



# Doing business with local government

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

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## INTRODUCTION

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

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

### What is 'procurement'?

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

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



#### QUESTION:

Is doing business with the council complicated?

**ANSWER:** The more the potential business is worth, the more complex the process becomes. For example, supplying refreshments for a small shire may just be a matter of introducing yourself and supplying a menu. For large catering contracts worth hundreds of thousands of dollars, a tender may be required.

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

Council expenditure (2007)	
\$285 million	Building & construction of facilities
\$690 million	Construction, maintenance and renewal of roads and streets
\$130 million	Waste management collection
\$147 million	Sports grounds
\$70 million	Vehicle purchases
\$80 million	Street cleaning
\$64 million	Electricity

#### Procurement factors

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

1. Quality and performance;
2. Value for money;
3. Community expectations and values;
4. Balance of affordability and accessibility;
5. Opportunities for local employment growth;
6. Partnership building with other levels of government;
7. Environmental sustainability.

#### QUICK TIP

Offering gifts, favours or entertainment to council officers or Councillors is frowned upon, and is often illegal. Positive business relationships are to be developed through superior product and service delivery.



# COUNCIL PROCUREMENT & THE LAW

## The Local Government Act

Councils are subject to the Local Government Act 1989 (The Act). Amongst other things, this State Government legislation says that the way councils purchase goods or services depends how much is being spent. Section 186 states that purchases of goods and services above \$150,000 (or works above \$200,000) must go to public tender, which can be quite a lengthy and involved process. There are also State Government guidelines about how much councils can spend over time with any supplier without a contract, or without testing the market for best value.

Under certain conditions though, councils can be exempted from the procurement provisions of The Act:

- IN EMERGENCY SITUATIONS, SUCH AS BUSHFIRE, COUNCILS CAN MAKE IMMEDIATE PURCHASE DECISIONS regardless of value;
- COUNCILS CAN OUTSOURCE A TENDER TO A THIRD PARTY, WHO CAN RUN THE TENDER ON THEIR BEHALF;
- WHERE THE MINISTER FOR LOCAL GOVERNMENT HAS GIVEN PERMISSION;
- WHERE THE GOOD OR SERVICE IS SPECIFICALLY EXEMPTED BY THE REGULATIONS, SUCH AS LEGAL SERVICES.

Of course, councils must also adhere to other Federal and State regulations governing their entire range of operations, including Occupational Health & Safety law, tax law, applicable Australian Standards and more.

## Council procurement policies

The Act also requires each council to develop their own set of rules for buying goods and services, called a Procurement Policy. Usually, this will contain other cost benchmarks. For example, a council may require three separate quotes for purchases between \$10,000 and \$150,000.

Council procurement policies are publicly available, and are usually on the council website. It's a good idea to get your hands on the policy so you know upfront what the council has to do when buying.

The purpose of these procurement policies is to:

- ENSURE A STANDARD PROCESS FOR PURCHASING ACROSS THE ENTIRE COUNCIL;
- DEMONSTRATE TO RATE PAYERS THAT THEY ARE BEING CAREFUL IN SPENDING THEIR MONEY;
- ENSURE THAT COUNCILS ARE BEING ETHICAL, TRANSPARENT AND TRUTHFUL WHEN PURCHASING;
- TRY AND GET THE BEST POSSIBLE RESULT ACROSS A RANGE OF FACTORS, INCLUDING BEST VALUE.

## Ethical standards

Communities rightly expect the highest levels of good governance and ethical standards from all levels of government. As a result, councils take any suggestion of anti-competitive, collusive, dishonest or corrupt behaviour very seriously. All suppliers to councils are expected to maintain the highest standards of behaviour and avoid all conduct that does not promote fair competition and dealings. Legislation limits council officers from receiving gifts, entertainment or services of a value that may exceed \$500 over the course of a five year period. Additionally, councils have separate gift policies they must adhere to. Anything that may be construed as an attempt to gain preferential treatment is strictly prohibited.

## METHODS OF PROCUREMENT

### Quotes

Local councils will often seek quotes from suppliers. Typically, councils will get at least three quotes for purchases between \$5,000 and \$150,000.

Quotes do not need to be publicly advertised, and each council's procurement policy varies. Council officers will usually contact suppliers directly to seek a quote when the need arises.

Suppliers are able to contact council officers to discuss a quote without restriction. This is different to a tender, which has strict rules regarding direct contact. Keep in mind that councils deal with literally hundreds of suppliers across thousands of products and services, so be sure that any contact is absolutely necessary to respond to the quote accurately.

### Public tendering

Really, a tender is just a more formal quote process. There are more rules, and it needs to be publicly advertised, usually in a newspaper, but essentially, a council invites all interested suppliers to put a bid in to supply the goods or services or works needed.

