suppliers of successfully receiving their submission:
  + immediately in the case of an electronic system; or
  + within five working days of submission close in the case of a physical receipt facility;
* apply procedures in relation to late submissions that accord with the following protocols:
  + late submissions are not to be accepted unless the supplier can clearly document to the satisfaction of the chief procurement officer that an event of exceptional circumstances prevailed; and
  + the chief procurement officer must also be satisfied that accepting a late submission would not compromise the integrity of the market approach.

## Evaluation, negotiation and selection

Evaluating submissions requires high standards of probity and systematic application of evaluation criteria and weightings. Negotiation is an iterative activity conducted after shortlisting suppliers and actioned when the evaluation panel decides that it will add value to the outcome of the procurement activity. Supplier selection establishes a relationship that can deliver value‑added improvements beyond the requirements of the contract.

### 2.1 Mandatory requirements for evaluation, negotiation, and selection

### 2.1.1 Evaluation of bids from suppliers

Your organisation must:

* evaluate security risks to the organisation;
* develop an evaluation plan which reflects the level of complexity of the procurement activity;
* conduct the evaluation process with probity, fairness, consistency and impartiality and evaluates against the same specified criteria and weighting where provided;
* note and address any real or potential conflict of interest before starting the evaluation process;
* clearly define the role of the probity auditor/probity advisor and/or advisory groups formed to advise and assess elements of a submission;
* separate the roles of the probity auditor and probity advisor for procurement activity that is critical and/or high risk; and
* document and be able to defend all stages of the decision-making process.

Your organisation must also ensure that:

* the evaluation process only considers a bid that meets the mandatory requirements of participation in the procurement process;
* when alternative offers are encouraged, they are submitted and evaluated together with other conforming offers; and
* the capability of the people conducting an evaluation or negotiation process is adequate for the complexity of the procurement activity.

### 2.1.2 Negotiation with shortlisted suppliers

Your organisation must ensure:

* the negotiation process is transparent, recorded and conducted in a manner that is fair and equitable for all parties shortlisted; and
* negotiations seeking further information, improvements to a supplier’s bid or a best and final offer are conducted in a consistent manner and that any accepted improvements are within scope of the market approach.

### 2.1.3 Supplier selection

Your organisation must:

* develop a formal agreement between parties for the selected supplier(s);
* debrief unsuccessful suppliers in relation to their submission if requested; and
* inform all suppliers of the status of their submissions throughout the process.

This policy is one of five Victorian Government Purchasing Board (VGPB) policies. For more information on the VGPB policies, see [**Goods and services supply policies**](https://www.buyingfor.vic.gov.au/goods-services-supply-policies).

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