

Early market engagement in procurement – quick reference guide

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Contact us

We are committed to continuous improvement. If you have any suggestions about how we can improve this document, or if you have any questions, contact us at betterprocurement@hpw.qld.gov.au.

Disclaimer

This document is intended as a guide only for the internal use and benefit of government agencies. It may not be relied on by any other party. It should be read in conjunction with the Queensland Procurement Policy, your agency's procurement policies and procedures, and any other relevant documents.

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Administration

Version 1.3 of this document replaces all previous versions of this document and takes effect immediately.

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Context

To help deliver value for money outcomes consistent with the Queensland Procurement Policy (QPP), agencies should look to conduct early market engagement (EME) in procurement processes, where appropriate and commensurate with the nature, scale, complexity, and risk of the procurement activity.

Maximising value from EME requires a sound understanding of the relevant procurement and its circumstances. EME should be conducted by, or in consultation with, procurement professionals with the relevant expertise and understanding of the practical application of EME strategies, and probity.

This quick reference guide has been designed to assist procurement professionals to understand what EME is, and when its application may be beneficial. It is not a detailed 'how to' guide; rather it highlights important considerations while providing links to more detailed resources.

What is early market engagement?

EME involves agencies gathering and considering market intelligence as part of developing a procurement strategy. It can form part of the category management function and may involve a variety of activities depending on the procurement. EME contributes to better value for money outcomes through:

- a better understanding of the capability and capacity of suppliers within the market
- benefiting from suppliers' knowledge of markets, trends and emerging technology
- informing agency buying decisions by refining requirements
- maximising buying power and informing how best to approach the market
- identifying and managing emerging opportunities, potential new entrants to the market, issues and risks
- fostering market participation, competitive tension, innovation and collaboration in solution design
- assessing the scope of the market to deliver on government's objectives, targets and commitments for procurement
- influencing, informing and positioning the market to better meet agency requirements.

What are the benefits of early market engagement?

The benefits (particularly in large scale procurement processes) to agencies investing in effective EME are likely to outweigh the direct costs of undertaking the engagement process. Key benefits include:

- increased end-user satisfaction as agencies and potential suppliers collaborate to develop fit-for-purpose, cost effective and innovative solutions
- confidence that the preferred procurement approach will generate sufficient market interest to result in a successful outcome
- enhanced competition between tenderers as EME generates increased market awareness and interest in the opportunity
- more accurate quotes and tender pricing as potential suppliers are more informed of the objective, scope and risk profile upfront
- reduced risk of major project delays and cost increases as EME will mitigate against duplicative procurement processes, material changes to project requirements and loss of potential suppliers.

The benefits to suppliers of EME are equally important. Well executed EME, together with advanced notice through mechanisms like the [Queensland Government Forward Procurement Pipeline](#), assist suppliers to better prepare for upcoming opportunities, including forming partnerships or joint ventures where needed.

Agencies should be aware that EME requires a planned approach, acknowledging that there may be a substantial time and resourcing commitment. Dedicated resources (internal and/or external) may be required for larger scale procurement processes throughout the EME process.

What early market engagement strategies can be used?

There are several methods for agencies to engage early with industry. A decision on the method(s) will be informed by:

- what will help drive better outcomes
- agency business needs
- the objective, complexity and risks of the procurement
- opportunities, risks and characteristics of the market.

If an agencies' business needs are **well understood** and the market supply is **stable and mature**, **industry may be engaged to provide balanced and objective information** to assist with understanding potential solutions, alternatives and/or opportunities. This is in contrast to a situation where the agencies' business needs are **changing** or delivery options are **unknown** – in this case, engagement may involve **partnering with industry** to develop a preferred solution. **Table 1** below outlines key methods to engage early with industry.

Table 1: Key methods to engage early with industry:

Method	Description
Horizon scanning	Involves desktop research and engagement with industry and suppliers regarding future market conditions and broader issues. Sources of information can include professional research companies, category council industry reference groups, and other industry-specific professional associations across government.
Market sounding	Involves raising ideas with the market to obtain feedback prior to formally approaching the market. Examples of market sounding can include Expression of Interest (EOI) and Request for Information (RFI) processes. An EOI or RFI process may be used in conjunction with other strategies.
Briefing sessions/supplier information sessions and industry site visits	Involves allowing prospective suppliers to participate in discussions regarding aspects of the procurement process, requirements, and risks. Keep culturally appropriate considerations in mind.
Indicative approaches to the market	Involves publishing notice of intended procurement activities well in advance of the formal release to market (e.g. Queensland Government Forward Procurement Pipeline).
Concept viability	Involves testing the viability of proposed procurement activities by requesting input from suppliers. Engaging with the market to leverage expertise prior to undertaking a formal tender process can bring about ideas and insights into the viability of a project and increase clarity regarding the requirements and potential costs involved. This can be an additional step after an EOI or RFI process and can also be referred to as early tenderer involvement (ETI) or early contractor involvement (ECI) depending on the industry. Sometimes referred to as a 'proof of concept'.
Outcome-based procurement approach	Seeks innovation from the supply market by focusing on the outcome required rather than defining how the outcome should be achieved. Refer to the Using an outcome-based procurement approach guide for more information.

It is important to note that both work type and geographic location can be referred to as markets. A procurement process in a remote location (e.g. Longreach, Queensland) may require increased engagement with the supply market to ensure that demand can be satisfied, compared to a procurement in an urban area (e.g. Brisbane, Queensland).

