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1 FIRM INTENT TO TENDER

1.1 Project Planning

1.1.1 Context

Before project planning can begin, a Project Manager must be appointed to ensure the development and approval of the Project Management Plan (PMP). The PMP must:

- Clearly define the scope of the project;
- Define all known project stakeholder requirements;
- Outline all strands of work, how they are likely to be completed and indicative personnel and times necessary for them to be completed;
- Highlight key decisions in the procurement process; and
- Follow the OnQ Project Management Framework.

1.1.2 Process

Once the Business Case for the project has been approved, the Project Manager is responsible for the development and approval of the PMP by the customer (the person representing Main Roads that receives the business benefit of the project, usually the Regional Director).

Where applicable, the Project Manager should engage existing Main Roads experts and conduct workshops to efficiently extract value, insight and knowledge during this process. A content mentor may be engaged to assist the Project Manager in the development of the PMP, which may involve:

- Resolving any conflicts on technical issues which cannot be resolved by the Project Manager/Team;
- Assisting the Project Manager with political and other high-level issues; and
- Reviewing project documentation.

The development of the PMP must use the appropriate templates located on the OnQ website (http://intranet/onq). A cost (including labour, materials and supplies) and time estimate is established based on the scope defined in the Business Case.

1.2 Confirm Delivery Method

1.2.1 Context

To ensure best value for money, choosing the best delivery method has to take into account the tender method, project size and complexity. Selection requires the consideration of marketplace capabilities, the approach adopted for managing risk, ensuring best value for money, process probity, fair dealing and effective competition.

The ECI Contract delivery method uses a two envelope non-price selection process that places considerable emphasis on the calibre and experience of the proposed project team.
1.2.2 Process

It is essential that appropriate mandatory and non-price selection criteria are selected for the evaluation of tenders. The Project Manager is responsible for engaging the Tender Assessment Panel (TAP) who, together with the Project Manager, Probity Advisor (when necessary) and technical experts relevant to the project, design and agree on the non-price selection criteria.

Tenderers must comply with all mandatory criteria to be considered acceptable and, as such, these criteria need not be evaluated and scored in the same way as non-price selection criteria. The mandatory criteria requirements are stated in the Conditions of Tender and include:

- Prequalification and financial capacity;
- Appropriate profit margins; and
- Current commitments.

The following are examples of non-price selection criteria that may be used in evaluating Tenderers:

- Relevant experience;
- Track record;
- Technical skills;
- Management skills (time, relationship);
- Management systems (traffic, environment);
- Supply chain management;
- Resources;
- Methodology;
- Proposed approach;
- Specific expertise (traffic management, bridge construction); and
- Any relevant government objectives.

As can be seen in the above list, Main Roads uses non-price selection to advance overall industry improvement goals, such as treatment of subcontractors and suppliers, industry training and so on. All relevant aspects of non-price should be considered.

FOR MORE INFORMATION:
MRPDS Volume 2 – Tendering for Major Works

1.3 Appoint Independent Estimator and Probity Advisor

1.3.1 Context

Probity is the process of ensuring the integrity of the tendering process and the equal treatment of all Tenderers.

All Main Roads tendering activities must be able to demonstrate high levels of integrity in the process by which procedures are established, understood and observed from the outset. Procedures must be consistent with Main Roads’ policies and legislation and in the interest of fair and consistent tendering.

For an ECI Contract to achieve this integrity, activities and decisions must be able to withstand close and ongoing examination.
1.3.2 Process

A Probity Advisor (PA) is appointed on the basis of project value or risk. The appointment of a PA should be made early in the tender evaluation planning process. It is essential that a PA commands the confidence of the contracting industry through demonstrable independence and fairness.

A PA is appointed to:

- Assist and advise the Project Manager and the TAP on the probity of the tendering process, including tender methodology, evaluation processes, subsequent assessment of tenders and the development of a Probity Plan; and
- Provide assurance that the tendering process is equitable and is properly and fairly applied in seeking and assessing tenders (including compliance with all relevant policies and procedures).

The ECI methodology must adhere to the Probity Plan and the requirements listed in Table 1.1.

Table 1.1 – Typical Probity Requirements for Tender Selection

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fairness and impartiality</td>
<td>Potential suppliers are treated equally and must have the same opportunity to access information and advice</td>
</tr>
<tr>
<td>Use of a competitive process</td>
<td>A competitive process should be used at all times</td>
</tr>
<tr>
<td>Consistency and transparency</td>
<td>Tenderers are evaluated in a systematic manner against explicit predetermined evaluation criteria</td>
</tr>
<tr>
<td>Security and confidentiality</td>
<td>The processes used to receive and manage Tenderers' information ensure the security and confidentiality of intellectual property and proprietary information</td>
</tr>
<tr>
<td>Identification and resolution of conflicts of interest</td>
<td>Any person involved in the tender evaluation process is to declare and address any actual or perceived conflict of interest before undertaking evaluation activities</td>
</tr>
</tbody>
</table>

An Independent Estimator (IE) will be involved in Stage 1 activities to provide detailed advice as to rates, overheads, margins and so on.

If requested, an IE may be involved in audits of the Contractor's records to verify that production rates, overheads and margins used in developing the Stage 2 Offer are consistent with the requirements of the Contract documents.

FOR MORE INFORMATION:

MRPDS Volume 2 – Tendering for Major Works

MR Publication Series > Financial Management Procedures > 03 Financial Governing > 03.05 Probity > Guidelines on the Use of Probity Auditors


1.4 Funding Approvals

1.4.1 Context

The Main Roads financial approval process:

- Facilitates actions towards financial approval and award of contracts; and
• Identifies the current status of financial approval of any proposed contract at any time.

If the Contract is partly funded by the federal government, no financial approvals may be concluded without first receiving the federal approval (regardless of the amount or approval officer involved).

Figure 1.1 – ECI Funding Approval Process

1.4.2 Process

The Project Manager initiates the financial approval process by entering details of the proposed Contract into the Financial Approval Form. This is required early in the tendering process, preferably at the time of calling tenders for Stage 1 and then approximately 4-6 weeks before the Stage 2 Offer is submitted.

