# Policy Three: Market analysis and review

Context

This policy outlines the requirements for market analysis and review. 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 analysis and review policy* covers three components.

1. **Market analysis and review**

Market analysis and review provides an understanding of market dynamics to determine the optimal market approach. It can also determine the viability of a procurement requirement.

Figure 1 highlights where market analysis and review takes place in the procurement process.

**Figure 1: Market analysis step in the procurement process**



1. **Collaborative procurement**

Collaborative procurement is an important mechanism to improve value for money when procuring goods or services.

1. **Disposal of assets**

As part of market analysis and review, an organisation will develop a whole‑of‑life appraisal and consider the best process for disposal of assets.

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| For further information and advice on applying VGPB policies (including guides, tools and templates), visit the Buying for Victoria website at <http://www.buyingfor.vic.gov.au>. |

1. Market analysis

Market analysis and review follows the assessment of complexity of the procurement activity either at the category level or at the individual procurement level where the procurement activity falls outside of a category or is critical or high risk.

1.1 Mandatory requirements

An organisation must:

* consider the outcome of the complexity assessment to determine if the assessment at the category level establishes the basis for being able to approach the market
* undertake further complexity analysis at the level of the individual procurement activity where the category assessment provides insufficient detail to determine the optimal approach to market
* conduct market analysis to identify the capability and capacity of the market to supply and identify opportunities for market based solutions
* reassess the procurement requirement with regard to the market analysis
* prepare a statement of grounds, or business case, which supports the decision to proceed with the procurement and identify the optimal market engagement strategy

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| **Note:** Organisations are not required to undertake a sourcing process when using a standing offer that is a sole supplier arrangement. |

1. Collaborative procurement

Collaborative procurement involves multiple organisations working together to improve value for money for goods and services.

Organisations typically collaborate by aggregating demand for commonly procured goods and services.

Types of collaborative procurement include:

* state purchase contracts (SPCs)
* multi-agency arrangements
* procuring with other organisations
* procuring for other organisations
  1. Mandatory requirements

2.1.1 State purchase contracts

**Establishing an SPC**

An SPC is a whole-of-government procurement arrangement established for repeated use by all organisations to procure common goods or services. This includes standing offers and registers.

To establish an SPC, one organisation (the lead agency) must:

* consult with the VGPB on the proposed arrangement
* satisfy the VGPB that it has the capability to establish and manage the proposed arrangement
* have an SPC business case endorsed by the VGPB, then approved by the lead agency’s relevant Minister
* obtain authorisation from its relevant Minister to enter an SPC agreement on behalf of the Victorian Government
* establish appropriate governance for the arrangement, including a contract management framework
* establish rules of use that apply to buyers using the arrangement

The VGPB may determine that it will provide strategic oversight of the lead agency’s process for establishing an SPC.

SPCs may be established as a mandatory or non-mandatory arrangement.

**Replacing or varying an SPC**

To replace or materially vary an SPC, the lead agency must:

* consult with the VGPB
* obtain approval from its relevant Minister
* obtain authorisation from its relevant Minister to implement on behalf of the Victorian Government

The VGPB may determine that it will provide strategic oversight of the lead agency’s process for replacing or materially varying an SPC.

**Reporting on an SPC**

The lead agency must:

* report to the VGPB on the ongoing use of an SPC, including the achievement of value for money
* provide information on the management and use of an SPC to organisations using the SPC

Organisations using an SPC must provide information to the lead agency as requested

**Using an SPC**

Organisations must use a mandatory SPC. They should use a non-mandatory SPC if it demonstrates value for money for the organisation.

When using an SPC, buyers must follow the rules of use for the arrangement.

An organisation must transition to using a mandatory SPC:

* when the SPC commences, subject to any transition period determined by the lead agency
* when the term of a contract covered by the scope of the SPC expires
* when an exemption relating to the SPC no longer applies

Other Victorian public bodies and some non-government entities may apply to the lead agency to use an SPC.

**SPC exemptions**

An organisation may apply for an exemption from using a mandatory SPC.

An exemption may cover:

* a specified period or one-off supply
* the whole or part of an organisation
* the whole or part of the SPC

To apply for an exemption, an organisation must submit an [exemption request form](https://www.buyingfor.vic.gov.au/apply-goods-and-services-exemption) to the lead agency. The lead agency may grant an exemption if special circumstances exist in relation to using the SPC.

When establishing a mandatory SPC, the lead agency may recommend in the SPC business case that an organisation is exempted from the proposed arrangement and demonstrate how it would be unable to achieve value for money.