As part of the EME planning process agencies may consider making a contribution to suppliers' EME costs where these costs are over and above normal bid costs. Before an agency decides to make a contribution, the following factors need to be considered:

- the nature, complexity, and risk of the procurement
- whether the benefits anticipated to be received in terms of procurement outcomes, will exceed the cost of the contribution
- making a contribution complies with agency procurement policies and procedures, and the appropriate authorisations are received.

It is important to understand the relevant underlying circumstances of each procurement. **Table 2** below highlights some of the different circumstances which may be relevant to consider, using infrastructure and Information and Communication Technology (ICT) procurement processes as examples, with EME considerations able to be tailored to other spend categories.

Table 2: Example considerations for EME by type of procurement

Infrastructure procurement	ICT procurement
• Infrastructure projects have complex supply chains, and principal contractors often act as a middleman for material, labour and equipment sub-contractors. This can make it difficult to gain visibility of potential sub-contractors who can be the source of innovation. • The role of a principal contractor as a supply chain middleman means that they will have significant influence over the management of potential innovators in the supply chain. • The construction market is highly fragmented with large numbers of suppliers ranging from large multinationals to sole traders. • Professional advisors including architects, cost estimators and surveyors may be appointed to assist in the options appraisal and design phase of an infrastructure project. This stage of the project often provides the best opportunity for innovation.	• EME with the ICT industry should be strategic and long-term, rather than on a short-term program-by-program basis. • The capabilities of ICT suppliers are constantly changing, and it is difficult to maintain accurate and up to date knowledge. • Doubts can exist over the presence of a supply market for identified business needs or products. • Desired outcomes can involve significant business change within the agency. • Refer to industry engagement resources when procuring ICT products and services accessible here: www.forgov.qld.gov.au/early-market-engagement

Planning for early market engagement

A well-developed engagement plan provides clarity to the purpose and process of engagement, and helps agencies to assess, manage and mitigate any risks that may arise. If your agency is making procurement decisions based on assumptions about market conditions, consider engaging with the market. The planning involved will depend on the complexity, risk and the desired outcomes of the procurement. To plan effectively, ask the following questions:

- Does a market exist to meet the requirements of the business need?
- What are the market characteristics of the industry?
- What is the length of time between EME and proposed tender release and will market conditions change?
- Where is supplier input needed?
- What is the opportunity or problem to be solved?

- What type of supplier needs to be engaged, and what experience, skills and capability is required from the supplier?
- From how many suppliers is input needed?
- How will supplier intellectual property and commercial-in-confidence information be protected throughout the EME process?
- Are bid cost contributions warranted for this process?
- What resources are available to conduct EME?
- Has risk been effectively assessed? What is the risk appetite of the agency and potential risks to the agency from engagement and what mitigating strategies are applicable?

Probity considerations

For Queensland Government procurement, exercising probity involves proactively demonstrating that any procurement process is robust and the outcome beyond reproach.

In engaging early with industry, it is imperative that agencies apply high levels of ethical behaviour to ensure impartiality, accountability, and transparency. A well-considered and balanced approach to probity enables effective engagement with suppliers while managing risk to all parties.

The ‘probity myth’ – that communicating with potential suppliers outside formal procurement processes will breach probity – often deters procuring agencies and procurement teams from engaging early with industry. This should not be the case if suppliers are treated fairly, given equal opportunity to participate in early engagement methods and are not given an advantage or perceived advantage in any subsequent procurement process. Examples of some practical measures to undertake include:

- engage parties that are not potential suppliers (industry bodies and independent market experts)
- use separate groups for EME activities and procurement to avoid supplier bias in the procurement team
- ensure all stages of the EME are defensible and appropriately documented to preserve confidence in the process
- de-identify offers in the following procurement to avoid supplier bias.¹

It is also important to consider how supplier intellectual property and commercial-in-confidence information will be protected throughout the EME process and communicate this with suppliers. With the right planning and probity measures in place, agencies and procurement teams can engage with the market on projects, to help shape ideas on commercial and technical solutions which focus on the collective market (not individual supplier offerings).

Probity advisors can also be engaged to assist if required. Please refer to the [Probity and integrity in procurement guide](#) for more information.

Building capability to conduct early market engagement

It is important for agencies and procurement teams to evaluate their experience and skills to undertake EME, to ensure they have the requisite skills and experience. This is particularly important for high value and/or high-risk procurement where EME is proposed.

Procurement professionals undertaking EME activities may consider enrolling in the procurement capability modules and training, like the Procurement Certification Program delivered in partnership with the Institute of Public Administration Australia (IPAA). For more information, visit www.forgov.qld.gov.au/procurement-certification-program.

For more specific needs, agencies may consider accessing the Skills2Procure training and development programs or contact a Queensland Government Procurement capability contact. For more information and relevant contact details,

¹ Victorian Government Purchasing Board (2020) *Guide to early market engagement*, p. 3, www.buyingfor.vic.gov.au/goods-and-services-document-library

visit www.forgov.qld.gov.au/finance-procurement-and-travel/procurement/procurement-capability-and-training/skills2procure-training-programs.

More information

Other resources used, and potential sources for additional information can be found here:

- [New South Wales Government buy NSW website – Industry engagement.](#)
- [New Zealand Government Procurement – Market Engagement, Construction Procurement Guidelines, October 2019.](#)
- [New Zealand Treasury, Infrastructure Transactions Unit – Market Engagement Guidance, August 2019.](#)
- [Scottish Government – Construction Procurement Handbook – Guidance for public sector contracting authorities on the procurement of construction works, 21 December 2018.](#)
- [Victorian Government Purchasing Board \(2020\) Guide to early market engagement, June 2020](#)