The following data needs to be entered into the Financial Approval Form:

• Contract details;
• Closing date of tenders; and
• Expected date of completing the tender assessment.

Consideration should be given to include sufficient allowance in the Stage 1 financial approval to ensure the design function can continue seamlessly.
1.5 Checklist – Firm Intent to Tender

Project Planning
- Appoint and engage a Project Manager (and Tendering Manager if required).
- Project Manager engages a Content Mentor, where applicable, to assist, advise and provide content oversight of the PMP.
- Ensure appropriate budget and time is allocated.
- Keep the Principal's Representative/District Director informed of the PMP development and any issues that need senior management attention and direction.
- Communicate regularly with the District Director regarding the status of activities and upcoming expectations.
- Project Manager submits the completed PMP to the customer (the Main Roads representative who receives the business benefit of the project) for their approval.
- PMP must be approved by the customer.

Confirm Tender Method
- Ensure the PMP has been approved.
- Project Manager selects and appoints the TAP.
- Form a workshop to generate the non-price selection criteria and their weightings.
- Select at least three, and preferably no more than five, non-price selection criteria.

Appoint Independent Estimator and Probity Advisor
- Develop a Probity Plan before the tender process begins.
- Choose and appoint a reputable Independent Estimator and Probity Advisor.

Funding Approvals
- Project Manager initiates the Financial Approval Form.
- Identify and confirm the source and availability of funds for the procurement from the appropriate authority.
2 TENDER PLANNING

2.1 Tender Program

2.1.1 Context
The Tender Program needs to address the following:

- The timing of all tasks, including customer/sponsor/financial approvals and review points;
- A cost plan and an approved source of funds;
- Planning, monitoring, reporting and management controls;
- Appropriate measures to ensure process probity and fairness;
- Knowledge, skill and availability of staff to carry out the procurement process; and
- Any special security considerations.

In planning and managing the tender process, it is important to consider the availability of personnel to undertake the individual activities involved. The Tender Program must allow enough time for all necessary steps to occur.

2.1.2 Process
When determining the duration of the program’s tender activities, allow for the following steps or activities, with the times needed for each:

- Investigations, including market research or consultation with clients;
- Determining viability and design/scope;
- Obtaining funding approval;
- Obtaining necessary internal and external approvals;
- Establishing a Tender Assessment Panel (TAP);
- Preparation of tender documents;
- The tender period;
- Evaluation of tenders and the gaining of approvals for recommendations; and
- The Contract award.

It is important that all stakeholders’ (including the TAP) timing needs are identified and sufficient time is allowed for the overall tender process.

FOR MORE INFORMATION:
MRPDS Volume 2 – Tendering for Major Works

2.2 Team Establishment
2.2.1 Context

It is important to develop a team to manage the tendering process and a TAP that includes senior staff who have been involved in ECI Contracts and can bring their experience and expertise to the project.

![ECI Project Team Structure Diagram]

2.2.2 Process

If there is limited experience in this form of delivery, an appropriately qualified ECI Advisor may be involved after project inception to provide expert advice. A list of current Main Roads ECI Expert Advisors can be obtained from Principal Manager (Contracts).

Typically, the Project Manager will be a separate person from the TAP Chairperson, although allocation of these roles will depend on the size and complexity of the project.

It is desirable that the TAP Chairperson be an experienced person with leadership, communication and negotiating skills, as well as technical and commercial capabilities.

Members of the TAP and those involved in the tender assessment process must:

- Declare conflicts or potential conflicts of interest (see Appendix F);
- Treat all information as "commercial in confidence" throughout the tendering process; and
- Immediately notify the TAP chairperson/Probity Advisor if a conflict of interest arises.

If the project has been approved for federal funding, the Commonwealth may nominate a representative to participate in the tender evaluation. Where this requirement applies, the representative will become a member of the TAP.

**FOR MORE INFORMATION:**

*MRPDS Volume 2 – Tendering for Major Works*

*Appendix F – Sample Documents for Stage 0*
2.3 Early Designer Engagement

2.3.1 Context
In an ECI Contract, Main Roads will always engage a Designer (internal or external) to assist with the Concept Planning/Design. This Designer may or may not continue to work with the Contractor.

2.3.2 Process
The Principal nominates the preferred Designer, who has met the prequalification and resource capability criteria. When the Design Team is appointed, the lead Design Consultant and Project Manager take responsibility for the development of the Project Brief.

The Designers also assist in developing the design information for the tender documents, including:
- Site plans;
- Concept drawings;
- Permit/approval requirements;
- Planning layout drawings;
- Survey drawings; and
- Survey models.

The level of design work required will vary from project to project. However, it should be noted that one of the aims of the ECI Contract is to keep the design flexible so that there is opportunity for development and influence once the Contractor has been selected.

2.4 Tender Selection Process Preparation

2.4.1 Context
The use of mandatory and non-price selection criteria enables the Principal to call for direct evidence of the competence of the Contractor to undertake a particular project. This will require a robust audit trail to demonstrate fairness, transparency and accountability.

In determining the prequalification levels for the project, consideration should be given to whether the Works can be staged in order to regulate cash flow. This may permit a lower financial level to be assigned to the project, in turn opening up the pool of potential Tenderers. Guidance should be sought from Principal Manager (Contracts).

Although the prequalification process does consider the Tenderer’s financial capacity, this is based on an assessment of financial information provided at the time of prequalification. Current financial information should be requested of Tenderers in the tender documentation to enable their financial capacity (in the context of current work commitments) to be assessed under this mandatory criteria as part of the selection process.

Evaluation of the Tenderer’s first envelope covers non-price selection criteria which would generally comprise:
- Personnel qualifications/experience and training programmes matching specific project needs;
• Understanding of project requirements;
• Past performance history on similar projects;
• Proposed approach;
• Management structure and corporate resources;
• Current capacity and availability of back-up resources;
• Assessment of team dynamics, relationships and ability to work with Designer and Main Roads personnel;
• Performance/quality references, independently sourced from other customers;
• Performance monitoring and quality assurance proposals;
• ISO 9000 (or other relevant certifications)/regulatory compliance; and
• Any relevant government objectives.