The rules of engagement are clearly stated within the tender documents that are prepared by the council. A tender will also clearly set out what the council needs, and on what criteria the council will be comparing and basing their decision on. To be successful, you must carefully address each criteria.

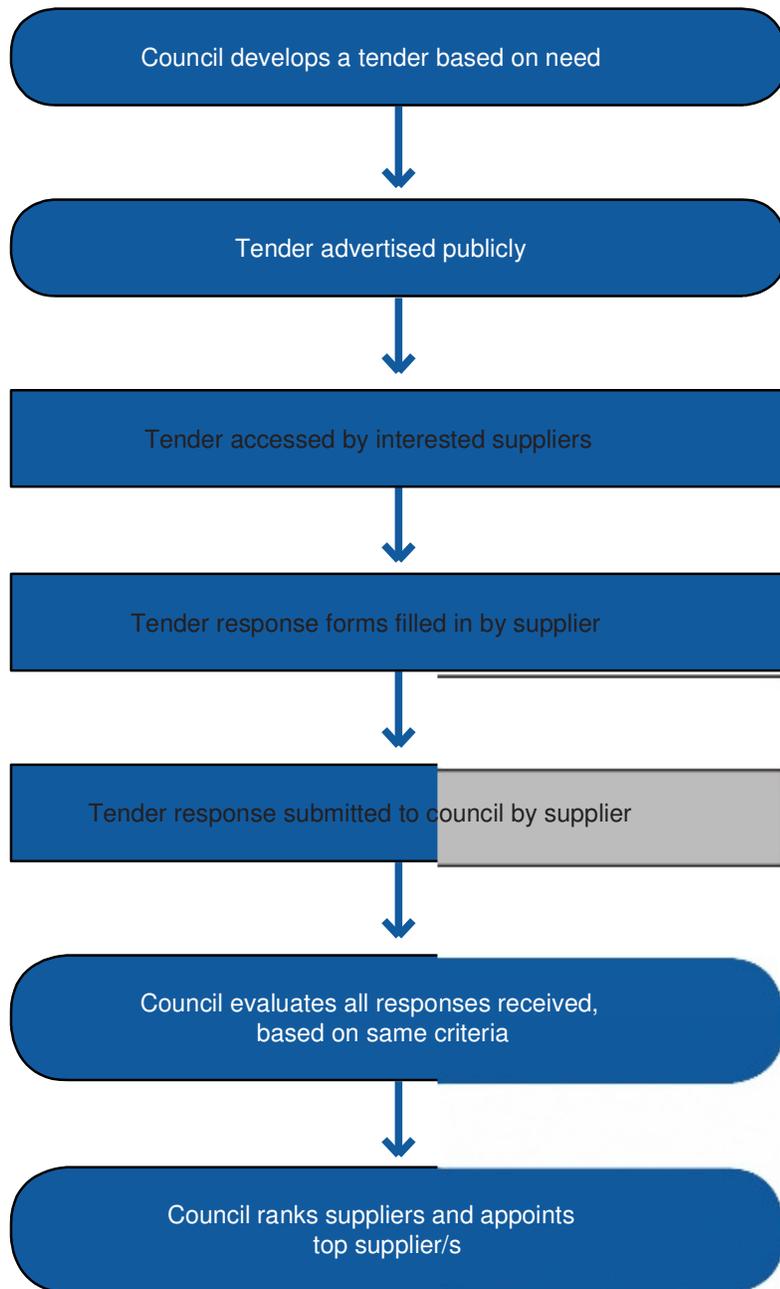
Many councils are moving towards electronic tendering. Potential suppliers can register their details to receive notifications when new tenders are released, and view results on previously awarded tenders.

### QUICK TIP

Be careful when approaching Councillors regarding procurement. Councillors have strict conflict of interest rules governing their involvement in commercial dealings, and it is the council officers who are responsible for purchasing and tendering operations.



# TYPICAL TENDER PROCESS



Councils Role

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### Request for information / Expression of interest

Often referred to as an RFI or EOI, they are used by councils to explore the ability of the market to supply specific and unique requirements.

It is usually the first stage of a complex tender and allows councils to prequalify suppliers who are likely to be capable of fulfilling the council's requirements through a formal tender.

### Aggregated procurement

From time to time, groups of councils may choose to go to market together to drive bulk discounts. Besides better prices, having just one tender for a number of councils reduces administration, saves time and saves money for everyone involved.

Third party organisations, like MAV Procurement, are able to conduct aggregated tenders on behalf of councils, once they receive written permission. At the end of the tender process, those councils can use the successful suppliers if they wish, but they can still choose to run their own separate process if they believe the outcome is unsuitable.

### Becoming a preferred / registered supplier

Terms can vary between councils, but usually, a 'preferred supplier' has successfully participated in a tender process, thoroughly market tested and compliant with all requirements.

