



Finance
& Services

GUIDELINES FOR AGENCIES

**CONTRACTOR PREQUALIFICATION
AND BEST PRACTICE ACCREDITATION SCHEME
2011-2014 FOR CONSTRUCTION AND RELATED
WORKS VALUED \$0.5M AND OVER**

February 2012

CONTACT DETAILS

GENERAL ENQUIRIES ON USE OF SCHEME BY AGENCIES FOR TENDERER SELECTION

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SCHEDULE OF DOCUMENT AMENDMENTS

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0.	29 April 2011	Document Original
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2.		

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2.0 INTRODUCTION

The NSW Government *Procurement Policy* was released under Treasury Circular NSW TC 04/07, on 1 July 2004. This introduced an *Agency Accreditation Scheme for Construction* administered by NSW Treasury for construction projects. This also established guidelines for when agencies are to use the NSW Government *Procurement System for Construction*.

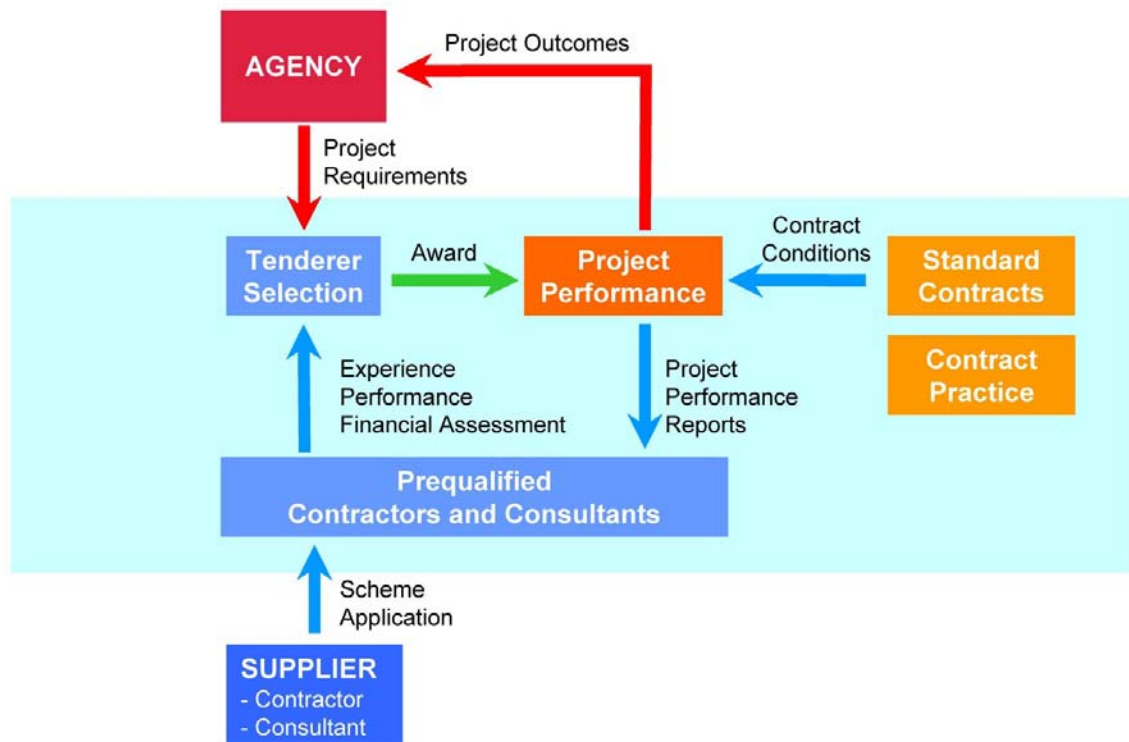
The NSW Government *Procurement System for Construction* is developed, operated and maintained by the Department of Finance & Services (DFS) on behalf of NSW Treasury. The procurement system consists of management systems, guidelines and tools for selection of procurement strategies, contract risk allocation, service provider selection (including prequalification/accreditation of service providers), tender processes and guidance on contract administration to support NSW Government agencies.

NSW Treasury has engaged DFS to prequalify and accredit contractors for construction and related works. Prequalification of contractors and Best Practice Accreditation is carried out under the DFS *Contractor Prequalification and Best Practice Accreditation Scheme 2011-2014 (the Scheme)*. The Scheme is a key element of the Procurement System for Construction.

