

**Manual**

**Transport Infrastructure Project Delivery System  
Volume 2 – Tendering for Infrastructure Works**

**August 2022**

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## 1 Introduction

Volume 2 – Tendering for Infrastructure Works contains the concepts, policies and procedures for tendering of infrastructure works or material supply Contracts within the Department of Transport and Main Roads (the department).

The tendering process defined in this volume aims to:

- accommodate the *Queensland Procurement Policy (QPP)* requirements for whole-of-government outcomes
- complement the department's project management methodologies, and
- outline a process aimed at awarding Contracts to those Tenderers that are best able to satisfy value for money requirements.

The application of the principles in this volume requires that:

- The Tendering Manager will hand over all relevant information to the Contract Administrator (CA), and
- The CA would be resourced from suitably experienced and qualified internal (departmental) resources, preferably not the Project Manager to preserve independency of the Administration function or, if these resources are not available, external resources would be engaged from prequalified Contract Administration Standing Offer Arrangement providers. In order to avoid any conflict of interest issues, it is recommended that any external CA should come from a different organisation to an external designer except in extenuating circumstances whereby written approval of the Program Director (Infrastructure Delivery Services) would be required.

Adequate planning and development of tender documentation are critical components of the tendering process. It is recommended that a consistent process is undertaken for each tender. This volume aids consistency by encouraging the use of pro-forma documents contained in the various Appendices associated with this manual.

Any further clarification regarding the application of this volume or its contents should be directed to the Director (Prequalification and Contracts) of Program Management and Delivery.

## 2 Context

### 2.1 *Queensland Procurement Policy (QPP)*

The *QPP* is the government's overarching policy for the procurement of goods and services. The QPP principles are:

- Principle 1:** Putting Queenslanders first when securing value for money – recognising that value for money is more than price paid
- Principle 2:** Advancement of economic, environmental and social objective
- Principle 3:** Integrity, probity and accountability
- Principle 4:** Leaders in procurement practice
- Principle 5:** Working together to achieve outcomes, and
- Principle 6:** Governance and planning.

These priorities may be reviewed by government from time to time. It is necessary to consult the latest QPP as well as the relevant category management plan when formulating a procurement strategy.

For more information, refer to the internal document Engineering Policy EP163 *Infrastructure Procurement Amendments*.

## 2.2 Value for money

'Value for Money' is defined in broader terms than the initial cost of a project. Achieving value for money within the bounds of the QPP requires consideration of:

- overall objectives of the procurement and the outcome being sought
- local content and local benefit objectives are being met
- Best Practice Principles are being met where the project is over \$100M
- targeted indigenous participation objectives are being met (refer to *Queensland Indigenous Procurement Policy*)
- cost related factors including whole-of-life costs and transaction costs associated with acquisition, use, holding, maintenance and disposal
- non-price factors such as fitness for purpose, quality, service and support and sustainability impacts, and
- opportunities to advance economic, environmental and social objectives

and is determined by the appropriate combination of price and non-price criteria for the specific project.

This volume provides practical processes, policy and guidance on achieving 'Value for Money'.

## 3 Terminology

The following definitions are provided for information only. Always refer to the defined terms in the actual Contract.

**Alternative tender** – a tender with a list of departures from and/or amendments to the contents of the Conforming Tender. The Tenderer may submit one or more alternative tenders but only if it has also submitted a conforming tender.

**Application** – tenderer's responses to the first stage of a two-stage tendering process.

**QBuild eTender** - a Department of Housing and Public Works website detailing tenders for construction projects including public housing, civic, education, health and sports facilities.

**Best Tender** – the most advantageous tender for the Principal in the overall assessment of tenders.

**Complying Tender** – a tender which satisfies all the Conditions of Tendering.

**Conditions of Tendering** – document that describes circumstances which are acceptable to the Principal for accepting a Tenderer's response. In some circumstances, this document may form the basis of a Pre-Award Contract. For more information on Pre-Award Contracts, contact the Prequalification and Contracts Unit of Program Management and Delivery via the e-mail address [tender\\_contracts@tmr.qld.gov.au](mailto:tender_contracts@tmr.qld.gov.au)



**Conforming Tender** – a tender which conforms in all respects to the requirements of the tender documents.

**Deemed alternative tender** – a tender with acceptable conditions or assumptions which, at the discretion of the Tender Assessment Panel (TAP), is accepted for further analysis in the assessment process.

**Departmental procurement procedures** – procedures developed by the department to ensure that:

- the department meets the government's procurement objectives
- all departmental procurement activities are carried out in accordance with associated internal systems and processes. Refer to the following SharePoint sites (available on the departmental intranet): Chief Procurement Office (via Finance page) and Program Delivery and Operations (via PDO Connect) and Infrastructure Procurement (via PDO Connect).
- 'Use of Probity Auditors and Probity Advisors in Procurement' are part of the department's commitment to ethical behaviour, and
- have been developed to give guidance and support to departmental officers.

**Department's Strategic Procurement Plan** – the department's Strategic Procurement Plan provides guidance for the achievement of objectives outlined in:

- *TMR Strategic Plan* (as current in the year of publication), and
- *The Queensland Procurement Policy*.

**Minor Infrastructure Contract – Construct Only (MIC-CO)** – a form of construction Contract, previously known as Minor Works Contract (MWC).

**Minor Infrastructure Contract – Sole Invitation (MIC-SI)** – a form of construction Contract, previously known as Minor Works Performance Contract.

**Non-price selection criteria** – factors, other than price, that address identified risks or opportunities (both departmental and whole-of-government perspectives) and are used to differentiate between acceptable (or prequalified) Tenderers and select the best value for money tender.

**Post-tender period** – the period of time between the lodgement date of applications / tenders and the date of the Letter of Acceptance.

**Post-tendering process** – activities undertaken during the post-tender period to assess tenders, identify the best tender and arrange for the award of the Contract.

**Pre-tender period** – the period prior to the date the tender is advertised.

**Pre-tendering process** – activities undertaken during the pre-tender period to develop the tender documents and tender assessment processes.

**Principal** – the Principal is the State of Queensland acting through the Department of Transport and Main Roads.

**Principal's delegate** – the departmental officer appointed as the Principal's Delegate.

**Principal's Representative** – a person who has been appointed to exercise any functions of the Principal under the Contract.

- The Project Manager, Tendering Manager, Principal's Representative and the Chair of the TAP, may be delegated any or all of the responsibilities of the Principal.
- Typically, the Principal's Representative will be a separate person from the Project Manager and Tendering Manager. The separation of roles will depend on the size and complexity of the project or Contract.

**Probity Advisor** – a person who is appointed to ensure the tendering process is carried out in accordance with the Probity Plan during the tender assessment period.

**Project Manager** – a person appointed to manage a project.

**Short list** – a short list generally consists of three or four tenders, however, the TAP has the discretion to determine the number.

**Tender Assessment Panel (TAP)** – the group of persons appointed by the Principal to assess applications / tenders and to make a recommendation on the application / tender which would, in their opinion, provide best value for the department. The chair of the TAP:

- chairs the meetings of the panel
- ensures all decisions of the panel are minuted
- involves the Probity Advisor and ensures the Probity Advisor, if appointed, is given all necessary information
- leads the panel through the defined evaluation process, and
- clearly defines the panel's recommendation.

**Tender Assessment Report (TAR)** – details the assessment process and outcomes, including a tender recommendation.

**Tender Evaluation Plan (TEP)** – details the procedures, policies, responsibilities, controls and anticipated outcomes of the tender evaluation process. In addition, it identifies the procurement objectives, risks and the proposed assessment criteria. The TEP defines the tender evaluation process.

**Tender period** – the period of time between the advertisement date and the lodgement date.

**Tendering Manager** – the person appointed by the Principal to undertake all tender evaluation work including:

- defining the tender evaluation process
- facilitating effective implementation of the tender evaluation process
- managing tender evaluation process through the TEP
- ensuring decisions have been documented and authorised
- ensuring TAP has appropriate resources, and
- authorising correspondence with Tenderers.

**Tenders in Contention** – the term ‘Tenders in Contention’ relates to a ranked shortlist of the most advantageous tenders. For price-only selection, these are usually the lowest priced acceptable tenders and for price and non-price selection, the tenders that received the best scores.

**TIPDS** – *Transport Infrastructure Project Delivery System*, consists of three volumes that contain the concepts, policy and procedures that aid in the delivery of the department’s works projects and material supply Contracts.

**Transport Infrastructure Contract – Construct Only (TIC-CO)** – a new form of construction Contract, previously known as Road Construction Contract (RCC).

**Transport Infrastructure Contract – Cost Reimbursable (TIC-CR)** – a new form of construction Contract, previously known as Performance Incentive Cost Reimbursable (PICR).

**Transport Infrastructure Contract – Design and Construct (TIC-DC)** – a new form of construction Contract, previously known as Design and Construct (D & C).

**Transport Infrastructure Contract – Sole Invitation (TIC-SI)** – a new form of construction Contract, previously known as Road Performance Contract (RPC).

**Transport Infrastructure Management Guideline (TIM)** – represents the total process for the department’s stewardship of the state controlled road system.

**Unusually Low Bid (ULB)** – is defined in the Conditions of Tendering and is generally a tender where the corrected price is a defined percentage or more below the median tender price of the conforming tenders. It is at the discretion of the Principal, under prescribed circumstances, whether a ULB is considered further.

## **4 The tendering process and other requirements**

### **4.1 Approaches to tendering**

The department uses the following generic approaches to tendering for infrastructure works:

**Public invitation (Open Tender)** – potential Contractors are informed of available works through advertising in media such as QTender. Depending on the requirements of the project such as complexity, Tenderers are usually required to be either:

- prequalified under TIPDS Volume 3 – *Prequalification System* now incorporating the National Prequalification System (NPS), or
- a registered specialist supplier.

For federally funded projects, Tenderers will be required to comply with specific legislation such as the *Building Code 2016* and be accredited under the *Australian Government Building and Construction WHS Accreditation Scheme* subject to the project meeting each of the required thresholds. The department will also be required to comply with the Australian Government department of Infrastructure, Transport, Cities and Regional Development’s (DITCRD) *Indigenous Employment and Supplier-Use Infrastructure Framework*, subject to the project meeting the required thresholds and ‘Notes on Administration for Land Transport Infrastructure Projects 2019-2024 (Notes)’. DITCRD recognises there may be circumstances relating to individual projects which cannot be readily addressed by referencing the Notes. The department is to discuss these circumstances with DITCRD in the first instance. Contact Director (Prequalification and Contracts) for more information.

For State funded projects:

- Tenderers will need to comply with the *Queensland Code of Practice for the Building and Construction Industry*.
- above \$3M in civil construction (including GST) and \$500k in building work (including GST), Tenderers will need to comply with the *Queensland Government Building and Construction Training Policy*.
- Tenderers must comply with the *Ethical Supplier Threshold and Ethical Supplier Mandate* (refer to the QPP). If any Tenderer is sanctioned under the Ethical Supplier Mandate, they are not eligible to tender for the projects.
- at least one regional and one Queensland supplier, where possible, to participate in the tender to comply with the QPP.
- include Local Benefits Test and/or Best Practice Principles (refer to the QPP) non-price criteria where applicable, and
- where the total Queensland Government contribution is above \$5.5M (including GST) for South East Queensland or \$2.75M (including GST) for regional Queensland, Tenderers will need to comply with the *Queensland Charter for Local Content*. This contribution applies at the project level.

Appendix L – *Policies for Transport and Main Roads contracts* – provides further detail on applicable policies and legislations depend on funding contributions and thresholds.

**Private invitation** – only selected Contractors are invited to tender. Generally, the chosen Tenderers are pre-registered for the class and type of work or services required under the Contract and the work is of a nature for which there is a limited pool of suppliers such as for asphalt overlay work.

**Sole Supplier** – the award of a Contract where there is only one supplier that can provide the requirements (that is, one known supplier).

**Single Invitee** – the award of a Contract to one supplier, despite availability of other suppliers, without a competitive bidding process, for a justifiable reason (that is, only one out of multiple suppliers is selected). For the justification, a Tender Process Evaluation (TPE) form must be completed and the template is available from the Principal Officer (Infrastructure Procurement).

This is normally decided at the procurement planning phase. Usually, local government or RoadTek, but may be offered to the private sector in emergent or special circumstances. In these instances, reference should be made to TIPDS Volume 1 Appendix H – *Sole Invitation Justification Methodology*, Appendix K – *Sole Invitation (TIC.SI and MIC.SI)* of this volume or contact the Director (Infrastructure Procurement) of Program Management and Delivery for more information.

- Transport Infrastructure Contract – Sole Invitation (TIC-SI)
- Minor Infrastructure Contract – Sole Invitation (MIC-SI)

This volume focuses on the Public Invitation tendering approach (although the general principles can be applied to both Private Invitation and in part to Sole supplier or single invitee).

**4.2 Tendering process phases**

There are four distinct phases in the departmental tendering process as illustrated in Figure 4.2 below:

**Figure 4.2 – Four phases in the tendering process**

<b>Tender Planning Phase</b>
<b>Tender Development Phase</b>
<b>Tender Analysis Phase</b>
<b>Contract Formation Phase</b>

The four tendering process phases are generic, but can be applied to any Contract type that is tendered on the open market or by private invitation, however, the steps within each phase vary greatly between Contract types and in some cases the Early Contractor Involvement (ECI) and procurement process (which uses the Collaborative Project Agreement (CPA) Contract), for example, the tendering process steps are only a rough fit into the generic process phases.

The basic tendering processes adopted for a TIC-CO Contract is outlined below in Figure 4.5.

For guidance on Small Scale Minor Works (SSMW) and Minor Infrastructure Contract (MIC) refer to Appendix M – *Low value Infrastructure Procurements – Small Scale Minor Works* (SSMW).