A 'registered supplier' has not been tested through a tender process, but is registered with the council to supply goods or services up to a certain value. Registered suppliers are often invited to quote. Councils often maintain a 'panel' of suppliers for in-demand products and services. This allows them to pick and choose the best supplier for the job, or use whoever provided the best quote. Being appointed to a panel does not guarantee any work, only that the supplier becomes a legitimate option for council staff to use.

## 2 QUICK TIPS

Suppliers that are keen to do business with councils should find out when the major contracts they are interested in supplying are due to expire, so they are ready for the next tender.

Incumbent suppliers are not provided any preferential treatment or consideration. Tenders are a competitive process and once a contract expires, a clean slate is given to all with respect to the new tender.

## CRITICAL FACTORS

Some things councils expect from suppliers are not negotiable, and must be in place to win council work. It depends on the sorts of products and services supplied (including works and construction), but things like appropriate training, relevant accreditation and licenses, and up-to-date insurance cover are common legal and procedural requirements. If they are requested, you must include them.

### Occupational health and safety

Councils see the health and safety of all people in a workplace of the highest importance, and they expect their suppliers and contractors to make things as safe as possible. When suppliers are asked to prove how they manage OH&S, the standard expected will depend on the type of work being undertaken and the risks involved. Expectations may range from a fully certified OH&S management system to simply having a one page OH&S policy.

Councils have the right and ability to audit suppliers' OH&S policies and procedures at any time over the life of the contract, and in some instances, can also physically inspect worksites.

Failure to have adequate OH&S policies in place will fail a tender application, regardless of the quality of the rest of the tender.

### Insurance

All businesses should maintain the relevant and appropriate insurance cover. Councils usually require proof of public liability coverage, but additional policies may also be required. Insurance coverage is expected to be maintained throughout the duration of the contract or engagement, and documentation must be available to councils at all times.

It's not just to create more paperwork, it's to protect the council, the community and the supplier if something goes wrong. Suppliers must also be careful to ensure that the entity covered by their insurance policies is actually the one contracting with council, rather than, for example, a trust.



### Quality assurance

Community expectations of councils services have never been higher. As a result, suppliers to local government must have proper quality assurance processes and procedures in place. As always, the level of QA expected will depend on what is being delivered. The higher the value and risk, the greater the expectation. Of course, it goes without saying that suppliers must ensure that they are delivering what was asked for in the quote or tender specification, matching or exceeding the council requirements. Should anything go wrong or a problem arise, suppliers should also be able to show how they will fix any issues quickly and efficiently.



#### QUESTION:

Why do council decisions take so long?

**ANSWER:** Well, it depends on the type of decision required. A decision to award a quote, or place a direct order for low value items can be very quick indeed. But more important decisions, particularly where significant sums of money are involved, tend to take significantly longer.

As an example, most tenders remain open for at least 21 days. And then, depending on the number of tendering suppliers and the nature of the tender, evaluations can take months to be completed by staff responsible for other council functions as well. And some tender recommendations have to be accepted by a formal meeting of the elected council, which are usually scheduled monthly. So timelines can stretch out, but it's important to take the time to get the decision right. Councils have to be very careful with public money.

## BONUS POINTS

Councils will not base their choice of supplier on cost alone. The most important factor is the ability of the supplier to provide the product, service or work to the standard expected, as outlined in any tender specifications or quote. Price then becomes an important consideration, but only once the supplier is identified as having the skills and resources required. Some other factors include local economy support, environmental sustainability and social responsibility.

### Community driven goals

To help support local businesses and the local economy, councils will try to direct business through local and regional partners. But they also have to balance other factors as well, such as price, so the relative importance given to community and social procurement goals will be outlined in the tender.

### Environment and sustainability

Positive environmental outcomes are increasingly important to councils. All things being equal, suppliers offering green credentials and environmentally friendly practice will be more favourably considered.

Some councils and particular tenders place more weight on environmental factors than others, but councils always look favourably upon suppliers who have:

- A GREEN PRODUCT AND/OR SERVICE;
- LOW ENVIRONMENTAL IMPACT;
- RESPONSIBLE WASTE DISPOSAL; AND
- SUSTAINABLE METHODS OF PRODUCTION/SERVICE.

It is understandable that not all suppliers have formal environmental accreditation, especially smaller organisations. In many cases, showing a legitimate commitment to sustainability is a big step to winning council business.



#### QUESTION:

Is being a local supplier an advantage?

**ANSWER:** Many councils, particularly in regional areas, prefer to buy local to support their community financially. But this is not the only consideration when choosing a supplier – if a ‘non-local’ supplier has a considerably more attractive quote, the council may decide the saved money and superior result is of greater value to the local community.

### Social procurement

A fairly new area in procurement, councils are realising that they can use their buying power to generate positive social outcomes for their communities, on top of getting best value for goods and services.