This document provides guidance for NSW Government Agencies, State Owned Corporations, Public Institutions (such as Universities) and NSW Local Government Councils using the Procurement System for Construction to support their selection of suitable prequalified construction contractors for future work.

The *Contractor Prequalification and Best Practice Accreditation Scheme 2011-2014* ("The Scheme") caters for two levels of Contractor capability including Prequalified Contractors as well as a higher level of capability of Best Practice Accredited Contractors.

For procurement by agencies of non-residential building contracts valued at \$50 million and above, the Scheme incorporates the National Prequalification System.



Contractor Prequalification within the NSW Government Procurement System for Construction. Agency requirements are matched with prequalified firms. The Agency decides on those firms to be offered opportunities to tender. The Department provides information and guidance to support Agency decision making

2.0 PURPOSE, OBJECTIVES & BENEFITS

The purpose of the Scheme is to provide an appropriate management system to enable DFS, Government Agencies and their expert procurement advisors to efficiently and effectively procure contractors in the specified categories to carry out construction contracts.

The objectives of the Scheme are to:

- reduce the time and cost to agencies of the process of procuring construction contractors.
- reduce the risk for agencies engaging with the private sector when carrying out construction.
- enable DFS to establish panels of suitable contractors according to their demonstrated expertise, capacity and capability for specific work types and contract values.
- facilitate the selection and invitation of prequalified contractors from the panels to tender for specific work.
- encourage continuous improvement and better contract outcomes by providing agencies with a system where they can select the better performing prequalified contractors for more tender opportunities.
- manage contractor performance in a fair and transparent way.
- deliver improved project outcomes for Government.

The benefits of the Scheme for NSW Government Agencies include enabling:

- selection of tenderers who have demonstrated suitable experience, capability and capacity to achieve better and more consistent contract outcomes.
- provision of contractors with appropriate demonstrated specific experience and capacity for projects including heritage features or complex health facilities.
- agency preference to be taken into account when selecting prequalified tenderers.
- opportunity for agencies to develop a mutually beneficial ongoing business relationship with contractors, while complying with the requirements for probity, value for money and fairness to tenderers and potential contractors.
- reduction in tendering costs and time while maintaining appropriate levels of competition.
- significantly reduced tender assessment times and simplified contract administration because prequalified tenderers have already demonstrated an understanding of and compliance with NSW Government construction industry benchmarks, with management procedures and systems requirements.
- conducting business with the best of the private sector through a Scheme which provides for incentives for good performance and also for the application of restrictions or sanctions in the event of poor performance as measured against the respective scheme requirements.

3.0 WORK CATEGORIES

NSW Government Agencies may access firms prequalified under the Scheme within the following work categories.

- **Building Works:**
For multitrade building works for new buildings and additions to existing buildings. Includes some design coordination and design management and may also involve minor heritage works, associated civil works and elements of fitout and refurbishment work, as well as the final preparation of internal areas for occupation by the client in new and existing buildings.
 - Heritage
Heritage speciality including restoration and conservation works and / or associated stonemasonry, carving & fixing, roofing, carpentry, plastering and painting.
 - Modular Building
Modular building speciality including portable buildings, prefabricated buildings, modules or sections manufactured off-site and amenable to on-site expedited delivery or modular assembly.
- **Fitout and Refurbishment:**
Fitout and refurbishment work, as well as the final preparation of internal areas for occupation by the client in new and existing buildings.
- **Civil Works:**
For civil engineering works including excavation and bulk earth works, minor roads and related works, water and wastewater infrastructure and drainage works.
 - Water Infrastructure
Water supply infrastructure speciality including reservoirs, dams and or associated pipelines, pumping stations, balance tanks, surge tanks, storage tanks, discharge structures
 - Wastewater treatment
Wastewater treatment infrastructure speciality including sewage treatment plants and or associated pipelines and pumping stations

4.0 CONTRACT SYSTEMS

NSW Government Agencies may access firms prequalified under the Scheme within the following contract systems:

- **Construction (C):**
The contractor may be responsible for completing the Principal's design, and carrying out design documentation and design coordination to the extent specified and for construction using designs and documentation prepared by the Principal. The contractor's design obligation may include preparation of fabrication drawings and may include completion of other design details. This includes the contract system often called Design Development and Construct.