It is important that non-price selection criteria do not simply duplicate assessment criteria used in the Major Works Prequalification System.

Requirements for the two envelopes, including mandatory and non-price selection criteria, are detailed in the Invitation & Conditions of Tender document.

2.4.2 Process

The TAP develops a Tender Assessment Framework, which includes a Tender Evaluation Spreadsheet to compare each Tenderer’s relative compliance. The spreadsheet lists the mandatory and non-price selection criteria and provides a clear comparison of the conformities and deficiencies of each tender. The spreadsheet should also incorporate the predetermined weightings for the non-price selection criteria for ranking by the TAP.

For larger projects, an external facilitator could be engaged to facilitate the development of the assessment framework.

FOR MORE INFORMATION:

MRPDS Volume 2 – Tendering for Major Works

2.5 Tender Document Formation

2.5.1 Context

An Invitation for Tender is the usual mechanism used for seeking tenders from potential Tenderers. Sometimes third party input is sought from expert parties to help define the Invitation for Tender documents. The tender documents issued as part of that process inform potential Tenderers of:

• The purpose and nature of the project;
• The terms and conditions of the proposed tender process and any contract;
• The information required for evaluating a tender; and
• The non-price selection criteria (with weightings) to be used in evaluating tenders.

2.5.2 Process

The content of the tender documents will vary for projects, depending on size and complexity. Nevertheless, the following key documents will generally be required as a minimum.
Invitation for Tender:
The Invitation for Tender (see Appendix B) indicates:

- Contract number;
- Description and location of work;
- Minimum prequalification level required for Designers and Constructors;
- Closing time and date for tenders;
- Location for lodgement of tenders;
- Main Roads office at which tender documents and any supporting information may be obtained;
- Contact person and telephone number for enquiries; and
- Other statements, such as mandatory Tenderer meetings.

Conditions of Tender:
This document (see Appendix B) details the overall tender process, including the delivery method, probity requirements, communication issues, the selection criteria and the evaluation process. This legal document must be complied with by prospective Tenderers and the Principal.

Tender Forms and Schedules:
These documents (see Appendix B) request specific information from the Tenderer concerning the Works. The tender forms are formal statements of the Tenderer's offer to supply services in accordance with the tender documents.

General Conditions of Contract:
The General Conditions of Contract (see Appendix C) set out the contractual basis for carrying out the Works. Special Conditions of Contract which are unique to the project are sometimes included.

Project Brief:
The Project Brief (see Appendix D) is an important document in the tendering process, which evolves and changes as the dialogue between the Principal and initial Design Team develops. It therefore needs to be accurate and clear, so that both the Principal and the Tenderer easily understand it. The Brief must allow, where feasible, for innovation and development of new techniques, and it must identify where there is potential for cost savings. Drawings and specifications are also included.

Information Booklet:
An Information Booklet (see Appendix A) may be provided to prospective Tenderers and contains an overview of:

- The Project;
- The ECI Contract Methodology;
- The Tender Selection process; and
- Concept drawings.

After the tender documents are drafted, a peer review by Contracts & Standards Branch should be carried out to ensure:

- Compliance with these guidelines and the required procurement procedures and processes;
- Consistency;
- Correctness;
- Simplicity of expression and meaning;
- Relevance and completeness of the information; and
- Compatibility with the Tender Selection Process.
All tenders have a unique identifier which is generated through Projman (the Main Roads system that tracks the financial side of projects on the RIP). The Tender Number should be obtained as early as practicable when compiling the documents and should be identified in all tender documents.

FOR MORE INFORMATION:

Appendix A – Example Information Booklet
Appendix B – Example Volume 1, Invitation for Tender, Conditions of Tender and Tender Forms
Appendix C – Example Volume 2, General Conditions of Contract and Schedules
Appendix D – Example Volume 3, Brief
2.6 Checklist – Tender Planning

Tender Program

- Confirm availability of the TAP.
- Develop the Tender Program.
- Distribute Tender Program to all stakeholders.

Team Establishment

- Identify Main Roads representatives to be involved in the tender planning process.
- Clearly define all necessary responsibilities and delegations for the process.
- Assign enough personnel with appropriate skills, experience and expertise for the project.
- Appoint the TAP, ensuring that:
  - The Panel membership requirements have been identified;
  - The candidates have been identified, interviewed and their availability confirmed;
  - The nominated Panel Members have declared any conflicts or potential conflicts of interest; and
  - The Panel Members have been adequately briefed on the project.
- Document the establishment of resources/teams into the Tender Program.

Early Designer Engagement

- Appoint a suitably pre-qualified Designer.
- Develop the Project Brief.
- Develop design information for inclusion in the tender documents.

Tender Selection Process Preparation

- TAP develops the Tender Assessment Framework.
- Project Manager ensures the framework has been developed and approved.
- The non-price selection criteria are finalised and approved by the TAP prior to the tender documents being sent out.

Tender Document Formation

- Compile the following tender documents:
  - Invitation for Tender
  - Conditions of Tender
  - Tender Forms & Schedules
  - General Conditions of Contract
  - Project Brief
  - Information Booklet (optional).
3 START TENDER PERIOD

3.1 Establish Tenderer Field

3.1.1 Context

Main Roads will call for tenders from suitably pre-qualified Contractors and Designers for a particular project. Main Roads has a register of approved Contractors and Designers for particular types of work, called the Prequalification List. For most projects, Tenderers must have attained a minimum capability/standard to undertake the Works.

3.1.2 Process

The Project Manager begins establishing a competitive tender field via prequalification and advertising. Suitably pre-qualified Contractors and Designers can then respond to the invitation to tender and request the tender documents.

