

## Industry Engagement Guideline

### Purpose

The purpose of this Guideline is to provide guidance and practical advice for public authorities and procurement practitioners to enable them to properly plan and undertake industry engagement activities with confidence and be well informed in knowing how to manage risks appropriately while maintaining their obligations relating to probity, accountability and transparency.

### What is Industry Engagement?

Industry engagement facilitates transparency and collaboration with the market and provides a platform for public authorities to develop and gain benefit from being an informed buyer. It involves exploring the capabilities of suppliers and potential suppliers to provide goods and services and prepare for subsequent procurement activity.

Industry engagement can take many forms and it is recommended that public authorities consider conducting several activities to optimise their outcomes (refer to Attachments 1 and Attachment 2).

Activity examples include:

- publishing forward procurement activity plans
- publishing a Request for Information (RFI) to assess a reaction to a proposed market approach or proposed requirements
- carrying out regular strategic market sector scanning with industry bodies independent market experts, and current supplier(s)
- establishing a public and private sector reference group with public officials and senior representatives from industry
- engaging subject matter experts in the industry
- conducting events, such as forums and industry briefings, to facilitate exchange of information
- attending trade shows.

The type and level of engagement should be appropriate to the value, complexity and risk of procurement activity proposed. For example, formal pre-procurement industry engagement, such as industry briefing sessions, is recommended for all complex and strategic procurements. *Attachment 1* provides further information about these types of industry engagement.

Industry engagement may be used to:

- refine requirements within a category of goods and services
- foster market participation and collaboration
- identify and explore new and innovative ideas and solutions

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- influence and shape the market to be better positioned to meet future requirements
- give the market the opportunity to solve problems and develop solutions
- inform the market analysis and market approach of subsequent procurement activity, for example:
  - selective or open invitation to supply
  - direct approach
  - single or multi-stage process
  - alliances or partnerships.

While industry engagement should be conducted separate to any individual procurement, it can also be initiated during the procurement planning process although this poses additional risks which needs to be closely monitored and compliance focused. Industry engagement activity should be finalised prior to the procurement strategy being approved.

Industry engagement should not be used as a mechanism for selecting solutions or supplier selection.

### Principals of industry engagement

Effective industry engagement can change and improve the way public authorities plan and manage procurements and increase trust and credibility with suppliers. Public authorities and suppliers can each benefit from close and trusting co-operation, with public authorities aiming to achieve 'customer of choice' status from key suppliers.

To be effective and help ensure probity and reduce risks, industry engagement should be guided by a set of principles, such as those outlined below.

#### Be well informed from the start

A procuring public authority should be an informed buyer. This means having a solid and contemporary understanding of what sector to target so that the industry engagement is most effective. It can also involve maintaining strategic relationships with key suppliers and stakeholders thus providing a mechanism for public authorities to keep up to date with new and changing market conditions.

#### Have clear objectives and detailed plans

Having clear objectives and detailed planning ensures the industry engagement process is more effective and improves outcomes. It also provides a platform for more structured and targeted discussions. This requires public authorities to:

- determine priorities and set boundaries and expectations around the aim of the engagement process.

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- detail a process for communication and assessing and managing any risks including establishing separation and segregation of roles between the industry engagement activities and procurement functions
- more accurately forecast the resources that are needed
- set a realistic timetable
- communicate the procurement objectives and process to suppliers

### Be wide-ranging and not exclusive

Industry engagement should be broad, and not limited to existing contracted suppliers. Engaging with a wide range of prospective suppliers, including small to medium enterprises (SMEs) helps to encourage innovation and avoid suggestions of bias or favouritism. This also provides an opportunity to gain broader knowledge through a cross-section of supplier responses which can assist in developing a tighter strategy to approach the market. This includes the appetite to engage with and expand reach to local suppliers.

### Engaging with the not-for-profit sector (NFP)

Constructive and early engagement with NFPs can lead to better programs and service delivery which are evidence based and meet the needs of the community. NFPs bring strong connections to local communities which provide valuable perspectives and understanding of issues. As such, public authorities are encouraged to work collaboratively with NFPs through all stages of procurement.

