# GUIDE TO EARLY MARKET ENGAGEMENT

## Introduction

Find out how to conduct early market engagement prior to procurement.

### What is early market engagement?

Early market engagement is:

* a strategic exchange of information with the market;
* a category management function;
* focused on the collective market (not individual suppliers’ offerings); and
* conducted prior to procurement.

### Why conduct early market engagement?

Use early market engagement to inform and prepare your agency and the market for subsequent procurement activity. **Do not use it for supplier selection.**

You may conduct early market engagement to:

* foster market participation, [innovation](https://www.buyingfor.vic.gov.au/innovation-and-procurement-process-goods-and-services-procurement-guide), and collaboration;
* refine your agency’s requirements within a category of goods and services;
* understand the market dynamics, supply chains and trends;
* identify the possible generic range of solutions in the market;
* understand the capability and capacity of the market;
* assess the broad scope for achieving:
  + social and environmental objectives based on your agency’s [Social Procurement Strategy](https://www.buyingfor.vic.gov.au/social-procurement-victorian-government-approach);
  + local content and participation by small and medium enterprises (SME) under the [Local Jobs First policy](https://www.buyingfor.vic.gov.au/local-jobs-first); and
  + local manufacture of [Uniforms and Personal Protective Equipment (PPE)](https://www.buyingfor.vic.gov.au/guide-procuring-uniforms-and-personal-protective-equipment);
* identify and manage issues and risks;
* identify the need to buy [solution development](https://www.buyingfor.vic.gov.au/pre-commercial-procurement-goods-and-services-procurement-guide);
* influence and shape the market to be better positioned to meet your agency’s requirements in the future;
* give the market the opportunity to solve problems, develop solutions or influence your agency’s requirements;
* inform the category strategy (approaches to market, contracting and supplier relationship management); and
* inform subsequent procurement activity’s [market analysis and review](https://www.buyingfor.vic.gov.au/market-analysis-and-review-goods-and-services-policy-and-guides), and [market approach](https://www.buyingfor.vic.gov.au/market-approach-goods-and-services-policy-and-guides) options; for example:
  + selective or open invitation to supply,
  + direct negotiation,
  + single or multi-stage process,
  + auction,
  + pre-commercial procurement, and
  + alliances or partnerships).

Conduct early market engagement for the **mutual benefit** of your agency and the market.

For buyers, understanding what the market can or could supply informs category management. It enables your agency to later ask for the right solutions, in the right way, and at the right time, in a procurement.

For the market, insight into future business opportunities or policy changes allows it to:

* prepare to supply to your agency’s requirements; and
* make good quality offers.

Advance notice of requirements may allow suppliers to:

* enter the market;
* innovate to develop new or modified offerings;
* prepare the resources to respond to a market engagement;
* invest in new resources and build capabilities; and
* establish new supply chains, including subcontracting or partnerships.

It is in the buyer’s interest that the market is given the best opportunity to prepare itself for upcoming supply opportunities. This is because it can result in the buyer receiving more and better offers to select from.

### How to conduct early market engagement

There is no set process or activities for early market engagement, and it can take many forms. Your agency may routinely conduct a range of activities that apply to most categories and procurements. For example, the VGPB requires agencies to publish forward procurement activity plans annually (at a minimum) to provide advance notice to the market.

There may be standard activities in your agency. However, you should consider early market engagement for each category. This is to ensure that the engagement is optimal. You should conduct several activities.

Here is a sample list of early market engagement activities:

* publish forward procurement activity plans;
* carry out regular strategic market sector scanning with industry bodies, independent market experts, and current supplier(s);
* establish a public and private sector reference group with public officials and senior representatives from industry;
* conduct market sounding focused on the market to assess its reaction to a proposed market approach or proposed requirements;
* engage subject matter experts in the industry (consultants and contractors);
* conduct events, such as forums and industry briefings, to facilitate exchange of information; and
* attend trade shows.

