



**New South Wales Government  
Procurement System for Construction**

---

**Procurement Practice Guide**

**Tendering Process for Project  
Management services engagements**

**July 2008**

---

## Important notices

---

### Current version

The current version of this Procurement Practice Guide is maintained on the Internet at:  
<http://www.nswprocurement.com.au/Procurement-System-for-Construction/Reference-material/Procurement-practice-guides.aspx>

### Amendments

Refer to the Procurement Practice Guide Amendments Log which is available on the Internet at:

<http://www.nswprocurement.com.au/psc/ppg/amendments.aspx>

### Copyright

This work is copyright. Apart from any use as permitted under the Copyright Act 1968 (Cwlth), no part may be reproduced by any process without written permission.

© NSW Government 2008

Requests and enquiries concerning reproduction and rights should be addressed to:

NSW Procurement Client Support Centre:

Telephone: 1800 NSW BUY (1800 679 289)

Email: [nswp\\_support@commerce.nsw.gov.au](mailto:nswp_support@commerce.nsw.gov.au)

### Using hyperlinks in this document

This Procurement Practice Guide contains embedded hyperlinks and Uniform Resource Locators (URL).

To follow a hyperlink or URL:

- Right mouse click; and
- Select "Open in web browser" in the drop-down box.

# Tendering Process for Project Management services engagements

---

## *Glossary*

## **Contents**

Tendering process .....	<b>1</b>
<b>1 Preliminary .....</b>	<b>1</b>
1.1 Tendering process .....	1
1.2 Selective tenders.....	1
<b>2 Tenderer selection .....</b>	<b>1</b>
2.1 Fee less than \$50,000 .....	1
2.2 Fee \$50,000 or more.....	1
<b>3 Calling tenders .....</b>	<b>2</b>
3.1 Tender document availability.....	2
3.2 Tenderer confirmation .....	2
3.3 Commerce services on request.....	2
3.4 e-tendering .....	2
3.5 Issue of tender documents.....	2
<b>4 Receipt and opening of tenders.....</b>	<b>2</b>
<b>5 Tender evaluation.....</b>	<b>2</b>
5.1 Tender Evaluation Plan .....	2
5.2 Scoring non-price criteria .....	3
5.3 Tendered prices .....	3
5.4 Assessed fee .....	3
5.5 Contact with tenderers .....	3
5.6 Withdrawal of a tender .....	4
5.7 Passing over a tender .....	4
5.8 Preferred tenderer .....	4
5.9 Recommendation for award.....	5



# Tendering process

## 1 Preliminary

---

### 1.1 Tendering process

The NSW Government *Code of Practice for Procurement* requires that equal opportunity must be provided to all tenderers. Fairness, probity and transparency must be maintained to ensure the quality and consistency of the tendering process and achieve the best outcome.

Further information on requirements for the tendering process is provided in the NSW Government *Tendering Guidelines*, Section 3 - **Tendering Process**.

A client agency may use its own tendering system, or that of the Department of Commerce (Commerce) in the tendering process.

### 1.2 Selective tenders

If a project manager is required to assist an unaccredited agency (the client agency) to carry out a construction project then the tender method will be selective tenders. The NSW Government *Procurement System for Construction* includes prequalified project managers for project cost ranges (refer to [Tender planning for Project Management services engagements](#), Section 1.4 - **Tender method**).

## 2 Tenderer selection

---

### 2.1 Fee less than \$50,000

Where the estimated fee is less than \$50,000, submit the form [Selective Tenders - Select a tenderer panel](#) in accordance with the directions on the form. A list of prequalified project managers capable of carrying out the services will be provided, with an RFT number if one has not previously been requested.

Select a minimum of one project manager and advise of the selection to the Secretary of the Tenderer Selection Committee by email to:

[Larry.Bailey@commerce.nsw.gov.au](mailto:Larry.Bailey@commerce.nsw.gov.au)

### 2.2 Fee \$50,000 or more

Where the estimated fee is \$50,000 or more, a selective tendering process is to be used. The process is described in detail in Procurement Practice Guide [Selective Tendering](#), Section 7.1 - **Tenderer selection**. A summary follows.

Submit the form [Selective Tenders - Select a tenderer panel](#) in accordance with the directions on the form. A list of prequalified consultants capable of carrying out the services will be provided, with an RFT number if one has not previously been requested.

Consider the list to identify capable tenderers. Submit a brief written recommendation to the Secretary of the Tenderer Selection Committee (The recommendation may include local consultants (refer to the Procurement Practice Guide [Selective Tendering](#) Section 10 - **Local Consultants**). If there is a strong conviction that a particular firm should or should not be invited to tender, provide sound reasons. A recommendation not signed by the client agency senior manager, project manager or nominee will not be considered. The list and recommendation must not be made public.

Following submission of the form [Selective Tenders - Select a tenderer panel](#), the Tenderer Selection Committee selects a Tenderer Panel.

The tenderer panel must not be changed unless there are compelling reasons. Do not contact the tenderers. See Section 3.2 below, *Tenderer confirmation* for subsequent action.