2.1.2 Multi-agency arrangements

A multi-agency arrangement is a procurement arrangement established for repeated use by some organisations to procure common goods or services. This includes standing offers and registers.

A multi-agency arrangement must specify which organisations can use the arrangement. These arrangements must not permit use by:

* all organisations
* organisations that were not specified when the arrangement was established

An organisation may consider establishing a multi-agency arrangement if it identifies an opportunity to aggregate demand across multiple organisations.

To establish a multi-agency arrangement, one organisation (the lead agency) must:

* determine which organisations can use the proposed arrangement and their respective needs
* confirm there are no plans to establish an SPC covering the goods or services
* confirm it has the capability to establish and manage the proposed arrangement
* notify the VGPB of the proposed arrangement
* have a business case for the proposed arrangement approved by its accountable officer or delegate
* establish appropriate governance for the arrangement, including a contract management framework
* establish rules of use that apply to buyers using the arrangement

To replace or materially vary a multi-agency arrangement, the lead agency must:

* consult with the organisations using the arrangement
* obtain approval from its accountable officer or delegate

The VGPB may determine that it will provide strategic oversight of the lead agency’s process for establishing, replacing, or materially varying a multi-agency arrangement.

When using a multi-agency arrangement, buyers must follow the rules of use for the arrangement.

2.1.3 Other collaborative procurement activities

Multiple organisations may collaborate in relation to a one-off supply of goods or services.

Unlike SPCs and multi-agency arrangements, these collaborative procurement activities do not:

* establish a procurement arrangement for repeated use by multiple organisations
* require a lead agency

To undertake these activities, each participating organisation must follow its procurement governance framework and agree on appropriate governance for the activity.

These activities include:

**Procuring with other organisations**

An organisation may procure goods or services with one or more other organisations by:

* approaching the market together using one invitation to supply
* entering a single contract or separate contracts with the selected supplier(s)

**Procuring for other organisations**

An organisation may procure goods or services on behalf of one or more other organisations by:

* undertaking a procurement process as their agent or representative, with the other organisation(s) contracting with the selected supplier(s)
* undertaking a procurement process and contracting with the selected supplier(s), then distributing the goods or services to the other organisation(s)

2.1.4 Agency-specific arrangements

An agency-specific arrangement is a procurement arrangement established by one organisation for its own repeated use. This includes standing offers and registers.

An organisation must follow its procurement governance framework to establish an agency-specific arrangement.

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| **Guidance note:** |
| Organisations must comply with applicable laws and policies when undertaking collaborative procurement, including the VGPB supply policies, procurement-related policies, and competition law.  If an arrangement or activity raises any compliance concerns, organisations should seek specific policy or legal advice.  For more information, See [Collaborative procurement: Goods and services guide](https://www.buyingfor.vic.gov.au/collaborative-procurement-goods-and-services-guide). |

1. Disposal of assets

3.1 What is disposal of assets?

Disposal of assets should be considered when the asset is identified as being:

* an unacceptable (e.g. security) risk to service delivery
* obsolete due to changed procedures, functions or usage patterns
* no longer complying with occupational health and safety standards
* reaching its optimum selling time to maximise returns
* beyond repair
* surplus to requirements

Disposal of assets can present the organisation with opportunities to optimise the use of an asset, including:

* extending the life of an asset by transferring it to another business unit or organisation
* recovering material for recycling prior to sending the asset to landfill
* transferring assets to not‑for‑profit organisations

3.2 Mandatory requirements

The disposal of assets is a key consideration in the forward planning of any procurement activity. Assets of (or belonging to, or in the care, custody, or control of) an organisation are to be disposed of in a way that takes into account probity, security, sustainability and transparency, as well as environmental and social factors. An organisation must develop and apply an asset disposal process that details:

* the protection of public sector data and information assets
* parties/business unit responsible for managing the process
* disposal options appropriate to the nature of the asset and broader government objectives
* management of issues of risk, liability, safety and security
* the process for keeping the organisation’s assets register up to date
* issues of risk, liability, safety and security associated with the use of the asset by other parties when transferring an asset to another location or entity

If the evaluation of disposal options does not warrant modification to extend the life of the asset or transferring it to another party or recycling, the asset must ordinarily be disposed of by way of public auction or public tender. An alternative approach must be sought where cost of disposal process exceeds residual value of the asset.

This policy is one of five Victorian Government Purchasing Board (VGPB) policies.

For more information regarding VGPB Supply Policies refer to [this link](http://www.procurement.vic.gov.au/Buyers/Policies-Guides-and-Tools).

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