As a result, more and more, councils are expecting potential suppliers to show how they can help councils promote the economic and social wellbeing of their communities. As always, this expectation varies between councils, and often depends on the type of contract being tendered.

Some examples of social procurement are:

- EMPLOYING LOCAL WORKERS;
- EMPLOYING ECONOMICALLY DISADVANTAGED & SOCIALLY MARGINALISED CONSTITUENTS;
- USING LOCAL SUB-CONTRACTORS;
- SPONSORING OR SUPPORTING COMMUNITY GROUPS OR SPORTING TEAMS;
- USING LOCAL SUPPLIERS FOR MATERIALS; AND
- SHOWING A COMMITMENT TO CORPORATE SOCIAL RESPONSIBILITY (e.g. treating employees fairly and respectfully).

### Technology

There is now a move away from traditional tendering methods towards electronic tendering. Many councils post tenders and any relevant tender documentation online. Interested suppliers can download the files and submit their tender responses on the website. Often, suppliers can also interact with the council via the online forum where they can post questions regarding the tender.

### QUICK TIP

While a considerable amount of time and expense must be invested to fulfil the expectations of a tender, achieving these criteria will place you in a good position to secure the business on offer. It also provides the foundation to help you win business in other sectors too.

## FREQUENTLY ASKED QUESTIONS

### How do I find out about tender opportunities?

There are a variety of ways to find out about upcoming tenders. If you are looking at doing business with a particular council, you should visit their website to view their upcoming tenders. Another way is to keep a look out for tender advertisements in the newspapers. Councils must publish tenders in newspapers so you don't need to worry that it might not be publicly advertised.

Submission deadlines for tenders are strict. If a tender is submitted late, it will not be considered. So allow for any errors that may occur, human or technological, and submit tenders at least 24 hours before the deadline in the correct format. It is also important to be aware of any time differences and the effect of daylight savings so you do not submit at the incorrect time.

When responding to a tender, ensure to answer all the requirements to the best of your ability. Tenders that fail to answer all requirements are listed as non-compliant, which severely limits your chances of success.

### I'm a small business – it looks difficult reaching some of these benchmarks...

Don't be so sure. Councils don't expect everyone to have International Standard or best practice systems in place, especially small local businesses. So think about how your company or business is doing even the smallest things to address areas like corporate responsibility or risk management, or environmental factors. You gotta be in it to win it!

### Can I submit a non-compliant tender?

Yes, but usually only if you also include a compliant tender as well. You may be able to provide a better model of service or product than what is being asked for, but you must address what is called for in the tender specification before you offer the alternative.



#### How do I respond to a tender?

Instructions for responding to a tender can be found in the tender documents.

#### Who else can find out about my offer?

Submissions are treated as confidential and any information submitted in a tender will not be distributed to external parties. Submissions will only be viewed by council staff responsible for evaluating and making decisions regarding the tender.

#### Why do councils want me as a supplier?

Councils want you as a supplier because competition provides better outcomes. Councils are always on the lookout for new and innovative suppliers who can help them improve. And for many councils, contributing to the local economy is considered an important function of local government.

#### If my submission is unsuccessful, can I find out the tender results or obtain feedback on my submission?

Some councils publish tender results on their council website, with varying degrees of detail. You can contact the council officer for further information regarding your submission.



## RESOURCES

[DPCD's Guide to Local Government](#)

[DPCD's Procurement Best Practice Guideline](#)

[Find your local council](#)

[MAV Procurement](#)

### [About the MAV](#)

The Municipal Association of Victoria is the peak representative and advocacy body for Victoria's 79 councils.

The MAV was formed in 1879 and the Municipal Association Act 1907 anointed the MAV the official voice of local government in Victoria.

Today, the MAV is a driving and influential force behind a strong and strategically positioned local government sector. The MAV represents the best interests of local government, lobbies for a 'fairer deal' for councils and provides evidence based policy thinking.

MAV Procurement is a not-for-profit division of the MAV, seeking to achieve superior procurement outcomes for local councils through aggregated demand management, capacity building and lobbying efforts.

### [About local government](#)

Local government in Victoria is responsible for \$6.2bn in annual revenue, manages \$55bn in public assets, caters to the needs of 5.5m Victorian residents, and has a workforce of more than 42,000 employees, delivering over 100 diverse services.

The 79 councils across Victoria are elected by the local community to represent their needs, and are expected to manage their affairs in a transparent way. As a result, local government is rightly held to high standards in the management of the public purse and to principles of good governance. Procurement is a key function to ensure that community needs and expectations are being met in an efficient and cost effective manner.

### QUICK TIP

The Victorian State Government Department of Planning and Community Development (DPCD) has created a comprehensive guide regarding the issue of social procurement. To read further on this issue, [visit the DPCD website.](#)