Engagement and co-design on priorities, goals or defined outcomes being sought in the procurement as well as consultation on the availability of evidenced-informed service delivery models should be undertaken as far as practicable to ensure end-user and/or community needs are met.

### Being transparent, fair and consistent

It is imperative that the industry engagement process is open and transparent, that all suppliers and potential suppliers are treated fairly and consistently, and all decisions are evidence based. To support this, public authorities should:

- clearly explain the engagement process to suppliers
- make it easy for all suppliers to engage, including the NFP sector, Aboriginal business and small and medium-sized enterprises
- clearly state if it is the intention to proceed to procurement
- explain how public authority staff and suppliers can report conduct or behaviour that's inconsistent with legal obligations, policy and principles
- provide appropriate security, including protecting confidential information.

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### Maintaining probity and ethical behaviour

Probity needs to be at the forefront of procurers' minds when planning and conducting industry engagement activities. One way to be fair, ethical and transparent is to communicate the purpose of the industry engagement to the market. Other ways to avoid or mitigate probity risk may include:

- engaging parties that are not potential suppliers (industry bodies, peak bodies, and independent market experts)
- engaging with suppliers in a “safe space” like events or trade shows
- using separate groups for industry engagement activities and procurement activity to avoid supplier bias in the procurement team.
- ensuring that everyone involved in an industry engagement activity is:
  - aware of their obligations regarding conflicts of interest and gifts and
  - knows how to identify and report actual, perceived or potential conflicts when they are declared, and/or red flags or suspicions emerge.

### Handling intellectual property appropriately

It is highly likely that as part of the industry engagement process, public authorities will receive suppliers' intellectual property. Therefore, prior to undertaking any industry engagement activities public authorities should:

- explain to suppliers how intellectual property will be treated
- advise suppliers that if they choose not to supply their intellectual property, no adverse inference will be drawn
- provide reassurance that one supplier's intellectual property or confidential information will not be shared with another without express prior consent
- explicitly commit not to use a supplier's intellectual property without express written permission
- ask suppliers to be explicit about the basis on which they are providing any intellectual property and record this information as part of the record keeping process to reduce the risk of misusing confidential information during the procurement process.
- treat all intellectual property as confidential to the engagement strategy, except where they are legally obliged not to.

### Maintaining good records

Keeping good records promotes confidence in the industry engagement process. In addition to capturing and maintaining details of the activities conducted and information exchanged, it provides a mechanism to capture and maintain corporate knowledge which can be used as evidence justifying procurement decisions and or for audit/investigation. Records for all industry engagement activities should capture:

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- the purpose of the engagement
- the details of participants
- a summary of any discussion
- key outcomes and actions
- lessons learned.

### Preparing for Industry Engagement

Preparation for industry engagement is a critical step before implementation of any engagement activities and ensures messages are clear, consistent and in line with the public authority's objectives.

Important considerations include:

- knowing the purpose for engagement
- understanding the industry
- identifying the initial internal and external stakeholders/participants
- understanding your and their level of influence
- the available means/mechanisms of engagement
- understanding the past engagements and historical decisions that have led to the upcoming engagement.

This step also provides the opportunity to build connections with other internal stakeholders to find ways to streamline resources and achieve more together through internal collaboration.

[Premiers Circular PC036- Best Practice Stakeholder Engagement](#), outlines the South Australian Government's approach to best practice stakeholder engagement based on Better Together: Principles of Engagement. [The Better Together program](#) offers public sector employees practical support through advice, training and events, and partnerships to support and deliver innovative engagement techniques and approaches.

This is further underpinned by the International Association for Public Participation (IAP2) [Public Participation Spectrum](#) which has been designed to assist with selecting the most appropriate level of engagement that best suits the procurement objectives.

### Planning for Industry engagement

Proper planning can maximise the effectiveness of industry engagement and minimise risks. While every industry engagement should be planned, the extent of the planning depends on the nature of the engagement and the engagement goals.