FOR MORE INFORMATION:

MRPDS Volume 3 – Major Works Prequalification System
MRPDS Volume 2 – Tendering for Major Works

3.2 Industry Briefing

3.2.1 Context

Industry Briefings are for general information purposes only, and are intended to assist prospective Tenderers in responding to the invitation to tender. They are an opportunity to outline the ECI process and can be used to gauge the level of industry support and interest for the project.

The benefits of this approach include:

- Explaining aspects of the requirements and emphasising critical elements early in the process;
- Avoiding uncertainties with the process;
- Clarifying and resolving any questions;
- Introducing personnel involved in the development of the tender documents and raising the profile of the upcoming Tender to the market place; and
- Better serving the public interest by providing early access to specific project details.

3.2.2 Process

In addition to providing an opportunity for the project to be explained in more detail, Industry Briefings allow Main Roads to clarify ECI philosophy and practices and their impact on infrastructure function and design. It is also an opportunity for Tenderers to gain clarity and/or ask questions of the Tender requirements. Industry Briefings do not modify or amend any information contained in the tender documents.

The agenda for an Industry Briefing (see Appendix F) will typically cover:

- Project description;
• Project objectives;
• Project scope;
• Timeframes; and
• Specific features (for example, sensitive environmental issues).

FOR MORE INFORMATION:
Appendix F – Sample Documents for Stage 0

3.3 Calling Tenders

3.3.1 Context
Main Roads is responsible for making the tender documents available to suitably prequalified Contractors and Designers who request them.

3.3.2 Process
The tender documents should (where possible) be made available in both hard copy and electronic format. The availability of electronic information enables data to be transferred and tender queries resolved quickly. Contracts & Standards Branch are responsible for distributing the tender documents and maintaining a register of who has received them.

The following table is a general guide to the recommended period for Tenderers to prepare and Main Roads to evaluate and select responses. Times will vary, depending on factors such as project size, complexity and political sensitivity.

Table 3.1 – Recommended Periods for Calling Tenders

<table>
<thead>
<tr>
<th>Activity</th>
<th>Recommended Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tender Document Formation</td>
<td>4 weeks</td>
</tr>
<tr>
<td>Tender Period</td>
<td>4-6 weeks</td>
</tr>
<tr>
<td>Tender Evaluation &amp; Selection (by Main Roads) and Award Stage 1 Contract</td>
<td>3-5 weeks*</td>
</tr>
</tbody>
</table>

* The impact of the Financial Approval Process will need to be considered here.

3.4 Tenderer Meeting

3.4.1 Context
If it is thought necessary, a Tenderer Meeting can be held approximately 1 week after Tenderers have received the tender documents (assuming an overall period is 4-6 weeks). If called, this meeting is mandatory for all Tenderers.

The objective of holding a meeting within 1-2 weeks is to consult with prospective industry parties to ensure they have a good understanding of the tender document requirements.

This meeting does not modify or amend any information contained in the tender documents.
3.4.2 Process

It is the responsibility of the Project Manager to organise a time, date and place for the meeting. It would be advisable to have the TAP Chairperson present.

Having all Tenderers together at a meeting reduces the number of individual enquiries received by project staff during the tender period, and ensures that all Tenderers receive the same information.

The benefits of this approach include:

- Providing a forum to promote an understanding of the requirements that may form to improve the tender documents; and
- Assisting potential Tenderers to properly interpret and respond to the tender document requirements.

3.5 Tenderer Communication

3.5.1 Context

All Tenderer communication needs to be very carefully managed to ensure that confidentiality is maintained, and Tenderers are treated equitably and ethically.

Any clarification, revision, amendment or modification to the tender documents must be issued to all Tenderers in the form of a Notice to Tenderers. The Tenderer must acknowledge receipt of each Notice to Tenderers using the Tender Schedule 1 – Receipt of Notice to Tenderers.

3.5.2 Process

The Project Manager should ensure that:

- All enquiries from Tenderers are documented, noting the time, date and issue discussed;
- Caution and care are exercised with all Tenderers to avoid unfairness or the impression of unfairness;
- Information provided to one Tenderer is also promptly given to all other Tenderers;
- In the case of a significant error, omission, ambiguity or discrepancy in the tender documents, the information provided to resolve the issue is promptly forwarded in writing to all Tenderers in the form of a Notice to Tenderers;
- Each Notice to Tenderers is issued in sufficient time for all Tenderers to consider the amendments properly before tender closes. It may be appropriate to extend the tender period if the Notice to Tenderers is issued late; and
- Each Notice to Tenderers contains an Acknowledgement of Notice to Tenderers form so that Tenderers can acknowledge its receipt in writing.

A practical way to ensure that all Tenderers are given the same information would be to request questions in writing by a given date. All queries can then be answered at one time, with the answers copied to all.

FOR MORE INFORMATION:

MRPDS Volume 2 – Tendering for Major Works
3.6 Checklist – Start Tender Period

Establish Tenderer Field
- Project Manager to contact Contracts & Standards Branch to obtain a list of Contractors who meet the prequalification levels.
- Establish Tenderer Field.

Industry Briefing
- Project Manager to arrange an Industry Briefing and invite participation from industry.
- All Industry Briefings held for Tenderers are minuted. Minutes are then forwarded to all participants and are ultimately included as part of the tender documents.

Calling Tenders
- Contracts & Standards Branch issues tender documents to eligible Tenderers.
- Contracts & Standards Branch maintains a register of issued tender documents.

Tenderer Meeting
- Project Manager forms a Tenderer Meeting, if required, and ensures all meetings are minuted and distributed.

Tenderer Communication
- Project Manager maintains a Register of Tenderer Enquiries.
- All supplementary information provided is sent to all Tenderers.
- Project Manager must forward all Notices to Tenderers to Contracts & Standards Branch.
4 CLOSE TENDER PERIOD

4.1 Open Tenders and Distribute

4.1.1 Context

All people involved in receiving, opening and distributing tenders must be aware of and adhere to the Queensland Government Code of Practice for Procurement. Only tenders received before the specified closing date and time will be considered, unless evidence is supplied that verifies the tender was given to Australia Post/Courier such that, under normal circumstances, it would have arrived in time. All tender envelopes received will be date and time stamped on receipt and added to the Tenderer Register kept by an allocated Main Roads officer.