For guidance on tendering process for *Road Maintenance Performance Contract* (RMPC), *Road Asset Management Contract* (RAMC), *First Response Emergency Works* (FREW) and *Public Private Partnership* (PPP), contact the Director (Prequalification and Contracts).

While in general these steps are applicable to all Contract types following the generic tendering process, they are specifically applicable to the tendering of TIC-CO.

**4.3 TIC-CO tendering process**

The tendering process for a TIC-CO is illustrated in Figure 4.5(a) and Figure 4.5(b). Note: there will be some slight differences when electronic tendering QBuild eTender is involved. Contact Director (Prequalification and Contracts) for more information.

Figure 4.5(a) shows a one-stage tendering process, but the TIC-CO can also be tendered using a two-stage tender. In a two-stage TIC-CO tender, an EOI would be called to shortlist those eligible for the second stage of selection, refer Figure 4.5(b). For more information on a two stage TIC-CO tender refer to TIPDS Volume 1.

**4.4 Other forms of Contract**

Processes used in other forms of Contract have undergone significant change over a number of years. MIC-CO tenders would follow the same process as TIC.

Contact Director (Prequalification and Contracts) for advice on other forms of Contract tendering processes.

#### **4.5 Building works special requirements**

The *Queensland Building and Construction Commission (QBCC) Act 1991* (Qld) and Queensland Building and Construction Commission Regulation 2018 (Qld), may apply if the Contract involves the construction or demolition of 'buildings' (as defined under the QBCC Act). This may include the construction or demolition of a toilet block, control room, or bus interchange, or demolition of existing buildings.

There is a clause in the TIC clause bank regarding compliance with QBCC requirements. If the Act applies, not only is the Contractor required to have a QBCC licence, but there will be different requirements such as amount of security that can be withheld unless agreed otherwise.

Project Trust Accounts may also apply for building work valued over \$10M or more (excluding GST) pursuant to the *Building Industry Fairness (Security of Payment) Act 2017* (Qld). Any Project Trust Account will not apply, unless 50% or more of the Contract is building work.

For more information on Project Trust Accounts, the Department of Housing and Public Works has prepared guidelines, available here: [Trust accounts | Queensland Building and Construction Commission \(qbcc.qld.gov.au\)](https://qbcc.qld.gov.au/trust-accounts)

Any Project Trust Account eligible project must be advised to the Director (Facilities and Accommodation Solutions).

Depending on the circumstances, it may be better risk management to have such work carried out under a separate building Contract. Specialist advice should be sought from the Director (Prequalification and Contracts).

Figure 4.5(a) – Transport Infrastructure Contract – Construct Only one-stage tendering process

Transport Infrastructure Contract - One Stage Tendering Process

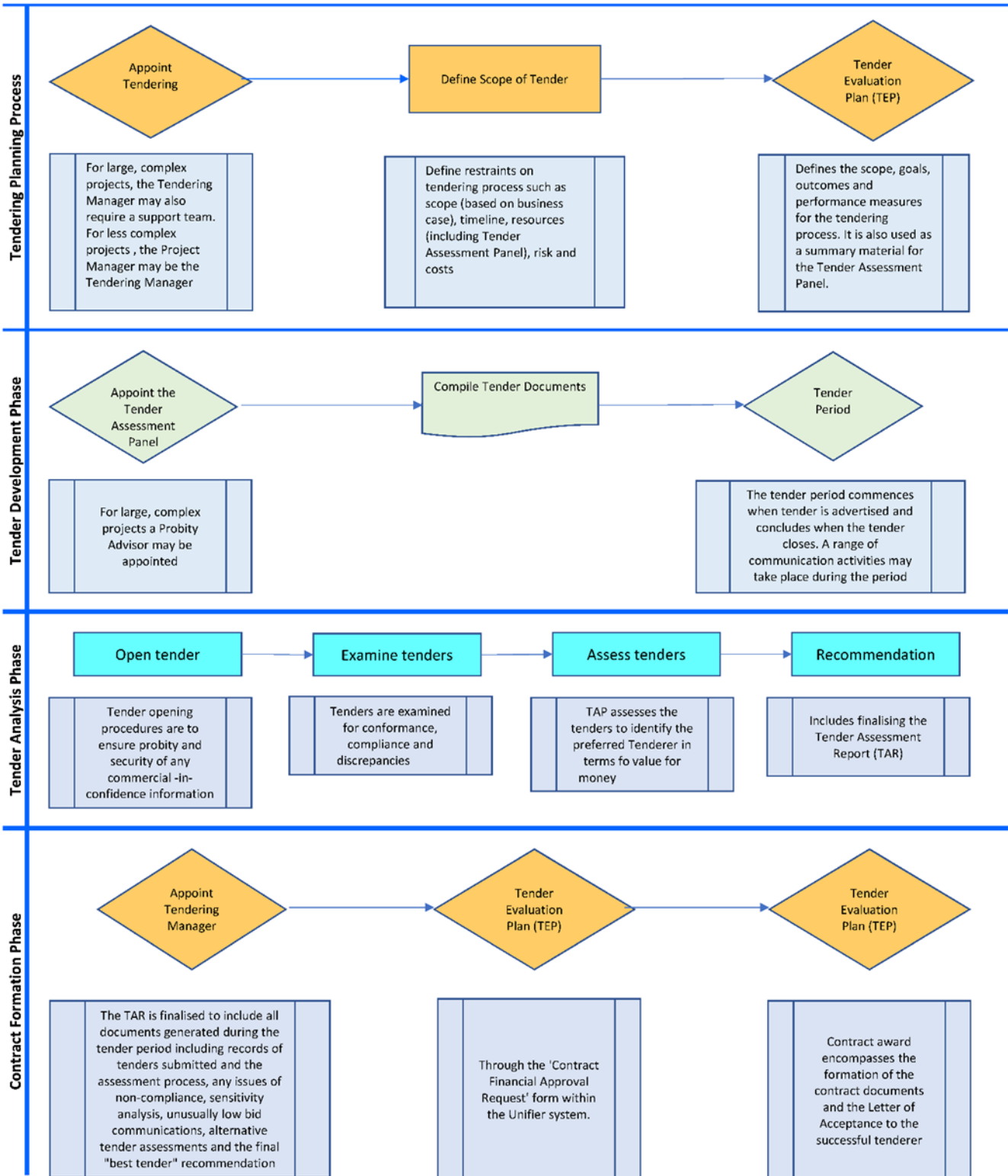
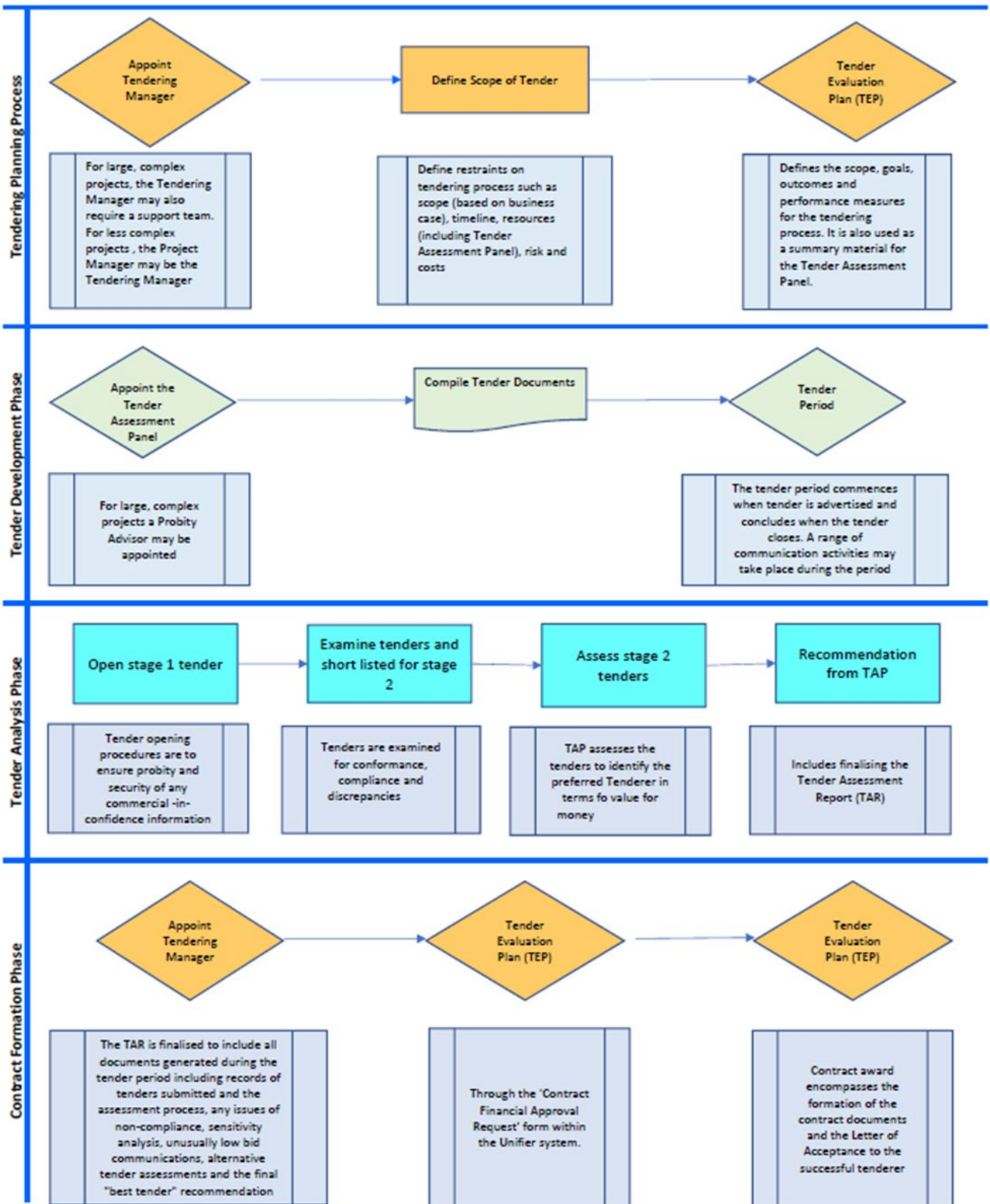


Figure 4.5(b) – Transport Infrastructure Contract – Construct Only two-stage tendering process

Transport Infrastructure Contract - Two Stage Tendering Process





## 5 Tender planning

### 5.1 Tender planning process

Certain policies and principles apply when planning a tender process. The following guidance is included to ensure that tendering activities are thorough, competent and effectively planned and undertaken.

The tender planning process, as illustrated in Figure 5.2.2, includes the following actions that must be taken before finalising the tender documentation:

- selecting a Tendering Manager (delegated by the Principal)
- defining the scope of work required to undertake the tender (project scope which includes risks and opportunities, timing, cost and Contract type), and
- preparing a suitable briefing document for the TAP including timing, resources and risk and opportunity aspects defined.

Before tender planning commences, the Tendering Manager should be aware of the fundamental aspects of the project. This knowledge will help identify any risks there may be in the tendering process, thereby enabling the process to operate effectively. These aspects are detailed in the business case and include:

- Project scope and objectives.
- Stakeholders.
- Estimated construction cost and possible constructability issues. (A principal's estimate should be prepared for all infrastructure works. It is not produced with the same detailed attention as a Contractor's bid. It is used for management tasks such as reconciling program figures, judging value for money and determining prequalification and financial levels<sup>1</sup>. This estimate is not to be disclosed to any external party and is not to be announced at the time tenders are opened).
- Project deadline.
- Issue definition and identification of impacts, especially potential environmental risks.
- Risk analysis, including identification of constraints and critical success factors.
- Planning activities undertaken to date.
- Australian and State Government policy obligations.
- Federal funding conditions such as Indigenous participation plans, and
- Delivery strategy.

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<sup>1</sup> Refer to *Transport Infrastructure Project Delivery System* Volume 3 for more information on determining prequalification and financial levels.

## **5.2 *Managing the tendering process***

### **5.2.1 Appointment of the Tendering Manager**

To ensure that the tendering process for each project is thoroughly planned, authorised and implemented effectively, it is essential that a nominated officer with suitable experience and capabilities be appointed as Tendering Manager.

The Principal is responsible for appointing the Tendering Manager at the outset of the tender planning process. When making the appointment, the Principal must define the specific responsibilities of the Tendering Manager for the project, including requirements of project scope and any limits of authority.

For many projects, the Project Manager will be the Tendering Manager.