- **Design and Construct (DC):**
The contractor is responsible for a significant part of the design, design development, and documentation and design coordination, as well as construction.
- **Managing Contractor (MC)**
[for contracts where the Target Construction Sum is valued \$10M and above]:
The managing contractor may be engaged on a project brief, to commission, manage and accept responsibility for consultants that design the works and subcontractors that construct the works. The Principal may also engage a Project Manager or Project Director to manage the Managing Contractor Contract and to support and advise the Principal. A Managing Contractor Contract usually involves the payment of actual reasonable costs (up to a Guaranteed Construction Sum(s), where agreed for construction work, or a Guaranteed Price for all the work) plus fees.
- **Design Construct Maintain (DCM)**
[for contracts where the Target Construction Sum is valued \$10M and above]:
The contractor is provided with a project brief, generally including some concept design, and the quality and performance requirements of the asset are specified. The contractor is responsible for the preparation or completion of the concept design, development of the design, preparation of construction documentation, construction of the asset and maintenance for a specified period (say 10 years). Asset condition monitoring indicators are specified, by which the performance of the completed asset will be measured during the maintenance period.

5.0 PERFORMANCE OF CONTRACTORS

Agencies seeking to select contractors for tendering on future work generally favour prequalified contractors who have recently achieved the highest level of performance on works. In this manner agencies use the NSW Government Procurement System for Construction to reward the best performing contractors with more work.

The performance information used to support such decision making originates from work delivered for a diverse range of agencies by a broad number of contractors.

On this basis a large store of performance information is amassed on a wide variety of contractors. Such information is only considered relevant for selection decision making purposes when it is relatively recent due to the potential for significant changes in the capabilities of contractors over time. On this basis, performance reports which are more than 2 years old (at the date of the reporting period) are usually discarded from consideration. In this manner “new” reports continuously “enter” the performance management system and “old” reports “exit”.

The continued successful operation of this system requires active participation and support by Agencies which have used the Scheme and the Tenderer Selection process by ensuring the diligence of their Project Manager in the preparation of new Performance Reports. Performance Reports are required as follows:

- **on a quarterly basis** (forwarded to DFS by the first week of February, May, August and November).
- **immediately** should unsatisfactory performance become apparent at any time (this will enable DFS to initiate closer monitoring and or communications including addressing systemic factors which may adversely influence other contracts).
- **following completion** of the contract.

The benefit to the Agency in promoting the delivery of Contractor Performance Reports are significant.

- Enables problems to be raised and resolved early during the course of the work (not after when it is often too late).
- Enables government agencies to monitor performance on an ongoing basis.
- Provides a transparent, consistent and often comprehensive basis for agencies to select tenderers for future work.
- Reduces the risks of engaging with contractors whose performance record is unsatisfactory.
- Enables contractors to monitor their own performance.
- Enables contractors to demonstrate their commitment to continuous improvement.
- Provides a basis for building co-operative relationships.
- This provides the basis for establishing a cooperative, sustainable and high value mass of Performance information to readily support NSW Government Agencies involved in Tenderer Selection process decision making.
- The performance reporting process provides an additional tool to encourage communication between the Project Manager and the Contractor and to support active performance management of a contractor on an agency contract.
- Performance reports provide an additional means by which Agencies may obtain valuable information on the progress of the contract from their Project Manager.
- In instances of highly adverse or repeatedly adverse performance, the performance reports substantiate reasons for the placement of sanctions on the contractor, which may result in a loss of tender opportunities.
- When a contractor's performance is unsatisfactory, the performance report may be used to support the placement of the firm on the DFS Contractor and Consultant Review List (Review List) system. The Review List is used to manage the DFS business relationship with unsatisfactorily performing contractors and consultants.

6.0 HOW TO SELECT CONTRACTORS FOR TENDERING

Clients are supported in the delivery of projects through the NSW Government Procurement System for Construction which includes the DFS Contractor Prequalification and Best Practice Accreditation Scheme.

The selection process is simple, streamlined, robust and effective. The selection process has been subject to ongoing continuous improvement, review and feedback resulting in a reliable and probity secure approach which is acknowledged and endorsed by NSW Government.

The actions by an Agency in preparation for a selection, commencement of the process and subsequent closure include:

AGENCY ACTIONS:

1. Confirms that funds are available and approved for the works.
2. Confirms a clear intention to proceed to a formal tender.
3. Submits the form: [Selective Tenders – Select a tenderer panel](#) (which enables DFS to provide sufficient supporting information for a Tenderer Selection Committee meeting).