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Proper planning means engaging both internal and external stakeholders to:

- provide insight and context into a public authority's needs and objectives, as well as into its engagement with the sector
- uncover likely challenges and encourage discussion within a public authority about whether current services, products or solutions will likely meet objectives
- help public authorities understand the limitations of existing products and solutions and any difficulties in managing suppliers
- uncover desired improvements, needs and outcomes.

A key aspect of the planning process should also include engaging with the people within the public authority who use the goods or services under review. Frontline staff can usually give important insights into:

- the history, characteristics and underlying features of the public authority' needs
- the "what and why" of current buying approaches
- suppliers, products and services.

The planning process should consider the following:

- whether a market exists at all
- the fundamental economics, business characteristics and competitive framework of the market
- the supply and demand trends within the market
- whether the market supplies similar organisations and, if so, what their supply models look like
- the strengths and weaknesses of the public authorities position in the market
- the resources available for conducting industry engagement
- any risks, including risks to concurrent procurement activities.

Once these factors have been considered, an Industry Engagement Plan<sup>1</sup> incorporating a 3-part strategy should be developed to underpin the subsequent industry engagement and communicate the relevant parts of the strategy to suppliers prior to the engagement.

- **Part 1** Should describe the objectives of the engagement, the timeline/phases, the parties involved, the method of engagement, the topics to be discussed key risks and mitigations, and measures to assess whether the engagement achieved the intended objectives. Attachment 2 provides an overview of key considerations for pre-engagement, engagement and post-engagement.
- **Part 2** Should explain how the public authority will conduct itself during the industry engagement process.

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<sup>1</sup> Procurement Services SA's Industry Engagement Plan template can be used.



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- **Part 3** Should describe the expectations of how potential suppliers will act. This is especially important where a supplier hasn't previously supplied to the South Australian Government. This includes providing suppliers with information on:
  - ethical obligations, principles and standards of behaviour relating to public procurement
  - basic knowledge about corruption and how to prevent it, including the importance of recordkeeping, managing conflicts of interest, gifts and benefits, and reporting suspicions of impropriety
  - performance expectations and a clear understanding that public procurement is undertaken for the public good
  - the consequences of engaging in corruption
  - the stipulations of the *Independent Commissioner Against Corruption (ICAC) Act 2012* regarding contractors and corruption reporting obligations (both contractors reporting corruption and being reported for corruption)
  - links to websites and resources for suppliers that provide additional information about public sector procurement.

In most cases, public authority staff with the appropriate capability and skill set are best placed to plan an industry engagement strategy. Using in-house knowledge and insights, they can carry out a basic analysis of the supply chain and the broader industry. This can include assessing industry and public authority developments. For public authorities who may not have in-house industry engagement capability and particularly when dealing with more complex or high risk procurements, it may be beneficial to engage an industry engagement professional to assist with this process.

To make sure the strategy encourages innovation, it is important to provide as much detail about future needs as possible and consider:

- whether each engagement exercise provides scope for innovative procurement approaches to emerge and make sure there are plans for dealing with these approaches
- whether the procurement processes are open to innovation and encourage the market to offer solutions that are:
  - more productive
  - a better fit for government's needs
  - more cost- and resource-efficient.

### Risk

Industry engagement can introduce risk, particularly for probity in subsequent procurements. While communication is central to minimising risks, a risk assessment should be conducted as part of planning for industry engagement. Planning should result in clear instructions on:

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- what activities to conduct
- how to conduct/manage the activities, including communication, information, and intellectual property
- how disputes will be managed
- how record keeping will be managed.

While probity is the principal risk in industry engagement, there is also risk of misunderstanding or misinformation, particularly when industry 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 public authority and act on what is said when the individual does not have the authority or approval to engage the market or to procure.