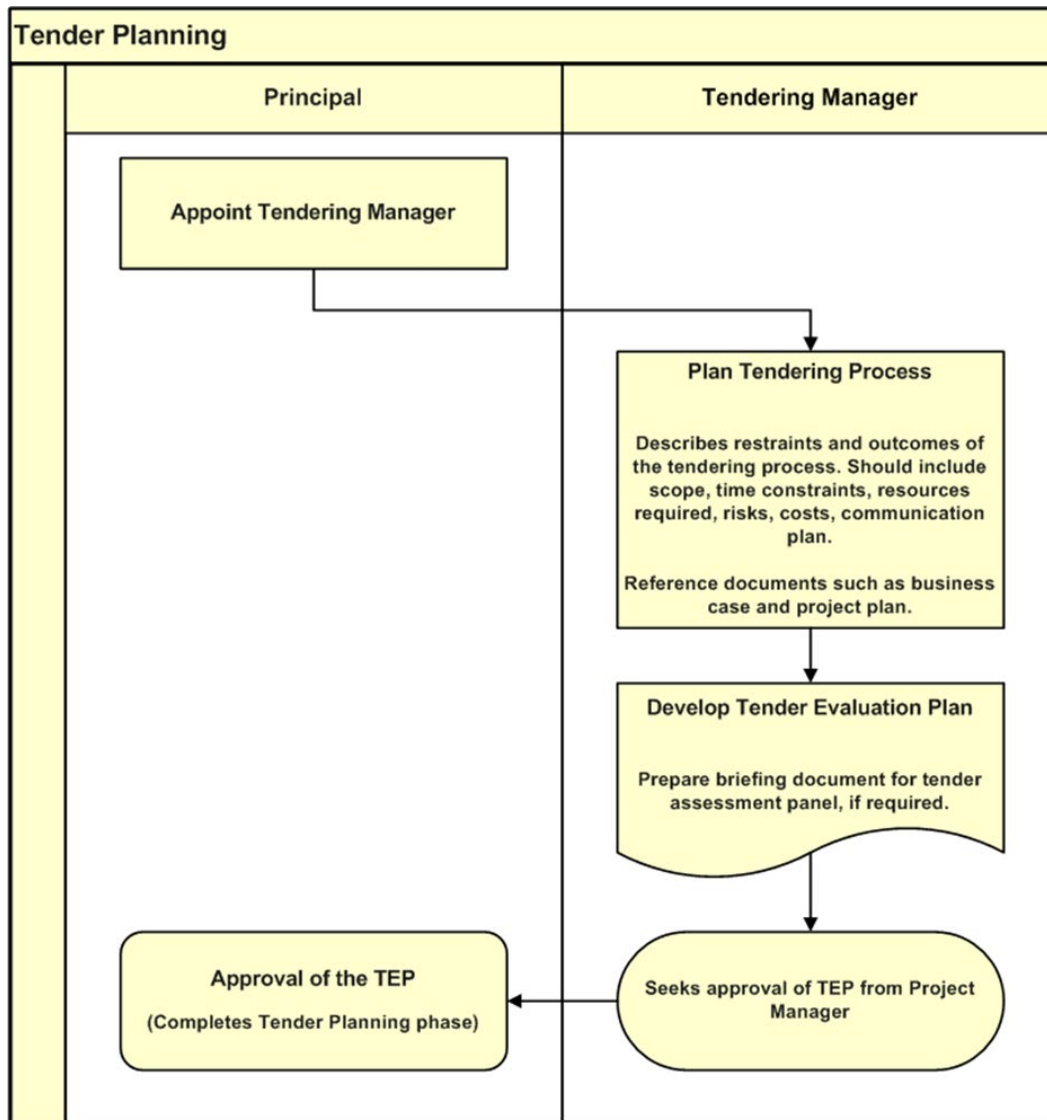
### **5.2.2 Role of the Tendering Manager**

The role of the Tendering Manager is to represent the Principal by:

- defining the tender evaluation process
- manage the tender process and team to ensure Tenderers are not delayed in submitting their tenders, and
- facilitating effective implementation of the tender evaluation process.

The project's business cases and other planning documents should define the project's scope, risks, opportunities and outcomes. The Tendering Manager must strive to ensure that the tendering process manages any identified risks and enhances the achievement of project outcomes. Project outcomes that are clear, unambiguous and approved, will help to simplify the tender process and assessment.

Figure 5.2.2 – Tender planning procedure



### 5.2.3 Responsibilities of the Tendering Manager

On appointment, the Tendering Manager must clarify that the project scope and project outcomes have been clearly defined and approved (based on the business case and other documents).

The Tendering Manager is responsible for undertaking the tendering process including:

- confirming the risks in the project to be managed in the tendering process
- initiating the tender evaluation planning process
- preparing the TEP
- defining the tender methodology
- defining the timeline for the tendering process
- ensuring the tendering process complies with departmental policies and procedures
- ensuring that the tender documents have been reviewed for completeness and correctness prior to calling tenders

- checking resources are available for the tendering process
- checking the TAP has the correct skill mix for its nominated responsibilities
- briefing the TAP on relevant project specific information
- assembling all relevant project files and reports
- filing a Procurement Notification form with the Department of State Development, Manufacturing, Infrastructure and Planning if the Queensland Charter for Local Content will apply to the procurement (refer <https://www.statedevelopment.qld.gov.au/industry/industry-support/qld-charter-for-local-content> for more information including accessing the necessary form)
- assessing a project's capability to comply with the deemed hours requirements of the Queensland Government Building and Construction Training Policy, if the policy will apply, prior to advertising the tender. If the Contract is assessed as unable to meet the deemed hours requirement, a variation to revise the deemed hours requirement must be negotiated and approved by the Department of Employment, Small Business and Training (refer <https://training.qld.gov.au/employers/trainingpolicy> for more information)
- where the *Building Code* applies, notify the Australian Building and Construction Commission as soon as practicable after an Expression of Interest (EOI) or tender is issued using the EOI / tender notification form and once awarded an ABCC Contract Notification Form (refer <https://www.abcc.gov.au/building-code> for more information)
- reviewing tenders that meet other government policies such as, Indigenous participation, local and/or social benefits and Best Practice Principles
- some tenders may require the inclusion of special clauses and key performance indicators such as Better Performance in Construction (BPIC) and Client-side Safety Governance (CSSG), and
- initiating the financial approval process.

The Tendering Manager must also develop an understanding of the project history and relevant issues including:

- project justification and objectives
- Site features
- traffic conditions
- environmental requirements, and
- safety issues.

At appropriate stages of these activities, the Tendering Manager should review any key performance indicators that measure the effectiveness of the tendering process undertaken.

#### **5.2.4 Credentials and capabilities of the Tendering Manager**

The Tendering Manager must have no conflict of interest with the project or likely Tenderers and have:

- experience in relevant departmental projects or equivalent
- understanding of the project or the ability to acquire it, and
- knowledge and understanding of policies and principles relating to the department's tendering processes (preferably with hands-on experience in applying them).

#### **5.3 Planning the tender process**

Planning the tender process increases the ability to manage risks and decreases the possibility of rework and delay. The Project Manager, on behalf of the Principal, decides on the method of tender evaluation, taking into account the opportunities and risks, along with the scale and complexity of the project.

The Tendering Manager is required to undertake planning for the tender process which includes the following activities:

- assessment and selection method to be applied to choosing the best tender
- identification of risk and opportunity
- determining appropriate non-price selection criteria, and
- determining the tender selection criteria.

When planning the tender assessment process, care must be taken to ensure the assessment period does not exceed the tender validity period detailed in the tender documents. The tender validity period is typically three months. If the project is complex or unusual, the tender validity period may be longer.

Approval must be obtained from the Director (Prequalification and Contracts) in writing if the tender validity period is longer than three months.

It is the role of the Tendering Manager to finalise the Annexure to the Conditions of Tendering (incorporating any particular requirements of the Project Manager or Principal) prior to finalising the tender documents. This may involve adding project specific clauses as required.

##### **5.3.1 Methods of choosing the best tender**

TIPDS Volume 1 guides the development of a Project Delivery Strategy. The last decision to be made when compiling the strategy is to select a Sole Supplier, Single Invitee or Open Market procurement approach.

For sole supplier or single invitee tenders, the tender documents define initial requirements. Negotiations between the department and the tenderer will finalise the scope, cost and quality of the works. These negotiations occur during the tender period and the purpose is to ensure both government and project-specific objectives are met.

For Open Market tenders, there are a number of tender selection methods to choose from. Essentially, they are based on the selection of a tenderer through price, or a combination of price and non-price selection criteria.

When a two-stage tendering process is used for works Contracts and an EOI is used to short-list Contractors, a non-related company shall be included in the shortlist. Related companies have a common parent company which either owns outright or has a controlling interest in the related companies.

Where related companies are bidding for work, there has been a perception that there is a lack of competition. Inclusion of a non-related company in any short listing will preserve competition principles. Advice should be sought from a Probity Advisor if there is doubt about the process when related companies are shortlisted, or seek advice from the Director (Prequalification and Contracts).

### **5.3.2 Identification of risk and opportunity**

The early identification of risks and opportunities aids in their effective management. Evaluation of the significance of a risk or opportunity is essential when considering the appropriate project delivery option (refer TIPDS Volume 1) and whether to use non-price criteria in the tender selection process.

The following are examples of typical project risks and opportunities that need to be considered during the tendering process:

- a) Pavement rehabilitation and/or reconstruction in an urban environment.  
This may require the work to be staged, with the potential for significant disruption to through traffic, property access and business operations. This will require interaction with a number of stakeholders such as environmental and cultural heritage, service authorities, individual property owners and local businesses.
- b) Major construction works in a remote rural location.  
This may require liaising with local land owners for access for construction material, dealing with native title issues, local employment and training, environmental cultural heritage and so on.

All risks and opportunities are to be assessed in accordance with ISO 31000:2018.

It is imperative that the TEP identifies issues deemed to be significant. Examples include:

- technical speciality and any unique competence requirements
- specific traffic management challenges (sequencing and staging)
- constructability issues
- community relationship factors, including community and user group consultation
- communication requirements and capabilities

- safety and environment constraints including any significant issues identified in the design consultant's Safety In Design Report
- local and/or social benefit
- indigenous participation
- ability for the project to meet Training Policy requirements
- Building Information Modelling (BIM) requirements (refer attached link <https://www.tmr.qld.gov.au/business-industry/Technical-standards-publications/Building-Information-Modelling>) which would progressively be implemented into all major state infrastructure projects by 2023
- scheduling, and
- market forces.

The use of non-price criteria analysis enables the TAP to broaden a 'price only' tender analysis and assist in determining the 'best value' tender.

Non-price criteria can be used to address:

- any project-specific requirements not adequately covered by the prequalification system
- emergent government priorities, and
- industry cultural change initiatives that have not sufficiently matured to be incorporated in the prequalification system.

Scheduling a pre-close of tender meeting may also be an effective way of ensuring risks or opportunities are highlighted and discussed with Tenderers.

### **5.3.3 Non-price selection criteria**

Ideally, it should be possible to significantly minimise project risks through effective planning, design and documentation by the Principal. In this instance, considering price only in the tender analysis is appropriate to allocate residual risk. Repetitive, routine or low risk projects are good examples where price only tender analysis is typically the most effective tendering methodology.

However, if a project of any size or complexity has residual risks that are difficult to manage through design and documentation, mitigating the risk through the use of non-price criteria can be an effective strategy. Non-price criteria are factors, other than price, used to differentiate between acceptable tenders and select the best value for money tender where best value for money is not solely price dependent.

For Contracts less than \$20M, approval must be obtained in writing from the Executive Director (Program Management and Delivery) if non-price selection criteria are to be used. Consideration should be given to the factors listed under Section 3 of this Appendix G. Refer to TIPDS Volume 1 or contact the Director (Prequalification and Contracts) for more information.

Non-price criteria require an examination of a Tenderer's capabilities in the specific areas nominated.

Examples of non-price criteria include:

- constructability including staging of work
- specific skills or expertise directly relevant to the circumstances of a particular project that may better satisfy critical project requirements
- innovation
- understanding of the project requirements (resource strategy, supply chain management) that are critical to the successful delivery of the project and/or sustainability of the industry
- approach to partnering / relationships
- communications
- local and/or social benefit and Best Practice Principles in accordance with the QPP
- past performance including compliance with government policy, and
- claims history.

Figure 5.3.4 illustrates the relationship between single-stage and two-stage selection processes.

It is necessary to ensure that non-price criteria are expressed in a way that allows:

- a clear analysis of each Tenderer's approach to the project
- formation of performance indicators for each non-price criteria to measure efficiencies in methodology, resource strategy and other criteria, and
- subsequent assessment of achievement of nominated project outcomes.

Further information on the development and use of non-price selection is contained in Appendix G.

#### **5.3.4 Determining the tender selection criteria**

Risks and opportunities identified in the Business Case should be re-evaluated, assembled and weighted in accordance with their relative importance and uncertainty. Those deemed sufficiently important will provide the basis for non-price selection criteria.

It is imperative this process is documented and included in the TEP. The TEP must also include the component attributes of the risks or opportunities and the means by which tender submissions are to be assessed.

Determining the selection criteria and their relative weightings involves an element of subjective judgement and a good knowledge of the project objectives. Whenever non-price selection criteria are to be used, it is important that the TAP be fully briefed on the project and its desired outcomes. The TAP is responsible for, and must be fully involved in, the entire tender evaluation process. Prescribed weightings for the QPP and the Best Practice Principles requirements may apply with the Best Practice Principles weighting and evaluation criterion text to be approved by the Minister for Housing and Public Works or delegate. Engineering Policy EP163 *Infrastructure Procurement Amendments* provides further detail on how to implement the local benefits test and Best Practice Principles on departmental projects.