Tenderer Panel selections remain valid for one month. If tenders have not been called by that time, request the Tenderer Selection Committee to review the selection to be sure there are no recent performance or relationship issues that might result in a change to the Tenderer Panel.

## 3 Calling tenders

---

### 3.1 Tender document availability

The tender document (RFT document) must be approved before tenders can be called.

### 3.2 Tenderer confirmation

Where a panel of project managers has been selected, submit Section 1- **Confirm a tenderer panel** of form *Selective Tenders - Confirm a tenderer panel / request for tenders*. At the completion of this process, Commerce will notify the person who made the request, in writing, which of the tenderers have agreed to submit tenders.

Until formally notified of the completion of this process, do not approach any of the potential tenderers about the tendering opportunity.

### 3.3 Commerce services on request

- If the client agency requires Commerce to call and close tenders, negotiate and engage the services prior to issuing the RFT document by contacting the *NSW Procurement Client Support Centre*.

When ready to call tenders, submit Section 2 - **Request for tenders** of the form *Selective Tenders - Confirm a tenderer panel / request for tenders* as shown on the form.

### 3.4 e-tendering

Advertise competitive tenders (other than a single tender) using an electronic tendering system website.

### 3.5 Issue of tender documents

When the tenderer panel has been confirmed, issue to each tenderer a copy of the RFT document (with an extra set of tender schedules if in hard copy) accompanied by a letter requesting a tender to be submitted.

If Commerce is to invite tenders, liaise with the Commerce Tender Issuing Office (see Section 3.3 - **Commerce services on request**) about issue of RFT documents.

Addenda and notification of any changes to the tender period must be issued to all prospective tenderers.

## 4 Receipt and opening of tenders

---

The process of receipt and opening of tenders must comply with the NSW Government *Tendering Guidelines*, Section 3.5 - **Receipt and opening of tenders**.

## 5 Tender evaluation

---

### 5.1 Tender Evaluation Plan

Follow procedures in the Tender Evaluation Plan (TEP) unless exceptional circumstances apply and any changes receive appropriate authorisation.

## 5.2 Scoring non-price criteria

Evaluate and score tenderer responses against the non-price criteria and their elements listed in the TEP. For example, check that suitable nominated personnel will be committed to critical services. When reviewing resources offered keep in mind that an inexperienced or ineffective project manager can lead to poor project outcomes including:

- lack of effective communication,
- poor stakeholder relationships,
- poor control of project activities,
- time and cost overruns,
- disputes with service providers, and
- increased agreement administration including disputation.

If the Conditions of Tendering provide for consideration of past performance, information available to assist evaluation can be generated by Commerce from its Contractor and Consultant Management System. This service can be accessed by a request to [CPR@commerce.nsw.gov.au](mailto:CPR@commerce.nsw.gov.au).

The tender evaluation team must reach consensus on the score for each non-price criterion for each tender. Team scores must not be arrived at by averaging scores by individuals. Reasons for differences in scores must be identified and discussed, and scores justified on the basis of available information which might be:

- provided in a tender; and/or
- known to the agency including for example, prequalification status and performance on current/recent engagements.

## 5.3 Tendered prices

Complete and review a spreadsheet for amounts tendered in the Schedule of Prices. Note that, because the Schedule of Prices is not part of the Agreement, it is the tendered fee that is used in the scoring calculations.

Enter rates tendered for variations in a spreadsheet. Check if the rates are considered reasonable. Check for “loaded” rates (significantly higher than the estimated rate and other tendered rates). A loaded rate might be tendered in anticipation of variations, and if overlooked in tender assessment may lead to serious cost consequences.

## 5.4 Assessed fee

If a tender has qualifications and departures, their estimated value has to be assessed and added to or deducted from the tendered fee to enable evaluation against other tenders on a comparable basis. The “assessed fee” incorporates the assessed values of qualifications and departures. It does not take into account any error in the total in a Schedule of Prices. Calculate an assessed fee without contacting the tenderer, to avoid any perception of “bid-shopping”.

The recommendation for award must record how assessed fees were arrived at.

## 5.5 Contact with tenderers

Until scoring calculations are completed and a preferred tenderer is identified, contact with tenderers should be limited to what is needed to clarify tenders and evaluate them against specified evaluation criteria. Evaluation must rely on the tendered documents to avoid giving undue advantage to a tenderer by offering an opportunity to improve its bid.

When seeking clarification:

- a tenderer must not be made aware of the estimated fee or other tenderers' fees;
- nothing submitted in another tender may be revealed or discussed;

- the tenderer's status in tender evaluation must not be divulged.

If a tenderer advises that an error has been made in the lump sum Fee or a rate for a variation, the tenderer cannot amend it. The tenderer may elect to:

- withdraw the tender; or
- demonstrate that the services can be completed for the tendered fee without unacceptable risk to the Principal.

## 5.6 Withdrawal of a tender

If a tenderer withdraws its tender, the circumstances must be recorded in the recommendation for award.