Public authorities should note that misunderstandings or misinformation can cause significant problems for suppliers. These problems are not always visible to the buyer but can likely have a negative impact in some way. Examples of problems for suppliers caused by a misunderstanding or misinformation during industry engagement include:

- Limiting the supply market by unfairly advantaging one supplier when shaping the specification or locking-in a particular solution and supplier early in the process.
- A supplier investing in capability, product development or supply chains for goods or services that the public authority does not require or subsequently approach the market for.
- A supplier paying for testing based on advice about the specification in the upcoming market approach, but upon release it specifies a different standard and test
- A supplier misunderstands that an order has been placed and supplies the goods.

The risks of conducting industry engagement should not discourage public authorities from engaging the market and gaining the benefits. To mitigate this risk, it is strongly recommended that wherever possible public authorities segregate, separate or minimise the involvement of those conducting the industry engagement activity from those involved in the actual procurement of the goods or services.

### Dispute resolution

Disputes can arise during an industry engagement and often potential suppliers will not raise an issue until it becomes significant. Through careful planning and discussing potential issues with suppliers early in the engagement, the potential for



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disputes later in the procurement can be minimised. To assist in reducing the likelihood of a serious dispute, public authorities should:

- make sure staff leading the engagement activity are trained appropriately and equipped to handle difficult conversations
- use the first meeting with suppliers to set the ground rules for the engagement, including the purpose for the industry engagement and how it will be run
- ask suppliers about their expectations of the engagement
- explain complex or public-sector specific issues using written supporting materials
- acknowledge that disputes arise and explain to suppliers how they can raise their concerns.



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### Attachment 1 – Types of Industry Engagement Activities

The industry engagement activity/s chosen should align to the nature of the engagement and the engagement goals.

#### Publishing forward procurement activity plans

Forward Procurement Plans inform prospective suppliers about future procurement opportunities and indicative timing, making sure to emphasise the confirmed (certain) and the unconfirmed (uncertain) nature of a procurement where appropriate.

Wherever possible, published Forward Procurement Plans should be updated to reflect significant variations (i.e. cancellation or short notice additions of planned activities).

Forward procurement plans should be the basis for any procurement activity planned to be disclosed and discussed at industry engagement events.

#### Meetings with industry experts and industry bodies

Meeting with industry experts and industry bodies enables public authorities to discuss their specific requirements and allows representatives of that industry to explain the industry, propose solutions, and provide contacts for relevant suppliers.

Public authorities may seek to establish industry sector reference groups to engage on a more regular basis.

#### Meetings with potential key suppliers either as a group or individually

Meeting with potential key suppliers allows public authorities to discuss their needs and enables suppliers to ask questions and present possible solutions.

#### Requests for Information

Publishing a Request for Information requesting information from the market in relation to a particular type of good or service.

#### Pre-tender forums and briefings

Prior to formally approaching the market for a particular requirement, public authorities can hold a pre-tender forum and briefing for suppliers. This provides advance notice of the procurement opportunity, allows public authorities to impart important information or clarification regarding the procurement, and allows suppliers the opportunity to ask questions, better understand the public authorities' needs and potentially highlight constraints either in market capacity or capability to meet the requirements within the timeframes proposed.

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### Meet the Buyers events

These events provide an opportunity for potential suppliers to meet with potential buyers. Here, buyers can discuss their needs and suppliers can provide information about their goods and services. For more information visit <https://industryadvocate.sa.gov.au/events/>.

### Trade shows

Trade shows are events where suppliers from a specific industry showcase and demonstrate their latest products and services. These events provide public authorities the opportunity to understand market trends and new opportunities. Pre-reading the program of exhibitors and pre-selecting who will be of most interest is key to making the best use of time.

### YourSAY

[YourSAY](#) is the South Australian Government's online consultation hub which is open to the general public. YourSAY uses a range of online tools including polls, voting, and discussion forums, to enable people to have their say and influence government decisions.

YourSAY is managed by the [Better Together](#) team, which is a part of the Department of the Premier and Cabinet in South Australia. YourSAY can be used for industry engagement activities (both open and targeted audiences).

For more information on how YourSAY may be able to compliment your engagement activities please email [bettertogether@sa.gov.au](mailto:bettertogether@sa.gov.au).