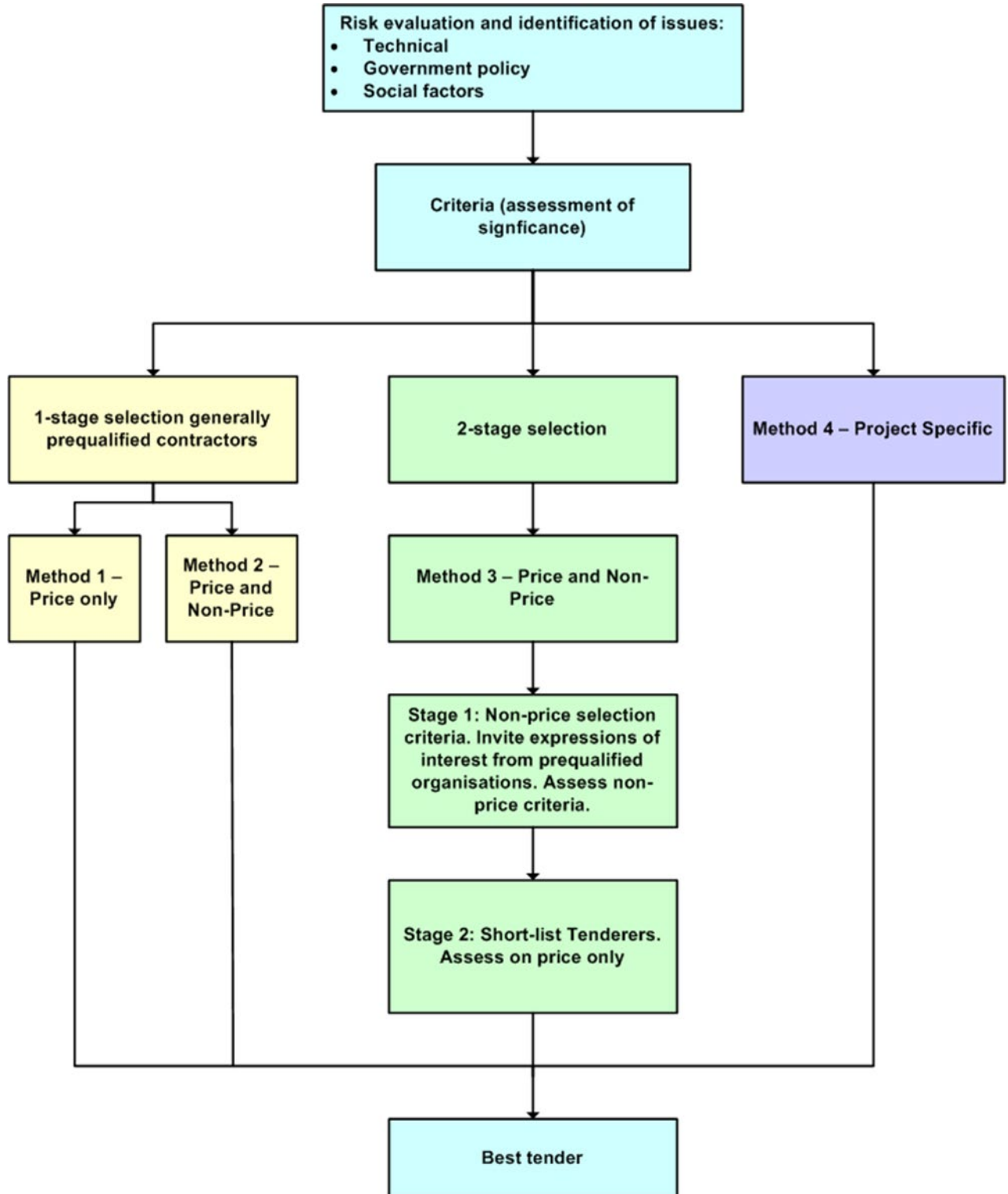
Relative weightings of the identified criteria (including the allocation of price and non-price criteria) should be determined by a disciplined process of comparative scoring of all the criteria against each other. A suggested model with a typical example is given in Appendix G.



For less complex projects, it is acceptable for officers who are intimately familiar with a project, its circumstances and its risk factors to establish the weighting factors.

The nominated selection criteria and their relative weightings must be clearly documented in the TEP and approved by the Principal.

**Figure 5.3.4 – Relationship between selection processes and non-price criteria**



## **5.4 Tender evaluation plan**

Effective implementation of the activities that comprise the tendering process relies upon careful and thorough planning of the tender evaluation process.

Regardless of the type of project delivery methodology, a record of decisions must be kept to be able to demonstrate probity and transparency. In this regard, a Probity Plan should be prepared for each project (Refer Appendix A for more detail).

Volume 2 Appendix D contains a checklist of tendering process activities, including the main decisions and responsibilities.

A TEP details the procedures, policies, responsibilities, controls and anticipated outcomes of the tender evaluation process. In addition, it identifies the procurement objectives, risks and the proposed assessment criteria.

The objectives of the TEP are to:

- detail how the tender evaluation is to be undertaken and managed
- ensure the process is undertaken in an efficient manner
- ensure that no tender is given an unfair advantage or disadvantage
- aid in the observation of ethical and legal obligations during the tender evaluation phase, and
- provide a baseline for measurement of progress and completion of the evaluation process.

The TEP can also be used as part of the briefing for the TAP.

While a TEP is mandatory, the format used is discretionary. Appendix B contains generic TEPs with the decision boxes and authorisation hold-points. The use of such a plan will aid the Tendering Manager to manage and implement the tender evaluation process.

While planning the tender evaluation process, a review of the project delivery methodology identified in the business case needs to be undertaken to confirm its relevance against any changes to the project. If it is concluded that the project delivery methodology needs to be revised, it will be necessary to undertake tender evaluation planning again and reconfirm the Business Case, based on the revised methodology.

### **5.4.1 Scope**

The TEP should include the following information (or cross-references to where the information can be readily accessed):

Project objectives:

- project background and relevant issues / circumstances
- tender selection methodology
- criteria proposed for tender evaluation
  - a) mandatory criteria for MIC
  - b) non-price criteria for TIC.
- methodology for qualitative / quantitative evaluation of alternative tenders
- stages proposed to evaluate the tenders

- evaluation process (preliminary and detail evaluation, how to identify criteria and apply weightings to calculate a score)
- criteria and weighting approval process, and
- probity and confidentiality requirements.

#### **5.4.2 Format**

The Tendering Manager must record the key decisions during the tendering process. These recorded decisions need to be arranged so that the completed file forms a supporting document to the Tender Assessment Recommendation.

The TEP template (Appendix B) provides a framework for this activity. It contains provision for recording all decisions made by the Tendering Manager and TAP. An added advantage of this approach is that it facilitates review of decisions and processes through which they have been derived, for example:

- assessment of effectiveness of procedures
- review of procedures in the event of a challenge to a decision to select a particular tender, and
- transparency.

#### **5.4.3 Probity Advisor**

The Principal may appoint a Probity Advisor based on a risk assessment, to ensure that the tender process is carried out in accordance with the TEP and tender documents. Any such advice or decisions and the basis on which it was made, must be recorded in the TEP.

The engagement of a probity auditor or advisor should be seen as complementing existing sounds probity processes.

#### **5.4.4 Approval to proceed**

The TEP needs to be approved before the tendering process can progress. It is the role of the Tendering Manager to obtain the appropriate level of approval. After the TEP has been approved, copies should be given to all members of the TAP and the Probity Advisor (if appointed).

### **5.5 Brief for TAP**

It is desirable to have a summary document that succinctly describes the project. This can be used by the Tendering Manager for briefing:

- TAP members to ensure all members have a common understanding of the project objectives, and
- specialist consultants or staff used to examine tenders.

Most of the details required will already exist in documents such as the TEP (refer Appendix B), business case, design documents and other planning documentation.

## **6 Tender development**

### **6.1 Overview**

The tender development phase of the tendering process lies within the pre-tender period and comes after the following outcomes from the tender planning process:

- appointment of the Tendering Manager
- completion of the TEP (refer Appendix B)
- preparation of the summary material for the TAP (if necessary)
- development of a plan for the formation of the tender documents, including a risk management strategy
- timing and stakeholder management, and
- the indicative prequalification and financial level required<sup>2</sup>.

During this phase of the tendering process, the Principal / Tendering Manager needs to consider the following:

- appointment of the TAP
- appointment of a Probity Advisor (if warranted)
- compilation of EOI documents where a two-stage process has been selected
- compilation of tender documents, including seeking approval to call tenders
- distribution / advertisement of tender documents, and
- communication requirements with Tenderers including correspondence, Notice to Tenderers, logged telephone calls, pre-tender meetings, Site inspections, interviews, request for clarifications and tender presentations.

## **6.2 Initiation of Financial Approval Process**

The financial approval process starts with the Tendering Manager entering details of the proposed Contract into 3PCM. This can be done at the initial stages of the tendering process, preferably at the time of calling tenders, or at the commencement of the post-tendering process.

The closing date of tenders and the expected date of completing the tender assessment are to be included.

Refer to Section 8 *Contract formation phase* for further information relating to the Financial Approval Process.

## **6.3 Appointment of the (TAP)**

### **6.3.1 Establishing a TAP**

A TAP is a group of persons nominated by the Principal to assess applications / tenders and make a recommendation to the endorser or approver on which would, in their opinion, provide best value for the department. The recommendation is an opinion formed after following the process in the tender documents for assessment of the tenders received. It is not binding on the endorser or approver.

For reasons of probity, it is strongly recommended the TAP is established before the invitation to tender is made. The chairperson of the TAP must be a departmental officer, that is, it cannot be a consultant or Contractor. The panel chair, procurement delegate and financial delegate must be three separate individuals to minimise fraud risk and ensure transparency.

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<sup>2</sup> Minor Infrastructure Contracts under \$1M do not require prequalified contractors unless deemed high risk by the Tendering Manager.

The TAP shall consist of personnel with relevant experience, qualifications and capability as follows:

- Mandatory – at least one qualified engineer with appropriate experience in the delivery of departmental projects (depending on circumstances, this engineer may need to be a Registered Professional Engineer Queensland (RPEQ) to comply with legislative requirements).
- Discretionary – other officers with experience in procurement functions and sound knowledge of tendering practices relating to project management, and
- As required – personnel with proven capability in the application of judgement in:
  - c) definition of tender selection criteria
  - d) analysis of tenders, and/or
  - e) application of project management principles.

The membership and extent of the TAP depends upon the size and complexity of the project:

- Low to moderate value or complexity (< \$50M) – the TAP should have a minimum of two appropriately experienced departmental officers.
- High value or complexity (> \$50M) – the TAP should have at least three members (a mix of departmental and non-departmental staff), and
- Sole supplier or single invitee – although a TAP is not mandatory, the departmental representatives (minimum of two officers) involved in negotiating a sole supplier or sole invitee procurement have a responsibility to ensure the recommended conditions represent best value to the department. The approval for a sole supplier or sole invitee is given once genuine justification is provided as either part of the Invitation Documentation Endorsement (IDE) or Tender Process Endorsement (TPE) or Infrastructure Procurement Plan. The type of procurement being undertaken will determine whether to use the IDE, TPE or Infrastructure Procurement Plan. Sole supplier or sole invitee require the approval of a Level 5 Procurement Delegate, Content Owner and either the General Manager (or equivalent), Regional Director, District Director or Executive Director (RoadTek only).

A TAP may require additional assistance where specialised skills or additional resources are required, for example to review specific aspects of an alternative tender or analyse a ULB.

When appointing members to the TAP, the Principal may consider the appointment of:

- at least one senior departmental officer
- the departmental officer involved in the preliminary or detailed design of the project, for example, Design Manager, and/or
- a person external to the department or external to the district that might be managing the works, for example, Contract Administrator or Principal's Representative.

The Tendering Manager should be a member of the TAP, but not necessarily the chair.

In general, the identity of members of the TAP is not published and membership should be treated with discretion and confidentiality. However, in two-stage selection or for projects where the TAP interviews the Tenderers, revelation of the identity of TAP members is inevitable.

### **6.3.2 Responsibilities of the TAP**

Once the TAP is appointed, the Tendering Manager shall arrange for its members and others involved in the tendering process, to be briefed on:

- all relevant details of the project, and
- probity requirements.

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

- act fairly and equitably throughout the tender evaluation process
- confirm the selection criteria and weightings shown in the TEP and/or EOI
- declare any conflicts or potential conflicts of interest
- treat all information as 'commercial in confidence' throughout the tendering process
- immediately notify the chair of the TAP / Probity Advisor if a conflict of interest arises, or if there is a breach of the Code of Conduct for the Queensland Public Service
- ensure that all evaluation material is held in a secure location at all times and in accordance with procurement policy
- evaluate all offers in accordance with the TEP
- review, determine and document which offers (if any) do not meet the mandatory requirements of the tender and should be excluded from further consideration
- individually conduct a detailed qualitative and comparative assessment of each offer, using the selection criteria, rating system, weightings and process detailed in the TEP
- consider Specialist Advisor or Consultant reports on submitted tenders as part of the overall tender assessment process
- moderate their individual scoring as necessary to produce an agreed panel score for each evaluation criterion / sub-criterion
- thoroughly document the reasons for each rating in the Tender Panel Evaluation form to indicate how the rating was determined
- document any departures from the TEP in the Tender Evaluation Report
- participate in all evaluation panel meetings and presentations, discussions, workshops or interview sessions with shortlisted Tenderers
- if required:
  - consult with appropriate specialists
  - consider and resolve any apparent inconsistencies or uncertainties that arise from a comparison between the technical performance and financial assessments
  - seek written clarification information from Tenderers
  - seek comments from Tenderer's referees.

- assist the Tendering Manager with the compilation of the Final Tender Evaluation Report
- sign the Tender Evaluation Report and
- advise the Principal (for example, the District Director) of the recommendation.

### **6.3.3 Specialist Advisors**

The Tendering Manager may engage Specialist Advisors or Consultants to review or analyse specific aspects of a tender, for example, the design, pricing, or commercial model. Specialist Advisors and Consultants involved in the tender assessment process must:

- declare any conflicts or potential conflicts of interest
- treat all information as 'commercial in confidence' throughout the tendering process, and

#### **6.3.3.1 Probity Advisor**

A Probity Advisor is a suitably qualified and experienced person not otherwise involved with the project and is free of any conflict of interest. While no legal qualifications are necessary for the Probity Advisor role, many are legally qualified.

A Probity Advisor may be appointed to:

- assist and advise the Tendering Manager and the TAP on the probity of the tendering process, including tender methodology, evaluation processes and subsequent assessment of tenders, and
- provide assurance the tendering process is equitable and that it is properly and fairly applied in seeking tenders and assessing them (including compliance with all relevant policies and procedures).