4.1.2 Process

A two-envelope system is used for an ECI tender, and there are specific procedures for each. The first envelope is opened for all Tenderers and the selection is based wholly on the non-price selection criteria attributes. The second envelope is put in a locked safe until a Preferred Tenderer has been selected, and only then will the second envelope be opened. The second envelope contains the rates for personnel to be used in Stage 1.

When tenders have closed, Districts enter details of all tenders received in accordance with the Main Roads financial approval process. Once tenders are received, they will be evaluated by the TAP against aspects of the mandatory criteria presented below. If the Tenderer does not satisfy the mandatory criteria, a list of reasons must be provided.

Mandatory Criteria

Prequalification

A prerequisite of the evaluation process requires Tenderers to be prequalified for road and bridge works under the Main Roads Major Works Prequalification System.

Financial Capacity

Current financial information is requested of the Tenderers in the tender documentation to enable the financial capacity (in the context of current work commitments) to be assessed. This information must be considered and any questions arising from this information should be resolved before or while the TAP progresses.

Appropriate Profit Margins

Tenderers must nominate their proposed and normal profit margin, corporate overheads, mark-ups on materials and sub-contracts. These items must be within industry norms.

Current Commitments

Tenderers must nominate current workloads and any bids that are in process but not finalised.

If a tender that does not comply with the tender documents is rejected, the reasons are to be clearly documented and communicated to the Tenderer.

FOR MORE INFORMATION:

MRPDS Volume 2 – Tendering for Major Works
4.2 Desktop Evaluation

4.2.1 Context

The objective of the Desktop Evaluation is for the members of the TAP to evaluate tenders on the basis of the Conditions of Tender and selection criteria defined in the tender documents.

Evaluation will be similar to the Qualification Based Selection (QBS) process in the Main Roads Manual for the Engagement and Use of Pre-qualified Consultants on Engineering Projects.

4.2.2 Process

The TAP members will individually review and record scores for each Tenderer against the selection criteria. Each criterion will be scored using the weightings outlined in the Tender Program.

During the evaluation of tenders, it may be necessary to clarify aspects of the Tenderer's responses that are unclear or contain errors. Clarification may also be sought from Tenderers on matters of quality and performance or particular terms and conditions of contract.

All communications with Tenderers should be properly recorded so that a robust audit trail is maintained. Negotiations in relation to price, or other areas where significant changes may be possible or perceived, should not take place. The appointed Probity Advisor can assist with the communication process between all parties to ensure it remains fair and equitable.

The TAP members must record written comments of their:

- Overall evaluation of the tender; and
- Evaluation for each of the non-price selection criteria.

FOR MORE INFORMATION:

Manual for the Engagement and Use of Pre-qualified Consultants on Engineering Projects

MRPDS Volume 2 – Tendering for Major Works

4.3 Panel Moderation and Short-listing

4.3.1 Context

On completion of their individual evaluations, the TAP will meet to develop a consensus assessment for each criterion. This process will be lead by the TAP Chairperson who may organise a facilitator, if required.

4.3.2 Process

Expert technical advisors may be invited to attend the Panel Moderation meeting to provide advice to the TAP.

The Tender Consensus Score Sheets (see Appendix F) produced at this stage will be moderated during interviews of short-listed Tenderers. This is an essential component of the process whereby the TAP identifies:

- Elements of any of the proposals that are unclear or subject to misinterpretation; and
- Questions to be answered at the interviews (if short-listed).
If the TAP decides not to accept any tender and to re-call tenders, the original Tenderers are to be advised of the reasons for re-calling and invited to submit a new tender.

At all times throughout and after the process, the TAP and the Project Manager must treat all information supplied as confidential and not disclose any elements of a Tenderer's bid or any details relating to the discussions of the Panel to any person.

Breaches of confidentiality could lead to disciplinary action. If certain elements are to be disclosed to competitors in order to compare bids on a like-for-like basis, this must be made explicitly clear in the tender documents and must protect commercial confidentiality.

For complex projects, the TAP may hold several meetings.

It is recommended to short-list at least 2–4 Tenderers from the Panel Moderation for an interview. It is necessary to give at least 2 weeks notice and provide an agenda for the interview.

The Project Manager is responsible for notifying successful Tenderers that they have been short-listed. The recommendation shall be supported by an Evaluation Report containing information from the TAP's detailed assessment.

The TAP prepares a Recommendation Report to be sent to the Principal which will include:
- An outline of the methodology used in evaluating the tenders;
- An outline of the tenders received; and
- The findings and recommendations.

The involvement of a Probity Advisor in this process is mandatory. Their main responsibilities are:
- Being present during the short-listing and selection process;
- Attending workshops/sessions as deemed necessary; and
- Advising on the security and confidentiality of intellectual property and proprietary information, to the extent allowed by law and government policy.

The Probity Advisor should provide a separate report to the Principal on the integrity of the process.

FOR MORE INFORMATION:

MRPDS Volume 2 – Tendering for Major Works
Appendix F – Sample Documents for Stage 0

4.4 Interview Preparation

4.4.1 Context

The interview process for Tenderers must be structured, with a set agenda (see Appendix F) which is distributed to the Tenderers.

The interview structure is generally an interactive workshop, using a normal question and answer session followed by a "scenario scene". To ensure equity in the process, a standard set of questions is asked of all Tenderers, with little deviation; however, there are opportunities for the TAP to probe into areas of concern or interest.

The interview will typically be conducted at the Tenderer's premises so the TAP can gain further insight into the organisation’s culture.

4.4.2 Process

The Project Manager, with the assistance of the TAP, develops a structured and standardised Interview Plan. This provides the TAP with a consistent method for raising questions that have emerged during the
desktop evaluation and moderation. It also maximises the TAP's opportunity to observe the Tenderer's team in action through some form of presentation or role-play scenario by the Tenderer, with related observations.