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## Attachment 2 – Pre-Engagement, Engagement and Post-Engagement Considerations

Pre-Engagement (Preparation)	Engagement	Post Engagement
<p><b>Identify Industry Participants</b></p> <ul style="list-style-type: none"> <li>Define the nature of the group or subgroup with which you wish to engage</li> </ul> <p><b>Understand the industry</b></p> <ul style="list-style-type: none"> <li>Understand the structural, economic, financial and competitive characteristics of the industry sector</li> <li>Understand where value is added and where value is lost</li> <li>Understand who the key competitors are</li> <li>Understand who the emerging players are</li> <li>Understand the nature and quality of the supply chain (stability, disruptability)</li> <li>Understand the role of SMEs</li> <li>Consider the key risks</li> <li>Consider any significant trends (economic, products)</li> <li>Understand the value of your public authority's business to the market (supplier preferencing)</li> <li>Understand current prices, pricing methods, cost drivers and other factors influencing price</li> </ul> <p><b>Identify the end users</b></p> <ul style="list-style-type: none"> <li>Define the users of the goods/services</li> <li>Consider their role in the engagement exercise</li> <li>Make suitable preparations with them to be sure they can execute their role</li> </ul>	<p><b>Engagement and communication</b></p> <ul style="list-style-type: none"> <li>Meet with identified industry representatives and explore the information developed above</li> <li>Include end users in the meetings</li> <li>Respect confidential information and supplier intellectual property</li> <li>Seek information on new developments and innovations in products or services</li> <li>Provide details on how information on upcoming procurements may be accessed</li> <li>Make information on your procurement processes and key activities easily accessible to suppliers</li> <li>Explain the timeline</li> </ul> <p><b>Questions preparation and taking Notes</b></p> <ul style="list-style-type: none"> <li>Record details of interactions including the participants, a summary of discussions, and any key outcomes, actions and timelines.</li> <li>Pre-prepare your specific questions and lines of enquiry in direct accordance with your industry engagement plan, its objectives, outcomes and risks</li> </ul>	<p><b>Records</b></p> <ul style="list-style-type: none"> <li>Retain records of the meetings and share with relevant officers</li> </ul> <p><b>Evaluate and Review</b></p> <ul style="list-style-type: none"> <li>Evaluate whether the objectives were met.</li> <li>Summarise what you would do different next time and why.</li> <li>Assess and document whether there were any benefits (public value benefits and benefits for suppliers) attained.</li> <li>Seek feedback from those present. Document their feedback.</li> <li>If the engagement was of special importance or criticality provide a 1-pager summary for your executive and any other relevant leaders. Ask them for their feedback on the summary content.</li> <li>Update your industry engagement plan using the learnings from the session. Publish and circulate as appropriate.</li> </ul>



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<p><b>Understand the end users' requirements</b></p> <ul style="list-style-type: none"> <li>• Understand the outcomes being sought</li> <li>• Understand the current supply arrangements</li> <li>• Pain points (in use)</li> <li>• Pain of change (in change-out)</li> </ul> <p><b>Determine the means of engagement and the participants</b></p> <ul style="list-style-type: none"> <li>• Decide who will be attending and how they will be invited</li> <li>• Consider how you might include participation of small and medium enterprises and not-for-profit organisations</li> <li>• Explain the expected objectives and outcomes</li> <li>• Have a timeline</li> </ul> <p><b>Develop an industry engagement plan</b></p> <ul style="list-style-type: none"> <li>• Define objectives and outcomes</li> <li>• Set the timeline/phases</li> <li>• Identify the parties involved</li> <li>• Describe the method of engagement and reasons chosen</li> <li>• Describe the topics to be discussed</li> <li>• Identify key risks and mitigations</li> <li>• Describe how you will assess whether the engagement achieved the intended objectives and outcomes</li> <li>• Describe the way in which the public authority will conduct itself during the process</li> <li>• Outline probity and confidentiality protocols</li> <li>• Provide information on agency complaint management procedures</li> </ul>		
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