As mentioned in Section 5.4.3, there are certain circumstances where a Probity Advisor should be appointed, preferably before planning the tender evaluation. A Probity Advisor may also be considered in the following circumstances:

- the integrity of the project could be questioned (remembering that scrutiny can originate from many sources)
- the project is politically sensitive and could be subject to controversy
- there has been a history of controversy and litigation in similar projects
- the project is large and/or complex and there are significant risk factors and issues that dictate the selection criteria and their relative weightings
- there are high costs involved for Tenderers (for example, Tenderers are required to outlay substantial resources and costs to prepare and submit a bid)
- the project is innovative and Tenderers are likely to be concerned about protecting their ideas (intellectual property), and
- tender assessment process includes non-price selection criteria.

The Probity Advisor is required to verify the:

- evaluation methodology complies with relevant policies, and

- tendering process in general, and invitations for and assessment of tenders in particular, have been properly and fairly undertaken.

The Probity Advisor may choose to provide the necessary verification or reasons for non-verification:

- in the TAR, or
- as a separate document to the TAR, with any separate reports appended and cross-referenced.

Further information about the Probity Advisor is contained in Appendix A.

#### **6.3.4 Australian Government representation**

For projects with Australian Government funding, the Commonwealth may nominate a representative to participate in tender evaluation. Where this requirement applies, the representative will become a member of the TAP.

#### **6.4 Forming the Expression of Interest (EOI) documents**

Where a two-stage process applies and an EOI is required, it is not necessary to provide a high level of detail at this stage. At a minimum, the documents provided should include:

- preliminary information, containing a project description
- any preliminary design information considered appropriate at such an early stage
- the full Best Practice Principals and Local Benefit non-price criteria in accordance with the QPP, and
- an EOI response template.

Provision of such details as a completed project brief, Contract shell, detailed design information, or specifications is not recommended at this stage, simply because the two-stage process using an EOI is trying to minimise the effort required across the industry. Any detailed information provided may lead to Tenderers commencing unwarranted work on full tender submissions.

#### **6.5 Forming the tender documents**

##### **6.5.1 Tender documents / design prototype**

The Tendering Manager is responsible for ensuring the various components of the tender documents (Volume 1: Parts 1 – 8 and Volume 2) are appropriate for the specific project and are complete in all respects:

- design outputs – this may include the Building Information Model (BIM) Protocol where BIM is in-scope
- drawings (including standard drawings)
- schedules of quantities (an electronic schedule is made available to Tenderers – Tender schedule should comply with 3PCM Unifier)
- latest versions of Technical Specifications and completed Annexures
- project specific safety related documentation in accordance with departmental obligations in the WHS Regulations, and
- other applicable tender schedules and forms in Part 3.



Documents added to the above on behalf of the Tendering Manager will include:

- if the project is unable to meet the Training Policy requirements for reasons such as technical complexity, high material to labour ratio, or compressed duration and so on, a variation to reduce any deemed hours approved by the Department of Education Small Business and Training is to be attached
- any Indigenous participation targets
- if the Contract is greater than \$100M, a Sustainability Report may be required to be submitted by the Tenderers
- Conditions of Contract (including completed Annexures)
- Conditions of Tendering (including completed Annexures), and
- other documents that may be required by Tenderers (for example, geotechnical reports, location of core samples, environmental impact assessments, safety related hazards, risks within the Principal's knowledge and Severe Weather Management Plan or outline. Please refer to Engineering Policy EP146 for more information).

When forming the schedule of quantities, it is important to limit the number of provisional items to reduce the departmental exposure for higher financial risk.

To achieve consistency, supplementary documentation for projects must be minimised. Poor quality tender documentation often leads to disputes on Site and large variations and may subsequently lead to adjudication or litigation.

The standard departmental Contract documents are to be used without modification on all projects unless:

- they have been varied by an approved supplementary document, and
- project specific circumstances dictate a change or additional conditions not covered by the standard or supplementary conditions.

Modification of standard Contract provisions increases the department's exposure to claims if the amendments are not adequately drafted. Guidance and approval must be sought from the Director (Prequalification and Contracts) of Program Management and Delivery before any amendments to the Contract conditions are finalised.

Once the Tendering Manager has assembled the complete tendering document, a 'hand-over' should be arranged with the Principal. This is to facilitate any necessary approvals prior to advertising.

Refer to Section 6.6 for information on requirements of tender document prototypes checks, batching and advertising.

### 6.5.2 Additional clauses

A tender is required to contain specific information that provides the basis for assessment and comparison with other tenders. The scope, format and timing for submissions, including the basis for assessment, must be clearly documented in the Conditions of Tendering to enable the best response from the Tenderers.

Further tender evaluation requirements such as non-price selection criteria or Tenderer interviews, or a ULB clause need to be clearly and concisely stated in the Additional Clauses, to enable Tenderers to appropriately respond in their submissions. Any Additional Clauses are added to the Annexure of the Conditions of Tendering.

If non-price selection criteria are being considered or have been included in the tender document, then the following guidelines are appropriate (Refer also to Appendix G for more information on Non-Price Selection Criteria):

- each non-price selection criterion must address specific risks or opportunities identified in the tender planning phase. However non-price information that does not form part of the tender assessment process must not be requested as part of the tender process
- each non-price selection criterion should have its own schedule that the Tenderer must complete
- it is mandatory that all schedules be completed
- non-price selection criteria are to be assessed prior to the disclosure and assessment of the priced component. It is recommended not to disclose tender prices for panel members until non-price component is completed
- tender submissions including superfluous promotional material may be rejected or ignored. (If the TAP wants to include this condition, a clear definition of acceptable information must be stated, for example, 'two A4 pages (double sided) maximum with xx font size')
- the process used to calculate the Tenderer's weighted score must be included in the tender document, and
- for consistency, the recommended process is the Best Value Index (BVI). This process is described in Appendix G. For more information on the use of BVI, contact the Director (Prequalification and Contracts).

For Minor Infrastructure Contracts, mandatory criteria instead of non-price criteria are used. These are pass or fail type conditions.

Where interviews with the Tenderer or referees are planned, the tender documents and/or the TEP should:

- clearly state in the tender documents who will be interviewed and why (for example, interviewing referees to seek information regarding relationships with sub-contractors)
- consistently apply the interview process to all selected Tenderers, and
- document the interview process in the TEP, prior to the opening of the tenders, but not necessarily disclosed in the tendering documentation.

If the TAP requires an aspect of a tender clarified, the TAP is able to interview the Tenderer or their referee, even though it was not previously intended or announced. However, discussions must be based around clarifying the already submitted information. Neither the TAP nor the Tenderer can request or provide new information under the Conditions of Tendering.

Section 7 contains guidance on interviewing and the clarification activities of the TAP during tender evaluation.

The Tendering Manager must ensure that any additional clauses, especially those that relate to non-price selection criteria:

- have been appropriately authorised
- are distinct from the generic prequalification criteria
- augment the tendering processes, and
- enhance the ability of the TAP to recommend the tender that represents best value.

Innovation in Tender submissions, if stipulated in the Conditions of Tendering, provides another dimension to the determination of best value.

Additional Clauses also increase the department's exposure to claims if not drafted adequately. With the exception of clauses taken from the Clause Bank in the TIC suite of Contracts, if Additional Clauses are to be used in the Contract, prior guidance and approval should be obtained from the Director (Prequalification and Contracts).

### **6.5.3 Deciding the tender period**

The tender period should realistically allow for the amount of work involved in preparing and submitting a tender. This will vary according to the Contract type selected. In general, the following should be taken into account when deciding the duration of the tender period:

- time for the Tenderer to familiarise themselves with the project and/or brief and to circulate the documents to the tendering team (a pre-tender meeting may help here, see Section 6.6.4)
- time required to undertake any necessary design work
- additional time for developing any alternative designs where applicable
- time to prepare for and attend any pre-close of tender meetings
- time required to quantify and price the design, including obtaining quotes from sub-contractors and suppliers
- time to assess constructability issues
- time for the Tenderer's senior management to review and sign off the tender, and
- time to prepare the various outline plans that may be required.

Consideration should be given to the timing of calling tenders and the length of the tender period when significant industry breaks are due (for example, Christmas) and when other major tenders are being called (from the department or other industry clients) in a similar time period.

**Table 6.5.3 – Typical tender periods**

<b>Type of engagement examples</b>	<b>Typical Minimum Tender Period</b>
MIC-CO Single Stage	20 business days
TIC-CO Single Stage	20 business days
TIC CO Two Stage	20 business days
Early Contractor Involvement (ECI) Request for Proposal	20 business days
MIC-SI or TIC-SI	By mutual agreement

**6.5.4 Tenders closing dates**

- a) Tenders must close Tuesday to Thursday except Public Holidays (where tenders must close one day after the Public Holiday).
- b) Tender must close one business day after a Public Holiday. For example, If there is a Public Holiday on Thursday, the tenders close on the following Tuesday.
- c) Tenders must close no later than five business days before Christmas Day and must not close during the first week of January of each year.

**6.5.5 Tenders open over the Christmas period**

- a) The last date to release tenders including Requests for Proposal, Invitation to Tender, or similar tenders, is 10 business days prior to Christmas Day. Where tenders are open over the Christmas period, there will be a 'Closedown Period (see below) where departmental officers will not be available to answer questions or respond to requests for information. The Closedown Period information should also be published in the public tender documents.
- b) Where tenders extend over the Christmas period, the tender period must allow the full tender period excluding the Closedown Period, for the Tenderers to prepare their response.

Where a tender is not a high priority, consideration should be given to release after the Closedown Period.

**6.5.6 Closedown period**

Departmental officers will not answer questions in relation to procurement processes or tenders during the Christmas Closedown Period, unless specified in the relevant tender or Contract documents. This is typically the period from the first Monday before Christmas Day to the first Friday after New Year's Day. For example:

- 2020 Closedown Period: Monday 21 December 2020 – Friday 8 January 2021.

**6.5.7 Exemptions**

If there is a compelling reason for the tenders not to follow this policy, prior written approval must be obtained from the District Director or Senior Manager.

### **6.5.8 Public holidays**

The *Holidays Act* 1983 (Qld) provides for the appointment of public holidays, show holidays and special holidays. (<https://www.legislation.qld.gov.au/view/html/inforce/current/act-1983-018>)

### **6.5.9 Setting the defects liability period**

The standard Defects Liability Period to be used with TIC-CO, TIC-SI, MIC-CO and MIC-SI Contracts managed by the department is 90 days. If there are unusual project circumstances and it is considered that a longer period is required, the period should be assessed in accordance with the guidelines found in Appendix C and specifically approved by the Director (Prequalification and Contracts).

The length of the Defects Liability Period longer than 90 days and for other Contract types such as TIC-DC, ECI and Collaborative Project Agreement (CPA) should be discussed with the Director (Prequalification and Contracts). The tender documents may benefit from the inclusion of warranty periods within the Contract.

Further discussion relating to setting the Defects Liability Period can be found in Appendix C.

### **6.5.10 Approval to call tenders**

Following the preparation of tender documents and receipt of approvals, the Principal is responsible for calling tenders.

It is essential that no changes be made to the TEP once the tender methodology has been published in the tender documents. Once published, the tender documents may form a 'process Contract', the terms of which are described in the Conditions of Tendering. If the tender evaluation methodology used does not match the methodology described in the Conditions of Tendering, then it may be claimed that the 'process Contract' has been breached and the department may have to stop the process, recommence the process and possibly compensate unsuccessful Tenderers.

## **6.6 Communications with Tenderers in the tender period**

The Conditions of Tendering contains details by which communicating with Tenderers occurs.

### **6.6.1 Calling tenders**

Prequalification and Contracts Unit provides support services for the review of tender documents using the TIC-CO and other major Contracts. Districts are to liaise closely with the Program Officers (Contracts) in Prequalification and Contracts Unit prior to calling tenders. Districts should liaise with the Director (Prequalification and Contracts) in relation to calling major tenders.

Before the invitation of tenders can be authorised and the tender advertised, the following requirements must be met:

- decisions contained in the TEP (Appendix B) have been finalised and authorised
- the approved tender documents are available
- the entire Work Site is either owned or leased by the department, or covered by a clause in the tender documents that clearly defines any limitations on possession of the Site
- the project is on the Queensland Transport Roads Investment Program (QTRIP) for the financial year construction is to start incurring costs and

- agreements have been reached with utility and services authorities, or in the case of TIC-DC delivery models, the utility or service authorities are aware of potential alterations to services that form part of the project, regardless of whether or not the responsibility for arranging and/or executing the associated work is to form part of the Contract for which tenders are to be invited.

Tender advertisements are to be made using the Q-Tender system. Appendix E contains examples of tender advertisements. The advertisement calling for tenders is to indicate:

- tender type
- Contract name
- tender number
- description of work
- minimum prequalification and financial level required (if applicable)
- whether the project is federally funded
- the departmental office at which tender documents and any other supporting information documents may be obtained or inspected if applicable
- contact person and telephone number for enquiries, and
- tender closing details.

Once substantially completed all prototype documents and advertisements covered by the prequalification system are to be sent in draft form to Prequalification and Contracts Unit for review and administrative checks to ensure statewide consistency. This review process will normally take up to 10 working days. Once the documents have been reviewed, Prequalification and Contracts Unit will provide comments back to the District. Tender prototype documents must be peer reviewed by the Consultant compiling these documents and the department's Project Manager before they are forwarded to Prequalification and Contracts Unit for final checking.

Districts are now using the QBuild eTender. The system is set up such that only Tenderers prequalified at or above the right levels can download the tender documents. If QBuild eTender is not used, the Tendering Manager should ensure that only eligible Tenderers will be issued with the tender documents, maintain a register of issued tender documents, including the contact person and date issued (refer Appendix F – Form C7501 *Register of Tender Documents Issued*). The Tendering Manager should also ensure that no sanctions have been imposed for Tenderers preventing them from submitting tenders.