## 5.7 Passing over a tender

If it is found that a tenderer has not demonstrated a comprehensive understanding of requirements in the tender document, or has tendered a low fee that does not encompass all those requirements, consider passing over the tender.

If a tendered fee or rates greatly exceed the fee/rates as re-estimated, this may also be a case for passing over the tender.

If a tender does not score well for a criterion with low weighting, but scores well with criteria of high weighting, passing over may not be appropriate.

A tender to be passed over should be included in the scoring calculations.

## 5.8 Preferred tenderer

### Identification

The best tender (overall best value for money) may not always be the highest scoring tender. Check for close or "equal" highest scoring tenders to identify the preferred tenderer (refer to Procurement Practice Guide [Tender planning for Project Management services engagements](#) at Section 1.8 - **Tender evaluation plan: Close or highest scoring tenders** if not covered in the TEP).

### Negotiation

Negotiation to resolve qualifications and departures should be undertaken only with the preferred tenderer.

Any changes to the lump sum fee or rates resulting from the withdrawal or modification of a tenderer's qualifications or departures must be fully justified and explained in the recommendation for award (NSW Government [Tendering Guidelines](#), Section 4.8 - **Clarification of a tenderer's information**).

Where the preferred tenderer has omitted a rate or an amount, this is to be clarified. The omission may be intentional. For reasons of probity, a tenderer cannot make good an omitted rate or amount unless it is the only tenderer.

If a non-compliance in the preferred tender is a simple failure to include required information, such as confirmation that addenda have been taken into account in the tender, then that information should be sought to complete the tendering process.

If substantial errors are found in compilation of the fee, this would generally result in a tenderer offering to withdraw its tender. In the case of a low lump sum fee, it is unlikely that the tenderer would be able to demonstrate that the services could be performed without unacceptable risk to the Principal.

If the preferred tenderer has made an error in the total in a Schedule of Prices, this should be clarified. If the tenderer advises that an error has been made it may be corrected but only if there is no change to the tendered lump sum Fee.

### Change in scope

If the scope of the services is to be changed after tenders are opened, ensure there are sufficient funds available to cover the estimated adjusted amount (i.e. the fee to be accepted), reimbursable expenses, and a contingency allowance for variations.

After approval to the change in scope, but before award of a contract, negotiate reasonable prices for the change with the preferred tenderer.

#### **Checking relativity of tenders**

On completion of negotiations, check that the tenderer still qualifies as the preferred tenderer by revising the scoring calculations. If another tenderer becomes the preferred, repeat the process of negotiating the removal of qualifications and departures and changes in scope, and revising the scoring calculations to check the preferred tenderer.

#### **Recent performance**

As well as any checks through referees, the preferred tenderer's recent performance must also be checked in the Commerce-managed Performance Management System.

If advice is received that the preferred tenderer appears on the Review List managed by Commerce, then it will be necessary to consult with the Manager, Supplier Management Systems (phone 9372 8886, facsimile 9372 8999) before preparing a recommendation for award.

Should the preferred tenderer's recent performance not be satisfactory, pass over that tender and repeat the negotiation and checking process for the tenderer that next becomes the preferred.

#### **Significantly low tendered fee**

Exercise caution before making a recommendation for award of a significantly lower priced tender (one that is more than 30% below the estimate or abnormally low when compared with other tenders). A recommendation for award of a significantly lower priced tender must be justified.

A significantly low tendered fee may mean the estimated fee is inaccurate or could signal risks in accepting the tender because the tenderer has not fully understood the requirements of the tender document or has made an error.

Compare a low tendered fee with the estimated fee or a re-estimate and consider whether the tenderer has recognised and allowed for the full extent of the services described in the tender document. The tender must show that sufficient resources (personnel numbers, skill level and hours) have been allowed to complete the services.

If the assessed fee for the preferred tenderer is still considered low compared with the revised estimated fee, request written confirmation from the tenderer that the agreed final amount for the fee provides for all services, deliverables and other contractual obligations.

#### **Final check**

Check that all agreed negotiations with the preferred tenderer have been confirmed in writing for reference in the Letter of Award.

Get clarification in writing for any aspects of the tender or negotiation where there is any doubt.

### **5.9 Recommendation for award**

The recommendation for award should be based on the "tender acceptance recommendation (multiple tenders)" *worked example*.

The tender evaluation report, which is part of the recommendation, must contain at least the following:

- a summary of all tenders received, in ascending order of tendered fee;
- an evaluation of each tender, indicating if it conforms with the tender document, and where there were differences if any;
- an explanation as to why any tenders withdrawn or passed over, and
- full details and justification of the recommendation. This normally includes a table for each tender, showing scores for evaluation criteria and the basis for

each score. The scoring calculations for each tender should be tabled. The justification should include shortcomings of tenders with a lower price but not recommended.

The report on the recommended tenderer must confirm that:

- the tender complies with the requirements of the tender document; or
- qualifications or departures have been satisfactorily negotiated and any remaining are acceptable; and
- the proposed fee is reasonable and conforms with market prices; and
- the tenderer has the ability to successfully perform the services; and
- the tenderer's recent performance in the work category has been satisfactory.