FOR MORE INFORMATION:

Appendix F – Sample Documents for Stage 0
4.5 Checklist – Close Tender Period

Open Tenders and Distribute
- Confirm the tenders are submitted as per the Conditions of Tender.
- Project Manager will record receipt of tenders and check for completeness.
- Districts will enter details of all tenders received in accordance with the Main Roads financial approval process.
- Project Manager will distribute the tenders to the TAP.

Desktop Evaluation
- Each TAP member must receive:
  - A full set of tender documents;
  - Evaluation criteria and weightings;
  - Length of time to evaluate; and
  - Date, time and location of the TAP meeting for Panel Moderation.
- Project Manager organises a follow-up meeting (within 1 week) with the TAP for Panel Moderation.

Panel Moderation and Short-listing
- Probity Advisor develops an independent report.
- TAP produces Recommendation Report for short-listed Tenderers.
- Minutes must be taken at all TAP meetings.
- Project Manager advises the short-listed Tenderers of the date, time and location of the interview.

Interview Preparation
- An Interview Plan (including questions on the non-price selection criteria) is developed by the TAP and the Project Manager and ratified by the Probity Advisor.
- Project Manager organises interviews with the short-listed Tenderers, providing at least two weeks notice.
5 ESTABLISH PREFERRED TENDERER

5.1 Interviews and Reference Checks

5.1.1 Context

An interactive workshop (interview) with nominated key team members will be conducted by the TAP to further assess the Tenderer against the selection criteria. As a minimum, interviews will be conducted with the Project Manager, Design Manager and Construction Manager.

The interactive workshops are seen as a critical component of the selection, where up to ten of the Tenderer's key personnel are asked to attend. The team is asked to clarify and expand on any areas of concern by the TAP, and to undertake a number of tasks built around scenarios that may reflect real challenges for the project. The senior team members are given separate tasks to the Project Team, in order to develop high level strategies and avoid coaching and leading of the team.

The key protocols to be observed during this process include:

- Equal opportunity to be provided to each invited Tenderer, with equal time allocated for each interview;
- Tenderers to be consistently assessed on the basis of the pre-determined criteria and scoring guidelines; and
- Other Tenderers are not to be discussed during these discussions.

5.1.2 Process

The process of the interview is to:

- Evaluate the selection criteria "understanding of and affinity for relationship management" against the Tenderer's demonstrated commitment to integrated teams and relationship management principles;
- Discuss the details of the Tenderer's past relationship contracting experience and how the concepts could be applied to this project to enhance Value for Money;
- Further assess the tender selection criteria against:
  - Track record and relevant project experience;
  - Ability and capacity to participate in this project;
  - Commitment to and delivery of Value for Money; and
- Seek further clarification on other aspects of the tenders.

The Relationship Management Criteria will be scored according to score sheets developed by the Project Manager. Further assessment of the tender selection criteria will be incorporated into the scoring process via the moderation process.

Each TAP member will complete the Individual Score Sheets for various selection techniques used. The TAP shall evaluate the Tenderer's responses immediately following the interview.

The response with the highest consolidated score may be checked against discussions with Referees. Reference checks are carried out on key staff (for example, Lead Designer, Project Manager, Construction Manager) to confirm their experience and ability to work relationally. If the reference checks are dramatically different to what was observed through the previous evaluation stages, the TAP may reduce its assessment scores.

If the response of a Referee does not significantly support the information in the response, the TAP must decide whether to allow the Tenderer a right-of-response. No right-of-response is required if a Referee was used to clarify, rather than confirm, information in a response.
It should be noted the Probity Advisor will witness all interviews (but not necessarily the Reference Checks).

FOR MORE INFORMATION:
MRPDS Volume 2 – Tendering for Major Works

5.2 Preferred Tenderer Selection

5.2.1 Context
The TAP moderates and arrives at a consensus score for the Individual Relationship Management Scoring and the Individual Moderated Tender Scoring for each Tenderer. The objective is to identify the response which most closely meets the requirements as set out in the evaluation criteria.

5.2.2 Process
The Preferred Tenderer Selection process is lead by the TAP Chairperson who may organise a facilitator, if required. Expert technical advisors or previous ECI panel members may attend the interview consensus meetings to provide advice. The Principal and Design Project Team members are asked to attend the workshop as participants, acting as integrated team members.

The key steps include:
- Individual moderation of the response scores and individual scoring of the relationship management criteria during the interviews;
- Consensus scoring of the moderated response scores and relationship management scores;
- Consolidation of the consensus-moderated response scores and relationship management scores;
- Reporting of the consolidated score by the Chairperson and subsequent signing off by the TAP; and
- Selection of a Preferred Tenderer before opening of the second envelope.

FOR MORE INFORMATION:
MRPDS Volume 2 – Tendering for Major Works

5.3 Opening the Second Envelope

5.3.1 Context
The second envelope must only be opened when a Preferred Tenderer has been nominated. The second envelope is opened and the Tenderer is then asked to submit a cost plan for Stage 1, based on the negotiated rates contained in the second envelope. The Tenderer may also be asked to address any particular concerns in their proposed team or methodology.

5.3.2 Process
This step in the process is associated with the opening of the second envelope as per the Qualification Based Selection process in the Main Roads Manual for the Engagement and Use of Pre-Qualified Consultants on Engineering Projects.

If the rates/times provided are not acceptable, the Principal may either commence negotiations or consider the next tender. This step may require advice from suitably skilled and experienced industry advisors.
At this stage, a TAP Tenderer Selection Report must be produced and signed off by all TAP members and the Probity Advisor.

**FOR MORE INFORMATION:**

*Manual for the Engagement and Use of Pre-Qualified Consultants on Engineering Projects*

### 5.4 **Conduct Financial Audit Check**

#### 5.4.1 Context

The Principal may at any time undertake an audit of the Tenderer’s records to verify the percentages stated in the tender for corporate overheads and profit comply with the Conditions of Tender.

#### 5.4.2 Process

The Principal appoints an Independent Auditor to conduct the audit check and test the validity of the information submitted by the Tenderer.