For more information on QBuild eTender training and advertising of tenders, contact the Program Officer (Contracts) at Prequalification and Contracts Unit via [tender\\_contracts@tmr.qld.gov.au](mailto:tender_contracts@tmr.qld.gov.au).

#### **6.6.2 Dealing with enquiries from Tenderers**

In general, the purpose of responding to Tenderer's enquiries is to clarify to the Tenderer(s) the scope of the project or resolve any identified conflicts within the tender documents.

When dealing with enquiries from Tenderers, an experienced officer must be nominated in the tender documents to:

- act as single point of contact

- maintain a record of all enquiries and responses (Form C7502 – *Register of Tenderer correspondence* – refer Appendix F)
- manage all enquiries with a view to prompt consistent and authoritative responses, and
- decide upon the level of response to the enquiry.

In general, the nominated contact officer should consider the following questions when preparing a response to an enquiry:

- Is it appropriate to respond to the enquirer only?
- Should all Tenderers be informed via a Notice to Tenderer?

For example, if the enquiry is relevant to the delivery of the project outcomes, then the response should be provided to all organisations that were issued with tender documents. However, if the enquiry relates specifically to an individual Tenderer, then the response may not need to be provided to other Tenderers. Prudence and extreme care should be exercised in making this decision and this usually warrants an exceptional case.

In some cases, the information requested might form part of the competitive edge for a particular Tenderer who has a right to expect that its intellectual property will be respected and protected. Competing Tenderers should not be placed in the position of exposing their intellectual property to other Tenderers through the actions of departmental officers.

Guidance in the case of an Innovative Tender is provided in the *Engineering Innovation Policy* on the department's website.

All enquiries and other correspondence from Tenderers must be recorded on Form C7502 – *Register of tenderer correspondence* (refer Appendix F).

Other interested parties may request the names of organisations that have taken out tender documents for nominated Works currently out to tender. Interested parties should make the request in writing with reasons provided.

Refer to the Contract's Conditions of Tendering to see if this is allowed. If the department decides to give out such information, the information provided is to be correct at the time it is provided. However, updated lists are not required to be provided, as tender documents may be issued at any time virtually up to the time of tender.

Where doubt exists, seek advice from the Director (Prequalification and Contracts) before acting on an enquiry.

### **6.6.3 Notice to Tenderers**

If amendments or clarifications to the tender documents are required, they must be provided promptly to all organisations issued with tender documents as a Notice to Tenderers (NTT).

Notices to Tenderers are issued by the District to Tenderers, including an acknowledgement of receipt (to be completed by the Tenderer). Notices to Tenderers are to be uploaded onto the QBuild eTender system and should be issued with sequential numbering and registered on Form C7503 in Appendix F.

All Tenderers must confirm the receipt of any Notice to Tenderers and note in their tender that they have made an allowance to cover such Notice to Tenderers. This is achieved by completion of Tender Schedule M6.

It should be noted that the number of NTTs should be minimal and that appropriate effort should be put into ensuring the tender documents are correct before calling tenders.

Notices to Tenderers that require changes to a Tenderer's Schedule of Rates late in the tendering period, may lead to mistakes being made in submissions and compromises the amount of time allowed for the delivery of the tender, particularly if it is to be sent by post. Tenderers need to be allowed a reasonable period to finalise and review their tenders before lodgement.

Table 6.6.3 provides reasonable extensions of time to the Tender Period that should be allowed when changes have been made to tender documentation. The length of these extensions allows for Tenderers to properly re-evaluate the required changes.

In the selection of the appropriate extension of time, consideration must be given to both the scope of the change and length of time remaining in the tender period. For example, a late change to an item in the schedule of rates, where the Tenderer must re-negotiate with sub-contractors, may create pressure on the Tenderer's ability and time to fully consider and implement the changes.

**Table 6.6.3 – Extensions of time when issuing Notices to Tenderers**

Notice to Tenderers	Requirements	Minimum time until tender period closes
Major	<ul style="list-style-type: none"> <li>• A major change in the scope of Works occurs, or</li> <li>• More than 10% change to the value of Works from changes to the schedule of rates (as per the Principal's estimate), or</li> <li>• More than 20% change to any quantity of a scheduled item, or</li> <li>• More than 5% change to the scheme documentation, or</li> <li>• More than 20% change to the total number of items in the schedule, or</li> <li>• More than 20% change to the total number of drawings.</li> </ul>	Same period of time as the original tender, less the time remaining on the tender period



Notice to Tenderers	Requirements	Minimum time until tender period closes
Substantial	<ul style="list-style-type: none"> <li>• A substantial change in the scope of Works occurs, or</li> <li>• Up to and including 10% change to the value of Works from changes to the schedule of rates (as per the Principal's estimate), or</li> <li>• Up to and including 20% change to any quantity of a scheduled item, or</li> <li>• Up to and including 5% change to the scheme documentation, or</li> <li>• Up to and including 20% change to the total number of items in the schedule, or</li> <li>• Up to and including 20% change to the total number of drawings.</li> </ul>	Half the period of time as the original tender, but no less than 10 working days
Minor	<ul style="list-style-type: none"> <li>• A minor change in the scope of Works occurs, or</li> <li>• Minor drawing changes that do not have any effect on the schedule of rates, or</li> <li>• Changes to the schedule of rates that do not have effect on the price.</li> </ul>	Nominal 5 working days but no less than 3 working days
Abnormal circumstances	<ul style="list-style-type: none"> <li>• Cases where abnormal circumstances exist, or the changes contained in the Notice to Tenderers are very minor.</li> </ul>	As stipulated by the District Director

#### 6.6.4 Pre-tender meetings and Site inspections

Pre-tender meetings are generally scheduled where the following exist:

- non-standard specifications, Annexure items or additional clauses have been used, or recent significant changes to any of the specifications
- unusual circumstances in which a project is being undertaken
- new or different Conditions of Tendering where additional information is important, but unsuitable to include in the tender documents, and
- unique or unusual technical requirements where additional information is important, but unsuitable to include in the tender documents.

Pre-tender meetings also provide the Tenderers with the ability to ask questions. If required, the design team could be invited to any pre-tender meeting to assist with any questions Tenderers may have.

Pre-tender meetings may be held on Site but the potential cost and value to the Tenderers should be considered.

The proceedings of all pre-tender meetings must be recorded. The meeting notes, which are a record of issues raised and advice given, shall be distributed as a Notice to Tenderers to all organisations that were issued with tender documents as soon as possible after the meeting – refer to Appendix F.

Pre-tender meetings must add value to the tendering process as they are a financial impost on the Tenderers and the Principal. The value of making a pre-tender meeting compulsory, where only the

Tenderers that attended can lodge a conforming tender, should be carefully considered before such a condition is imposed. The proposed agenda is to be included in the TEP approved by the Principal.

## **6.7 Tender box**

Tendering managers can nominate in the tender document whether it is a hard copy tender submission, or electronic tender submission through the QBuild eTender system.

For those electronic tender submissions on QBuild eTender, it is important to ensure the District switches off the capability of submitting an electronic tender through the QTender system. The District needs to ensure the 'Electronic Tender Box' function is selected as 'None' in QTenders (refer to Figure E.2 in Appendix E as an example). This will ensure Contractors do not inadvertently submit their electronic tender through the incorrect eTendering system.

For hard copy tender submissions, once the tender has closed, the tender box will be opened (either as public or private).

For electronic tender submission, the Tendering Manager (or delegate) will download all submissions from the QBuild eTender system.

## **7 Tender analysis phase**

### **7.1 Overview**

Before commencing the tender analysis, the Principal or Tendering Manager should ensure:

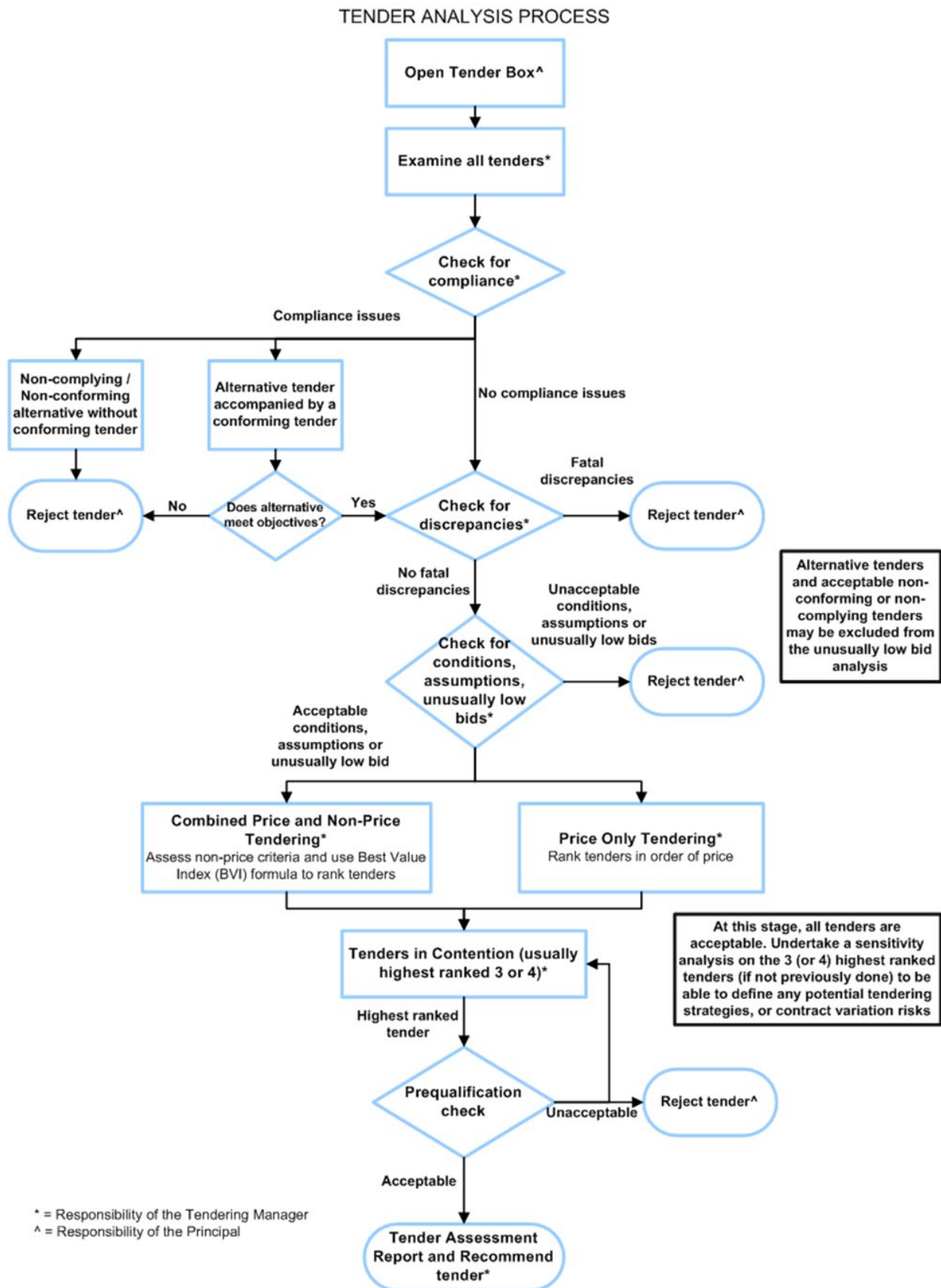
- A TAP (including a Probity Advisor if required) is appointed and, if required, identification of resources that can be called upon to aid the evaluation
- the tender assessment process is defined (including timing, milestones, work distribution and so on), and
- the TEP is completed (refer Appendix B).

Once the tender has been opened, it is critical the tender assessment process is followed as per the TEP, or alternatively a standard assessment process must be used. Departing from the defined process may result in:

- the need for reassessment
- discussions / recommendations being overturned, and
- a complaint or compensation claim from a Tenderer.

Figure 7.1 indicates the roles and responsibilities during post-tender activities of the TAP and the Principal and provides an overview of the tender analysis process.

Figure 7.1 – Tender analysis process



## **7.2 Opening of tender**

The Tendering Manager is responsible for organising the opening of the tender on behalf of the Principal. The procedure used to open the tender box must comply with the Conditions of Tendering and its Annexures. Departmental purchasing procedures describe the minimum requirements for opening a tender.

Hard copy tenders must be securely stored, as tenders (and copies) are commercial-in-confidence information and to inhibit general discussion about the tenders.

Always refer to the Conditions of Tendering and Annexure for information related to the opening of tenders. Tender box openings may be private or public (depending on the method of submission and conditions of tender). For electronic submissions, the tender opening will always be private. In a public opening, all interested persons may attend.

At the discretion of the Principal and in accordance with the relevant Conditions of Tender, at the tender box opening an announcement is made of the:

- Name of tender, and
- Tendered amount (for price only tendering criteria).

The successful Tenderer and the Contract award price are subsequently published on the QBuild eTender and QTender websites, after the tender recommendation has been approved and all approvals secured.

When opening the tender, it is essential to:

- Record tender details on the register / summary sheet (Form C7817.IC, available on the departmental website) including:
  - a) Tenderer's name
  - b) number of alternative tenders and what the alternatives are based on (recorded in the comments column), and
  - c) any attachments included in the tender (recorded in the comments column).
- Value of each of the tenders (including GST), and
- Any comments worth recording at this time (such as details of interest that need further investigation and possible areas of non-conformity).

Each entry is to be dated and initialled by the officers opening the tender.

Pass the register / summary and the tenders to the chairperson of the TAP for advice to the Tenderers present on rank (if required), and file a copy of the above register / summary.

### **7.3 Tender examination**

#### **7.3.1 General**

Each tender must comply with the Conditions of Tendering. Tenders that comply with the tender requirements are suitable for further assessment to determine the best tender, otherwise they are likely to be rejected.