This is to be provided at least 15 calendar days prior to the intended date for offering opportunities to tender to the panel contractors to be selected.
4. Completes the form: [Code of Conduct for a Tender Process](#) prior to or during the Tenderer Selection Committee with DFS.
5. Participates (directly or through a representative) in a Tenderer Selection Committee.

Note that if the Agency is not Accredited under NSW Treasury’s Agency Accreditation Scheme for Construction, then the Agency must engage an external Prequalified Project Manager. The Project Manager may be delegated by the Agency to be its representative at the Tenderer Selection Committee.
6. The offering of opportunities to tender is conducted by DFS using the [Selective Tenders Confirm a tenderer panel / request for tenders](#) form, or in special circumstances by an Agency subject to prior agreement with DFS.
7. Conducts subsequent tender processes and awards the contract while continuing to meet the requirements of the [NSW Government Code of Practice for Procurement](#).
8. Advises DFS of the tendering outcomes including all tender prices and the name of the winning tenderer using the [Government Contract Disclosure](#) form.

This information enables DFS to monitor the competitiveness of tendering performance of prequalified contractors and to support NSW Government disclosure requirements.
9. Meets with the Project Manager which the Agency engaged and discusses the Project Manager’s performance on the contract. The Agency completes the [Project Manager Performance Report](#).
 - **on a quarterly basis** (forwarded to DFS by the first week of February, May, August and November).
 - **immediately** should unsatisfactory performance become apparent at any time (this will enable DFS to initiate closer monitoring and or communications including addressing systemic factors which may adversely influence other contracts).
 - **following completion** of the contract
10. Communicates regularly with the Project Manager to maintain an understanding of significant issues which may arise with the project. The

Agency may also request from the Project Manager, the provision of regular updates on the performance of the Contractor including copies of the [Contractor Performance Report](#) (CPR).

As an option, the Agency may elect to be included with the Project Manager in the process of preparing a CPR.

The Agency should also check that CPRs are being sent regularly, and on time to DFS so that this information will be promptly available to support the next tenderer selection by the Agency and that of other Agencies and users.

11. On the conclusion of contracts valued \$1M and over, the Agency may elect to complete the Stakeholder Performance Review process including:
 - Meeting with the Contractor to discuss the Contractor's performance and complete the [Stakeholder Performance Report on the Contractor by the Client](#). *Providing a copy of the report to DFS and to the Contractor.*
 - Meeting with the Contractor to discuss the Agency's performance so as to enable the Contractor to complete their feedback report: [Stakeholder Performance Report on the Client by the Contractor](#).
 - Meeting with the Project Manager to discuss the Agency's performance so as to enable the Project Manager to complete their feedback report: [Stakeholder Performance Report on the Client by the Project Manager](#).
12. Provides suggestions and feedback to DFS to encourage the improvement of the Scheme and the Tenderer Selection process.
(Refer Feedback sheet - Agency Feedback: Continuous Improvement on **Page 13** or Contact Details **Page 2**)

Note for the above process, the following terminology:

- Agency and Client have equivalent meaning.
- DFS refers to the Department of Finance & Services.

7.0 AGENCY FEEDBACK: CONTINUOUS IMPROVEMENT

The feedback of Agencies is sought on DFS guidance provided for the use of the Contractor Prequalification and Best Practice Accreditation Scheme as a basis for Tenderer Selection under the NSW Government Procurement System for Construction. Feedback may be provided by an Agency at any time as well as following each Tenderer Selection meeting.

To what degree do the following aspects of the Scheme and Tenderer Selection process satisfy the expectations of your Agency ?	Very Low	Low	Slightly Low	Slightly High	High	Very High
1. Scheme Guidance documentation Clarity, completeness and ease of use of this document including structure, content and use of Plain English.						
2. Communications by DFS Clarity and responsiveness of DFS guidance to the Agency in preparing for Tenderer Selection processes.						
3. Tenderer Selection meeting Effectiveness in meeting Agency requirements in the selection of suitable prequalified contractors.						
4. Responsiveness of Selection process Timely response in conducting Tenderer Selection processes to meet Agency procurement objectives.						
5. Probity Robustness of measures implemented by DFS to support Agency compliance with NSW Government Code of Practice for Procurement						
6. Value Benefit in the use of the Scheme and Tenderer Selection processes to meet the Agency delivery milestones and objectives.						

7. Positive outcomes
8. Areas suggested for improvement
9. General Comments

10. Name of Agency			
11. Completed by		12. Date	

Please email to cpr@services.nsw.gov.au

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