

# Procurement Advisory Notice 25/2020

## For suppliers – Queensland small and medium enterprises: definition and tips

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This article has been prepared to provide general guidance only. It is not legal advice and should not be relied upon as such.

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The importance of economic growth and job creation is highlighted in the government's [Economic Recovery Plan](#).

Measures including prioritising *Buy Queensland first* for food and beverages, and the Queensland small and medium enterprise (SME) procurement target, help support local businesses and jobs. In this environment, more than ever buyers will be asking suppliers for information about their businesses as they pursue the government's recovery measures, including the SME procurement target.

This Procurement Advisory Notice provides some information on what is considered to be a Queensland or local SME, as well as giving tips on what buyers will be looking for and practices to avoid.

### Defining a Queensland SME

The Queensland Procurement Policy (QPP) sets out the definition of an SME as outlined by the Australian Bureau of Statistics (ABS). An SME is therefore defined as any business employing less than 200 people.

A business is a single legal entity such as a registered company, partnership, trust, sole proprietor, religious organisation, government department or any other legally recognised organisation which provides goods or services<sup>1</sup>.

Each business' Australian Business Number (ABN) is regarded as a single business. Size is determined by the number of employees under an ABN. For the purposes of the SME procurement target, 'Queensland SME' means an SME that has registered its main business location as Queensland, with the Australian Business Register.

### Actions for suppliers to the Queensland Government

In complying with the QPP, when responding to a quote or tender you may be asked to provide additional non-price information. For Queensland or local SMEs, social enterprises and Indigenous businesses, this non-price criteria can help suppliers' enhance their offering to the Queensland Government and deliver on economic, environmental and social objectives for the Queensland community.

When responding to non-price criteria, there are some key elements to consider to ensure your response provides an accurate representation of the business and potential social, environmental and economic outcomes. Examples of information that may be requested from suppliers includes:

- noting whether the business ABN is registered in or outside of Queensland
- noting the total size of the business, particularly if it spans across multiple states
- outlining the size of the workforce you employ in Queensland
- outlining the place of origin of a product to be supplied
- providing evidence of the above, if requested.

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<sup>1</sup> [ABS 1321.0 – Small business in Australia, 2001](#)

Clearly outlining this information in tenders will help ensure that genuine Queensland businesses are supported as intended through the *Buy Queensland* approach to procurement.

It is important to note that the [Local Benefits Test](#) recognises that businesses headquartered outside of Queensland may still deliver benefits to Queensland.

## Impact of a supplier shop-fronting or falsifying tender submissions

It is important that suppliers are clear and accurate when describing their business. As part of due diligence, buyers will be on the lookout for practices including 'shop-fronting' or suppliers falsifying information in tenders.

Shop-fronting is a term used to describe when a business claims to have a physical presence in:

- a. Queensland (because they have an address or ABN registered in Queensland)
- b. a local or regional Queensland area

but does not actually employ a Queensland or local workforce. Particularly when claims are made in response to an outcome specifically sought from a tender process to achieve *Buy Queensland* objectives such as contributing to the Queensland SME target, creating local benefits or increasing opportunities for local Queensland businesses.

Measures that buyers may employ include vetting suppliers, requiring specific non-price criteria responses where necessary and effective contract and complaints management.

There may be consequences if a supplier is confirmed to be shop-fronting or providing false or deceptive information in tender submissions to the government.

Knowingly supplying false information in tenders or failing to deliver contractual commitments may result in the supplier's disqualification from further participation in the tender process, or where a contract has been awarded to the supplier, give rise to a right on the part of the customer to terminate the contract.

## Where to go for more information

Additional information can be found here:

- [Small and medium enterprise procurement target](#)
- [Supplying to Queensland Government](#)
- [Supplier Code of Conduct](#)
- [Queensland Procurement Policy 2021](#)
- Australian Competition and Consumer Commission (ACCC) - [Avoiding unfair business practices: a guide for businesses and legal practitioners](#).