If upon examination adjustments are required to a tendered price, the TAP will use the adjusted price for further analysis and comparison between the tenders in accordance with the Conditions of Tendering.

It is imperative that the department deals consistently with issues of non-compliance. Table 7.3.4 lists typical non-compliance issues, tender discrepancies and Tenderer-imposed assumptions or conditions. These are not exhaustive lists and the actions in the lists may not be appropriate in all circumstances. If advice is needed, the Tendering Manager should contact the Director (Prequalification and Contracts).

#### **7.3.2 Intellectual property rights**

Tenderers are required to identify any innovative features of a tender or alternative tender, to which intellectual property rights are to be applied. However, before information pertaining to an innovative feature is distributed outside the tender assessment process, the Principal should obtain specialist advice on any intellectual property rights issues through the Director (Prequalification and Contracts).

TAP members and any others who see the tenders or files, must treat all aspects of the tenders as commercial in confidence. Innovative features must not be divulged to any person or organisation unless approved by the Principal, as this may impinge upon the Tenderers' intellectual property rights.

#### **7.3.3 Tender compliance**

A complying tender and a conforming tender have different meanings. A complying tender shall be deemed to be a tender, which satisfies all the requirements of the Conditions of Tendering.

When opening tenders, a checklist of compliance issues should be used to check tenders against.

Any non-compliance associated with a particular tender that is deemed to be 'fatal', shall result in the Tendering Manager recommending to the Principal that the tender be rejected. Non-compliances that are deemed to be 'non-fatal', are to be further assessed in the same way as for fully complying tenders, provided the non-compliance has been addressed.

Tenderers whose tenders have been deemed 'fatal' shall be given the opportunity to retrieve or be sent their rejected tenders after the successful Tenderer is announced. If the tenders are not returned to the Tenderer, then they shall be disposed in a method suitable for the disposal of commercial in confidence documents.

Table 7.3.3 lists non-compliance commonly found in tenders and recommended actions, should any of them be identified in a tender under examination. The list is not exhaustive and other types of non-compliance may arise.

The TAP must:

- check each tender against the listed non-compliances
- identify non-compliances not listed in Table 7.3.3, and
- clearly document any decisions about any non-compliance identified and subsequent actions taken.

**Table 7.3.3 – Compliance issues table**

Reference	Description of non-compliance	Action
CO1	Tender received after nominated closing time.	<p><b>Fatal</b> Record the date and time of receipt and return unopened to Tenderer.</p> <p><b>Non-fatal</b> If evidence is supplied that verifies the tender was given to Australia Post / Courier such that, under normal circumstances, it would have arrived in time. Refer to <i>Conditions of Tendering</i>.</p>
CO2	Tender delivered to other than nominated place.	<p><b>Non-fatal</b></p> <ul style="list-style-type: none"> <li>• If during the tender period, the Principal has changed the place of closing and/or</li> <li>• The tender document's wording regarding the location of the place is ambiguous, but only subject to the tender being: <ul style="list-style-type: none"> <li>– delivered by the specified closing time, and</li> <li>– in a sealed envelope.</li> </ul> </li> </ul>
CO3	Tender received by fax, telex, email (other than in accordance with the provisions of the Conditions of Tendering).	<b>Fatal</b> (unless permitted by Conditions of Tendering).
CO4	Nominated number of copies of tender / schedules not received.	<p><b>Non-fatal</b> If remedied within the time nominated by the Principal.</p> <p><b>Fatal</b> If failed to comply within the time nominated by the Principal.</p>
CO5	An alternative tender not accompanied by a conforming tender (NB: If a rate is omitted from a schedule and accompanied by an explanation of why the omission has been made would constitute a conforming tender).	<b>Fatal</b> (unless permitted by Conditions of Tendering).

Reference	Description of non-compliance	Action
CO6	Tender does not include full Schedule of Rates (if S / R Contract) or tender price if (L / S Contract) or Tender Program.	<p><b>Non-fatal</b> If Tenderer confirms tendered price or Principal declares missing price or program activities as inconsequential.</p> <p><b>Fatal</b> If price changes significantly<sup>3</sup> or program reflects a delay in Date for Practical Completion.</p>
CO7	Tender does not include all the required schedules, excluding those mentioned in CO6.	<p><b>Non-fatal</b> If remedied within the time nominated by the Principal.</p> <p><b>Fatal</b> If not provided within nominated time.</p>
CO8	Tender Form not signed by an authorised person.	<b>Fatal</b>
CO9	Schedules not signed or initialled.	<p><b>Non-fatal</b> Request Tenderer to provide signed schedule. This may be by email, however, no changes are allowed to the original schedules.</p>
CO10	<p>Tenderer or major sub-contractor does not have:</p> <ul style="list-style-type: none"> <li>• all the resources necessary for the nominated prequalification level</li> <li>• agreement to lodge a tender, and</li> <li>• specialist supplier registration nominated in tender documents.</li> </ul>	<p><b>Non-fatal</b> If deficiencies in capability are not critical to specific project.</p> <p><b>Fatal</b> If deficiencies in capability are critical to specific project. Where prequalification is still being considered, there must be prior approval by the Principal for the Tenderer to lodge a tender.</p>
CO11	Tender is not for whole of the Works.	<b>Fatal</b>
CO12	Tender not submitted under prequalified entity name and ABN.	<b>Fatal</b>
CO13	Tenderer does not acknowledge all Notices to Tenderers (NTT) on form 'Receipt of Notices to Tenderers'.	<p><b>Non-fatal</b> If Tenderer acknowledges receipt of the missing NTT and issues a declaration stating all NTTs were considered in the tender.</p> <p><b>Fatal</b> If Tenderer refuses to issue a declaration stating that all NTTs were considered in the tender.</p>

<sup>3</sup> The TAP shall determine whether a price change is significant or not. Example of significant may include a price that alters the tender rankings.

Reference	Description of non-compliance	Action
CO14	P type or S type schedules not received within the time nominated by the Principal.	<p><b>Non-fatal</b> If provided within a reasonable time period (three days).</p> <p><b>Fatal</b> If not provided within a reasonable time period (three days).</p>

#### 7.3.4 Tender conformance

A conforming tender is a tender which conforms in all respects to the requirements of the tender documents. A tender is deemed to be Nonconforming if it does not comply with the requirements of, or it contains provisions not required or allowed by the tender documents.

In general, full conformance with the tender documents can only be confirmed once a thorough assessment of the tender is completed. Project specific requirements will dictate what is required of the Tenderer to submit a conforming bid.

Where alternative tenders have been allowed it is usual to mandate submission of a conforming bid in the first instance for the alternative tenders to be considered. Alternative tenders are discussed further in Section 7.3.7.

#### 7.3.5 Tender discrepancies

Table 7.3.5 lists discrepancies commonly found in tenders and actions to be taken, should any of them be identified in a tender under examination. The list is not exhaustive and other discrepancies may arise.

The TAP needs to examine tenders to:

- identify any discrepancies
- clarify where further information may be required
- deal with discrepancies in accordance with Table 7.3.5 (or in similar terms if there are non-listed discrepancies), and
- adjust the tender price if necessary.

The TAP should recommend the Principal rejects the tender if the Tenderer does not rectify identified discrepancies within a nominated timeframe.

All discrepancies and resulting price adjustments are recorded on Form C7504 – *Adjustments for Discrepancy, Conditions and Assumptions* (refer Appendix F).



**Table 7.3.5 – Discrepancy table**

Reference	Description of discrepancy	Action
D01	Inconsistency between the tender price in the tender form and as determined from a summation of the schedule amounts.	<b>Lump Sum Contract:</b> Request Tenderer to provide an agreed amended Schedule of Prices. <b>Schedule of Rates Contract:</b> Adopt sum of schedule amounts as adjusted tender price.
D02	Extended amount in Schedule of Rates Contracts and/or summation of them is in error.	Use tendered rate to determine amended extended amount and adjust tendered price accordingly. Correct any errors in summation and adjust tendered price accordingly.
D03	Amounts or rates omitted in Schedule of Prices and/or Schedule of Rates.	<b>Lump Sum Contract:</b> Request Tenderer to provide an agreed complete Schedule of Prices. <b>Schedule of Rates Contract:</b> Determine missing rate, amount or lump sum objectively and mathematically if possible (using extended amounts and so on). If it is not possible to objectively and mathematically determine a rate, amount or lump sum, the tender should be deemed Nonconforming, unless Tenderer confirms a zero rate or amount or that the work is included for payment in another scheduled item – alternatively the Tenderer may request from the Principal to withdraw their tender.
D03A	Rate was omitted, but amount given and calculated rate appears excessively low.	Calculate rate using the amount tendered divided by the scheduled quantity. Request tenderer to confirm that they will complete the work for the rate calculated – alternatively the tenderer may request from the Principal to withdraw their tender.
D04	Other information omitted in the tender form / schedules not directly related to the tender price but considered significant.	Request Tenderer to provide information within the time nominated by the Principal if the Tenderer wishes their tender to be considered further.
D05	Ambiguities in the tender form, schedules, or other documents that affect the tender price.	The TAP chair sets out at least two reasonable inferred interpretations. These are referred to the Tenderer who must nominate their interpretation within the time nominated by the Principal (usually three business days).
D06	Other ambiguities in the tender form, schedules, or other documents that do not affect the tender price.	Tenderer asked to provide interpretation within the time nominated by the Principal (usually three business days).

Reference	Description of discrepancy	Action
D07	Illegible inclusions in tender form, schedules or other documents that affect the tender price.	<b>Either:</b> Make at least 2 objective interpretations and request Tenderer to nominate their interpretation, or Treat as an omission (See D03).
D08	Illegible inclusions in tender form, schedules, or other documents that do not affect the tender price.	Tenderer asked to provide details within the time nominated by the Principal (usually three business days).
D09	Evidence of collusion by Tenderers (would usually involve external factors).	If evidence exists, specialist advice should be obtained from the Director (Prequalification and Contracts) in the first instance.
D10	Items omitted or additional inserted items in the schedule of rates of an alternative tender.	<b>Non-Fatal</b> If the Principal declares omitted items inconsequential, or Tenderer confirms omitted items included in other items. <b>Fatal</b> Reject the alternative tender if the Principal declares omitted items are consequential or not included in other items.
D11	Insufficient information to assess alternative tender (including design details).	<b>Fatal</b> If the Tenderer does not provide relevant information within the time nominated by the Principal.
D12	Amount tendered for Site Establishment and Disestablishment appears excessive.	<b>Non-Fatal</b> If Conditions of Tendering allows the reallocation of costs (without changing Tender Price submitted) and Tenderer complies. <b>Fatal</b> If Tenderer does not agree to reallocation.

### 7.3.6 Conditions and assumptions

Tenderer-imposed conditions and assumptions, either stated or implied, effectively make a tender Nonconforming. However, in some circumstances it may be advantageous for the Principal to accept certain conditions or assumptions. If a tender is accepted for analysis with assumptions or conditions, it is essential the tender meets all provisions in the tender documents. The acceptance of the tender for further analysis must not create probity concerns.

Conditions or assumptions may be accepted only if:

- there are advantages for the Principal
- there is no resultant unfairness to the other Tenderers, and
- they are not 'fatal' (see Table 7.3.6(b)).

In general, a condition or assumption in a tender that imposes limitations on the Principal (such as limiting the Principal's access to the Site), or changes to the outcome or objectives of the project (for example a reduction in the scope of Works) renders the tender Nonconforming, unless the Tenderer unequivocally withdraws the condition in writing. If the condition is considered acceptable, then the tender is conforming.

The TAP must consider the implications of any acceptable conditions or assumptions, including assessment of an equivalent price to be used when comparing tenders.

Advice must be sought from the Director (Prequalification and Contracts) when dealing with conditions or assumptions.

Tender and Tenderer correspondence must be carefully examined to identify possible conditions or assumptions either directly or implicitly stated.

**Table 7.3.6(a) – Terms and common phrases for imposed assumptions or conditions**

<b>Terms that conditions and assumptions usually relate to</b>	<b>Phrases that usually indicate a condition</b>	<b>Phrases that usually indicate an assumption</b>
Price	on condition that	assuming that
Procedures	only if	based on
Specifications	If	
Drawing details	Where	
References to other documents	conditional on dates shown on tender program	

Table 7.3.6(b) lists common conditions or assumptions imposed by Tenderers and the recommended action for each. This list is not exhaustive and these exact words may not be used.

The Principal should notify the Tenderer in writing about the existence of unacceptable conditions or assumptions, or alternatively, in writing, notify of acceptable conditions or assumptions.

To resolve Tenderer imposed conditions or assumptions, the TAP may need to communicate with the Tenderer including interviews.

To demonstrate probity in the tendering process, care must be taken to document any communications with the Tenderer.

The outcome of such communications must be confirmed and agreed in writing by both the Principal and the Tenderer. Any correspondence between the Principal and the successful Tenderer will be bound into the Contract and must be specifically referenced in the Letter of Acceptance.

Form C7504 – *Adjustments for Discrepancies, Conditions and Assumptions* (refer Appendix F) must be used to record all adjustments made for conditions and assumptions.