The Tenderer must make available all documents necessary for the purposes of the audit and must comply with any request for further information and documents.

### 5.5 **Discussions (incl. Commercial) with Preferred Tenderer**

#### 5.5.1 Context

Once the second envelope has been opened, the TAP may enter into a period of Post-Tender Negotiation (PTN) with the Preferred Tenderer to gain acceptance of any rules or conditions and to negotiate rates/times for Stage 1, possible incentivisation and other aspects of the Contract.

PTN should not be conducted in a way that puts Tenderers at a disadvantage, distorts competition or adversely affects trust in the ECI tendering process. In particular, PTN must not become any form of "Dutch Auction" (unfairly trading one Tenderer off against another by using the lowest response to seek a reduction in costs from other Tenderers).

#### 5.5.2 Process

PTN can be split into three steps:

1) **Pre-Negotiation:** gather and analyse information, set objectives, develop strategy and tactics.

2) **Negotiation:** listen, analyse, discuss, persuade, move and agree.

3) **Post-Negotiation:** confirm agreement and review negotiation.

Typical areas which may be negotiated during PTN include:

- Payment terms;
- Price;
- Delivery dates;
- Warranties and guarantees;
- Quality;
- Performance indicators;
• Performance monitoring;
• Remedial action;
• Training;
• Documentation requirements;
• Compensation for failure to perform;
• Terms and conditions of contract;
• Liability;
• Insurance; and
• Tenderer's difficulties with the General Conditions of Contract.

The relevant elements of the tender and tender documents, including any terms and conditions negotiated and agreed to by both parties, must be clearly and accurately reflected in the Contract. It is noted that this phase of the process is to settle all outstanding technical, commercial and/or legal issues necessary for finalisation of the Contract. It is not an opportunity for either party to materially alter the proposal.
5.6 Checklist – Establish Preferred Tenderer

Interviews and Reference Checks

☐ Conduct interviews in accordance with the Interview Plan.

☐ TAP members should:
  • Ask the Tenderer to clarify or explain any information provided in the tender;
  • Take notes on all Tenderer’s responses throughout the interview; and
  • Complete Individual Relationship Management Scoring and Individual Moderated Tender Scoring.

☐ Evaluate interviews and conduct reference checks.

Preferred Tenderer Selection

☐ TAP selects a Preferred Tenderer through consensus by considering the interview results, the tender submission and any references obtained.

☐ The Probity Advisor must witness the process of selecting a Preferred Tenderer.

Opening the Second Envelope

☐ Open second envelope of the Preferred Tenderer – review and confirm selection or repeat with the next Tenderer.

☐ TAP produce Tenderer Selection Report

☐ All TAP members, including the Chairperson, must sign the sign-off sheet.

Conduct Financial Audit Check

☐ Appoint an Independent Auditor to conduct a financial audit check of the Preferred Tenderer.

Discussions with Preferred Tenderer (incl. Commercial)

☐ Any changes negotiated with the Tenderer must be recorded in writing and incorporated into the Contract.
6 TENDERER CONSIDERATION

6.1 Recommendation to Principal

6.1.1 Context
After successfully passing the evaluation stages, referee checks and upon conclusion of any negotiations, the Preferred Tenderer will become the Recommended Tenderer.

6.1.2 Process
The TAP completes a Tender Assessment Report which details the processes for determining the recommended Tenderer.

The TAP must also complete and sign a Tender Assessment Recommendation form. If there are any panel members who will not sign the form, they must attach a signed statement of why they do not agree with the recommendation.

When the Recommended Tenderer has been determined, Districts must update this information in accordance with the Main Roads financial approval process. The Recommended Tenderer is selected from those entered after the close of tender and a list of Unsuccessful Tenderers will be generated.

FOR MORE INFORMATION:
MRPDS Volume 2 – Tendering for Major Works
6.2 Checklist – Tenderer Consideration

Recommendation to Principal

- TAP finalises the Tender Assessment Report and Recommendation Form.
- Select the Recommended Tenderer in the Main Roads financial approval process.
7 AWARD THE CONTRACT

7.1 Seek Stage 1 Financial Approval

7.1.1 Context
Stage 1 Financial Approvals cover the Detailed Planning and Preliminary Design Work that is carried out by the Contractor and its Designers.

It is recommended that the Stage 1 funding arrangements include sufficient allowance to ensure the design function can continue seamlessly between Stage 1 and Stage 2.

7.1.2 Process
For Stage 1, Detailed Planning and Preliminary Design is carried out as Daywork and the Contractor is reimbursed for the time of its personnel and Designers at the rates contained in the tender on an "open book" basis. This includes allowance for overheads and margin. The total amount of reimbursement for Stage 1 may be capped following post-tender negotiations.

To gain Stage 1 Financial Approval, the Actual Contract Value and Contract Period must be added to the Main Roads financial approval process. The appropriate approval level being sought (that is, District Director, Deputy Director-General, Minister, Executive Council) will be automatically selected by FAP according to the Actual Contract Value.

For all Executive Council approvals (contract value greater than $3,000,000), the following additional information is required:
- Monthly Progress Payment – Actuals;
- Estimated Employment from the project;
- Commencement Date; and
- Estimated Completion Date.

7.2 Notify Contractor of Stage 1 Acceptance

7.2.1 Context
The date of the Letter of Acceptance is the Date of Acceptance of Tender which signifies the commencement of the Contract and the contract period specified for completion of works.

A Letter of Acceptance is sent from Contracts & Standards Branch to the recommended Tenderer, advising that Main Roads has accepted their tender. The Letter of Acceptance allows the Tenderer to start mobilising and ordering materials and special equipment prior to formalisation of the Contract through execution of a Formal Instrument of Agreement.

7.2.2 Process
Prior to the expiration of the Tender Validity Period, Contracts & Standards Branch will notify the Tenderer by Letter of Acceptance their bid has been accepted.
Only an authorised officer with the delegated authority from Contracts & Standards Branch will sign the Letter of Acceptance.