### Considerations for early market engagement

**Accountability.**

Your agency should govern early market engagement under your procurement and/or category management framework. Your activities should be planned and approved, with clear accountabilities for their conduct.

You should record early market engagement to maintain corporate knowledge and for later audit/investigation. Record:

* activities conducted;
* information exchanged; and
* outcomes of the engagement.

**Probity.**

[Probity](https://www.buyingfor.vic.gov.au/probity-procurement-goods-and-services-procurement-guide) needs to be at the forefront of procurers’ minds when planning and conducting early market engagement activities. All activities should be open, transparent and fair.

Plan and manage early market engagement to ensure probity is maintained. Probity issues can compromise a procurement and cause negative consequences for your organisation.

The main way to deal with probity is to communicate the purpose of the early market engagement to the market. Be clear that it is not for the purpose of selecting solutions or suppliers. Selection will occur during procurement.

Other ways to avoid or mitigate probity risk may include:

* engage parties that are not potential suppliers (industry bodies and independent market experts);
* engage with suppliers in a “safe space” like events or trade shows;
* use separate groups for early market engagement activities and procurement to avoid supplier bias in the procurement team;
* de-identify offers in the following procurement to avoid supplier bias.

**Scalability.**

Early market engagement activities should be scaled to suit the category and expected benefits.

The VGPB [complexity quadrants](https://www.buyingfor.vic.gov.au/complexity-goods-and-services-procurement-guide#complexity-assessment-model) may be a useful indicator for the appropriate level of engagement. Early market engagement may be viewed as a spectrum from no/low to full engagement:

* Transactional categories typically lie at the no/low engagement end of the spectrum.
* Leveraged and Focused categories are likely to span the middle of the spectrum.
* Strategic categories usually warrant high levels of engagement.

**Capability.**

Early market engagement should be planned and conducted or managed by adept or advanced procurement buyers. Foundation level practitioners may conduct early market engagement with clear instructions and supervision. Your agency must ensure that those involved in the planning and conduct have appropriate levels of understanding of policy and process, and business acumen.

**Intellectual property and commercial confidentiality.**

Protecting intellectual property and commercial confidentiality will be key to encouraging participation and ensuring fairness. Communicating to the market how your agency will handle these matters will provide confidence to the market and increase participation.

**Risk.**

Early market engagement can introduce risk, particularly for probity in subsequent procurements. A risk assessment should be conducted as part of planning for early market engagement. Planning should result in clear instructions on:

* what activities to conduct, and
* how to conduct/manage the activities, including communication, information, and intellectual property.

While probity is the principal risk in early market engagement, there is also risk of misunderstanding or misinformation, particularly when early market engagement is not well planned and managed. For example, a business unit may “informally” conduct market research and engage suppliers before a procurement is formally initiated without the necessary capability for the complexity of the procurement. Suppliers may think that an individual speaks for the agency and act on what is said when the individual does not have the authority or approval to engage the market or to procure.

Buyers should note that misunderstandings or misinformation can cause significant problems for suppliers. These problems are not always visible to the buyer but will likely have a negative impact in some way.

Examples of problems for suppliers caused by a misunderstanding or misinformation during early market engagement include:

* a supplier invests in capability, product development or supply chains for goods or services that the agency does not require or subsequently approach the market for;
* a supplier pays for testing based on advice about the specification in the upcoming tender, but when the tender is released to the market it specifies a different standard and test; and
* a supplier wrongly understands that an order has been placed and supplies the goods.

The risks of conducting early market engagement should not discourage agencies from engaging the market and gaining the benefits.

**Value for money.**

The successful conduct of early market engagement, coupled with robust category management, can be expected to deliver mutual benefits for your agency and the market. Early engagement with the market will help your agency to subsequently approach the market in the optimal way, and it will also enable the market to be well prepared to offer competitive, fit-for-purpose solutions. In these ways, early market engagement sets the conditions for obtaining the best possible value for money.

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