FOR MORE INFORMATION:
Appendix E – Example Standard Forms and Letters

7.3 Early Works Discussions

7.3.1 Context
Where it is necessary to deliver projects within tight timeframes, it is not unusual to let a separate contract for work known as 'Early Works'. Early Works packages are directed by the Principal's Representative and could include:
- Design Work;
- Documentation Work;
- Construction Work;
- Service Relocations; and
- Accommodation Works.

7.3.2 Process
Before Early Works can commence, the following will need to be in place:
- Appointment of Principal Contractor;
- Payment of Portable Long Service Leave Levy; and
- Insurances.

The Contractor must perform all its obligations under the Contract in respect of Early Works, including:
- Modifying the project program to the reasonable satisfaction of the Principal;
- Undertaking Early Works as Daywork, unless agreed otherwise; and
- Performing Design Development, Documentation Work and Construction Work as required by the Principal.

FOR MORE INFORMATION:
Appendix E – Example Standard Forms and Letters

7.4 Request Stage 1 Budget and Program

7.4.1 Context
This stage is the beginning of more detailed communication between the Contractor and the Principal in regards to the budget and program required for Stage 1.

7.4.2 Process
The Contractor and the Principal need to negotiate and develop a plan addressing the following:
- How big is the project?
7.5 **Signing the Contract**

7.5.1 **Context**

A Formal Instrument of Agreement which formalises the contractual agreement between the Principal and the Recommended Tenderer (including amended General Conditions of Contract where these have been amended) will be inserted as the first page in the Contract. The Formal Instrument of Agreement is a formal legal document that is signed and sealed by both parties. It requires stamp duty and acts as a registering document for the existence of the Contract.

7.5.2 **Process**

The Formal Instrument of Agreement defines the fundamental contractual obligations between the Principal and the Recommended Tenderer.

Within 28 days after the Date of Acceptance of Tender, the Principal must prepare three copies (one original and two duplicate) of the Contract and forward all three copies to the Tenderer for execution.

Within 14 days of receiving the Contract from the Principal, the Tenderer must execute all three copies of the Contract and return all three copies to the Principal.

Within 14 days of receiving the signed Contract from the Tenderer, the Principal must execute all three copies, have them stamped (unless they are exempt from duty) and forward one duplicate copy to the Tenderer and one duplicate copy to the District Office. The original will be kept in Contracts & Standards Branch.

**FOR MORE INFORMATION:**

Appendix E – Example Standard Forms and Letters

7.6 **Feedback to Unsuccessful Tenderers**

7.6.1 **Context**

Unsuccessful Tenderers are advised in writing that their tender has been unsuccessful. In the interests of enhancing future performance, the Principal may wish to offer a debriefing session for unsuccessful Tenderers to examine how their tender performed against the non-price selection criteria.

Potential benefits for the Principal include:

- Identifying ways of improving the process;
- Making sure best practice and guidance is updated to reflect relevant issues; and
- Enhancing Main Roads' reputation as a Customer of Choice.

Potential benefits for unsuccessful Tenderers include:

- Helping them to re-think their approach so that future bids are more successful;
• Offering targeted guidance to improve their chances of doing business in the public sector;
• Providing reassurance about the process and their contribution; and
• Providing a better understanding of the differences between public and private sector procurement.

7.6.2 Process
The debriefing session should address the following issues:
• The unsuccessful Tenderers’ performance against the selection criteria; and
• The strengths and weaknesses of their tender.

The debriefing session should be tailored to each individual Tenderer and held at the earliest possible time after the Award of Contract. It is preferable to have the Probity Advisor present during debriefings. A few basic guidelines are:

• The TAP will conduct the debriefing, with the assistance of a senior officer from the relevant division to provide technical input.
• The content of the session should be carefully planned in advance including:
  - The strengths and weaknesses of the response;
  - A briefing from technical experts;
  - Carefully defined time limits for the session; and
  - Questions sought in advance from the Tenderer.
• Sessions should be informal, but should not be allowed to develop into arguments about perceived strengths and weaknesses.
• Other Tenderers’ responses are strictly confidential and should not be compared or disclosed at debriefings. The merit of responses should only be discussed in general terms.

All debriefing session proceedings should be documented, including:

• The people and company in attendance;
• The information provided;
• Any issues raised;
• Details of information requested but not disclosed; and
• Likely future complaints and/or recommendations for future action.

FOR MORE INFORMATION:
Appendix F – Sample Documents for Stage 0
7.7 Checklist – Award the Contract

Seek Stage 1 Financial Approval
- Identify potential Early Works and include these in the financial approval amount.
- Update the FAP module with the Actual Contract Value and Contract Period.
- If Executive Council approval is required, prepare and submit the additional information required.

Notify Contractor of Stage 1 Acceptance
- Confirm Stage 1 Funding Approval before proceeding.
- Issue Letter of Acceptance to the successful Tenderer.

Early Works Discussions
- Appoint the Principal Contractor.
- Pay Portable Long Service Leave Levy.
- Ensure necessary insurances in place.
- Ensure the Contractor performs all its obligations under the Contract in respect of Early Works.

Request Stage 1 Budget and Program
- Contractor to provide funding and program requirements and details for Stage 1.

Signing the Contract
- The Contract should include:
  - Formal Instrument of Agreement;
  - Letter of Acceptance;
  - Contract correspondence;
  - Tender correspondence;
  - The Tender;
  - Notices to Tenderer;
  - Tender Documents;
  - Drawings; and
  - Specifications
- The three executed copies of the Contract should be distributed as follows:
  - Original – Contracts & Standards Branch
  - Duplicates – one copy for the Tenderer and one copy for the District Office
- The District Office should prepare a copy of the relevant Contract documents for the Contract Administrator and other officers as required
Feedback to Unsuccessful Tenderers

- Provide written notification to all unsuccessful Tenderers.
- Debriefing sessions are conducted by the TAP and the proceedings are documented, including the following details:
  - The people and company in attendance;
  - The information provided;
  - Any issues raised;
  - Details of information requested but not disclosed; and
  - Likely future complaints and/or recommendations for future action.