**Table 7.3.6(b) – Conditions table**

<b>Reference</b>	<b>Description of conditions or assumptions</b>	<b>Action</b>
CN1	<p>An unacceptable condition:</p> <ul style="list-style-type: none"> <li>• Changes the date for practical completion.</li> <li>• Imposes a starting date for the Works.</li> <li>• Changes the nature and extent of the Works.</li> <li>• Changes the 'quality' of the finished Works.</li> <li>• Changes the payment arrangements.</li> <li>• Adversely affects the safety of persons on or adjacent to the Site.</li> <li>• Increases the risks to the Principal (regarding cost, time and quality of the Works), and</li> <li>• Conflicts with the requirements of the tender documents.</li> </ul>	<p><b>Non-fatal</b></p> <p>If the Principal considers any conditions acceptable. Refer to CN3.</p> <p><b>Fatal</b></p> <p>If the Tenderer fails or refuses to withdraw the condition unequivocally, in writing, within the time nominated by the Principal.</p>
CN2	<p>A conflicting assumption:</p> <ul style="list-style-type: none"> <li>• Is not in accordance with procedures set out in the tender documents.</li> <li>• Differs from the requirements shown in the drawings, specifications or other tender documents, and</li> <li>• Would significantly increase the risk to the Principal in terms of cost, time and quality of Works.</li> </ul>	<p><b>Fatal</b></p> <ul style="list-style-type: none"> <li>• If the Tenderer fails or refuses to withdraw the assumptions unequivocally, in writing, within the time nominated by the Principal.</li> <li>• If the Tenderer submits an Alternative Tender without submitting a conforming tender (unless permitted by the Contract).</li> </ul>
CN3	<p>Acceptable conditions or reasonable assumptions that do not have any significant effect on the tender price or the Principal's risk in terms of cost, timing and quality of the Works.</p>	<p>Any correspondence between the Principal and the successful Tenderer will be bound into the Contract and must be specifically referenced in the Letter of Acceptance.</p>
CN4	<p>Acceptable conditions or reasonable assumptions that have a significant beneficial effect on the tender price or the Principal's risk in terms of cost, timing and quality of Works.</p>	<p>Principal may deem the tender a conforming tender.</p> <p>Any correspondence between the Principal and the successful Tenderer will be bound into the Contract and must be specifically referenced in the Letter of Acceptance.</p>

### 7.3.7 Alternative tenders

An alternative tender is any tender with a list of departures from and/or amendments to the contents of the Conforming Tender. These tenders may contain unique schedules or different Contract procedures, design or specifications from those in the tender documents.

An alternative tender must comply with the requirements defined in the Conditions of Tendering. Where permitted by the Conditions of Tendering, Tenderers may submit one or more alternative tenders. The Tenderer must also submit a conforming tender (see Table 7.3.7). Table 7.3.7 contains general principles for assessing alternative tenders.

### **Examination and comparison of alternative tenders**

Before analysing alternative tenders, it is essential to examine each alternative to identify any non-compliances, discrepancies, conditions, or assumptions.

The analysis of an alternative tender should include:

- the whole of life impacts including costs, overall Value for Money and so on
- usability
- potential short-term and long-term impacts of an innovative or copyrighted feature, and
- potential impacts on any plans for future projects.

Once the alternative tenders have been analysed, the TAP should examine each of them to determine whether any will provide better value for money than the conforming tender.

It may be necessary for the Tendering Manager to engage expert assistance or seek expert advice to undertake this analysis. The analysis must also include consideration of the:

- original objectives of the project, and
- risks and opportunities identified in the Business Case.

If the alternative tender represents a change to the planned work methodology or project outcomes, the TAP would need to produce for each alternative tender a list of risks, opportunities and costs to be able to suitably compare each tender. An initial assessment could entail answering a list of generic questions. Further analysis would be undertaken on alternatives that appeared to be best value. The following is a list of sample questions that may be considered.

Will the alternative tender:

- deliver the required asset?
- achieve all the intended project outcomes?
- deliver within the required timeframe?
- meet the quality requirements?
- meet the defined life cycle costs?
- entail any change in the Principal's risk profile?
- produce any significant additional benefits for the Principal? and
- the outcome of the alternative tender analysis must be comparable to other tenders. For example, the output could include:
  - a) advantages and benefit
  - b) disadvantages and cost, and
  - c) risks to be managed.

Form C7505 – *Adjustments for Alternative Tenders* (refer Appendix F) must be used to record all adjustments made for alternative tenders.

**Table 7.3.7 – Assessment principle for alternative tenders**

<b>Assessment principles</b>	<b>Comment</b>
Tenderers may submit more than one alternative tender.	Only if permitted by the relevant Conditions of Tendering.
A conforming tender must accompany an alternative tender.	Refer Table 7.3.4 – C05.
Any alternative tender shall be for the whole of the Works described in the tender documents.	Refer Table 7.3.4 – C011.
An alternative tender may be in the form of a list of departures from a conforming tender.	The list of departures should be concise, unambiguous and signed by the Tenderer.
The tender must contain all the information necessary to assess it as an alternative tender. This includes all necessary schedules.	The tender should be rejected if the Tenderer refuses or fails to provide details in the required timeframe.
The Principal reserves the right to consider or accept any alternative tender.	It is at the Principal's sole discretion as to whether an alternative is accepted.
The department generally encourages innovative alternative tenders (Refer to the <i>Engineering Innovation Policy</i> ).	An additional clause has been included in the Conditions of Tendering to further address innovation by the Tenderers.

### 7.3.8 Unusually Low Bids

Unusually Low Bid provisions applies to Minor Infrastructure Contract (MIC) and Transport Infrastructure Contract (TIC) construction Contracts and does not apply to Early Contractor Involvement, Design and Construct, or Collaborative Project Agreement (CPA) Contracts. Unusually Low Bids are analysed in more detail to support fair and reasonable pricing for Works in the transport infrastructure construction industry. The department discourages ULBs and strives to encourage an infrastructure industry culture that is characterised by the department and the Contractor working collaboratively to deliver projects that:

- deliver the desired quality of construction
- are completed in the required timeframe
- meet value for money objectives based on the QPP and government priorities
- are delivered efficiently at the least cost to Contractors and the department, subject to achieving value for money, and
- provide adequate remuneration for it to be both sustainable and capable of continuous improvement.

Unusually Low Bids may indicate a culture where:

- unsustainably low prices are tendered to win work
- the Contractor may 'bid shop' to artificially reduce sub-contractor / supplier rates
- the quality of work suffers due to insufficient allocation of resources
- ambit claims of significant value are submitted, and
- poor relationships are fostered between the Principal / Contractor / Administrator.

The definition of an 'Unusually Low Bid' is as follows:

An 'Unusually Low Bid' is an offer where the corrected price is XX% or more below the median tender price of the conforming tenders. The median tender price shall be determined as the middle value of the prices tendered when the list of conforming tenders is arranged in increasing price value. If the number of conforming tenders is even, then the median is the mean of the two middle values.

The percentage relating to the ULB will be included in the Annexure to the Conditions of Tendering and the value of **XX%** would generally be between 10% and 20%.

The values of **XX%** are:

- for estimated value of Works up to and including \$5M, XX% is 20%
- for estimated value of Works above \$5M up to and including \$10M, XX% is 15%, and
- for estimated value of Works above \$10M, XX% is 10%.

The estimated value of Works is based on the Principal's construction estimate.

When there have been fewer than three bids offered, the departmental estimate should be included in the ULB calculation.

If a ULB is identified, the actions available to the Principal are as follows:

- A ULB tender precludes being shortlisted as a Tenders in Contention, unless the Tenderer can provide reasonable justification for its ULB.
- The Principal or Tendering Manager will immediately notify the Director (Prequalification and Contracts) once the ULB clause is triggered.

The Principal or Tendering Manager shall immediately notify a Tenderer in writing if their conforming tender is a ULB and give the Tenderer five business days to make a submission to the Principal, addressing only the following factors, as to why the ULB should be considered further. The Principal will only consider one or a combination of any of the following factors:

- materials cost advantage
- process cost advantage
- innovation advantage, and
- genuine commercial advantage.

The Principal or Tendering Manager shall also convene a meeting with the Tenderer with the ULB to explain their rationale behind the above four factors.

In parallel with notifying the Tenderer of their ULB, the Principal or Tendering Manager shall engage an independent third party, who could be internal within the department, or an external consultant to be agreed to by the TAP, District Director and the Executive Director (Program Management and Delivery), to act as an assessor and/or surveyor for measurement and valuation purposes to dissect the ULB, including the submission made by the Tenderer(s) addressing the advantage(s) offered by their ULB. In this role, the independent third party must have the relevant experience and qualifications to assess the issues surrounding the ULB and must be able to act honestly, fairly, impartially and without bias when evaluating the ULB. They may also attend the ULB meeting with the Contractor if required.

The independent third party shall also assess the following to determine whether the ULB is still best value for money:

- the likely additional whole of project costs to the department in accepting the ULB
- increased Contract administration costs
- increased claims and dispute resolution costs
- increased risk transferred to the department, and
- other costs to mitigate risks that may be associated with the ULB.

The independent party shall make a recommendation, with validation, to the TAP regarding the ULB to either shortlist the tender on the basis the ULB is reasonable, or continue with its exclusion from further consideration.

Prequalification and Contracts Unit shall also prepare a report for the TAP of the Tenderer's previous ULBs accepted, if any, to include the tendered amounts and the final account or forecast final cost if the project is still in construction.

The TAP shall make a final recommendation based on the standard tender assessment, report of previous ULBs accepted and the independent third party recommendation. This recommendation must be endorsed by the relevant District Director and Regional Director.

The Executive Director (Program Management and Delivery), as the Principal's Delegate, shall make the final decision, based on the TAP's endorsed recommendation, to further consider the ULB supported by the Prequalification and Contracts team.

If a ULB is deemed to be the preferred tender after tender assessment and the Contract Sum is greater than or equal to \$20M, a Dispute Resolution Board shall be formed. The formation of a Dispute Resolution Board is optional for Contract Sums less than \$20M.

The Principal or Tendering Manager may advise the Tenderer in writing that the tender will not be shortlisted and provide a debrief to the Tenderer if requested (refer Attachment 1 for letter template).

*If no submission is made, or a submission is made that does not substantiate an advantage that explains the Unusually Low Bid, the Principal may advise the Tenderer in writing that the tender will be excluded from consideration.*



Caution is advised in using the 'Unusually Low Bid' clause when the market is over-heated (demand for services exceeds supply). In an over-heated market, what appears to be a ULB may in fact be a reasonable price from a Tenderer who tenders competitively, but other Tenderers do not. The ULB clause is most appropriate in a market experiencing extreme competition, which may lead to Tenderers submitting unsustainable prices simply to win work.

The TAP must determine whether it is in the best interests of the Principal to consider a ULB. If the panel's assessment is that the tender is unusually low, the panel should recommend the tender be excluded from further consideration.

The TAP must determine whether it is in the best interests of the Principal to consider a ULB. If the panel's assessment is that the tender is unusually low, the panel should recommend the tender be excluded from further consideration.

Note: Once a tender has been determined to be a ULB, the tender shall take no further part in the analysis of tenders including any BVI or sensitivity analysis. Any analysis under the ULB clause must take place prior to the BVI calculations or sensitivity analysis.

If a ULB is triggered in a MIC tender submission, an independent third party assessment is no longer required. The TAP must still request information from the ULB Tenderer(s) as indicated above and decides if the ULB Tenderer(s) should still be considered in the tender assessment. Reasons must be fully documented in the TAR. It is no longer a requirement to seek the Executive Director (Program Management and Delivery) approval, instead the TAR is to be signed by the District Director or Deputy Regional Director who confirms his / her agreement with the ULB decision in the TAR.

#### **7.4 Communication with Tenderers and referees**

Situations may arise where the TAP must communicate with Tenderers or referees while examining or assessing the tenders. In these circumstances, the TAP must maintain probity and confidentiality.

##### **7.4.1 Interviews**

When interviewing Tenderers, note the following guidelines:

- interviews are for the express purpose of clarifying or explaining information submitted with tenders. No additional information should be given to or obtained from Tenderers
- the interview panel should define the information required prior to the interview. It is a requirement that the discussion or presentation addresses the Tenderer's submission
- if appropriate, the Tenderer should be provided, in reasonable time before the interview, with a description of items to be discussed
- the interview process should be consistent for each Tenderer
- all members of the TAP should be present for the interview

- it is highly desirable that the Tenderer's staff attending the interview are directly responsible for the relevant work, and
- if Tenderers are to make presentations, ensure suitable facilities are available and the Tenderers are made aware of the facilities.

Notes or minutes taken in discussions or interviews with referees:

- will confirm discussion outcomes, and
- shall be signed by the interviewer and sent to the referee, if requested.

The Principal may contact any relevant person as referee and is not limited to the referees nominated by the Tenderer. Discussion must be based around the type of work being tendered upon.

The Probity Advisor, if appointed, may also attend or observe discussions with referees and interviews and presentations by Tenderers.

## **7.5 Tender selection**

The objective of the tender assessment process is to select which tender will provide best value for money.

### **7.5.1 Tender assessment and tenders in contention**

TIPDS Volume 1, Section 5.5 identifies the four basic supplier selection methods. The department's supplier selection methodologies are generally price-only or a combination of price and non-price criteria and may be staged.

The TAP must document the steps undertaken in the assessment process and the individual assessments. This documentation is incorporated into the TAR.

After examining the submitted tenders, the TAP will have identified a shortlist of conforming tenders. This list of three to four tenders constitutes the 'tenders in contention'.

For Price Only tender assessments, the cumulative price effects of discrepancies, conditions, assumptions and alternatives are recorded on Form C7506 *Working Tender List for Price Assessment* (refer Appendix F). For price and non-price tender assessments Form C7507 *Working Tender List for price and non-price assessment* is used (refer Appendix F).

### **7.5.2 Best tender**

The best tender is identified by the TAP from the 'Tenders in Contention' as that which represents best value.

To determine the best tender, the TAP must conduct an assessment that compares the tenders in contention against the requirements of the Conditions of Tendering, tender documents, the department's estimate, reference design, environmental impact statement and so on. It is advisable the assessment process includes a sensitivity analysis.

## Sensitivity analysis

The Principal must conduct a sensitivity analysis on all Contracts valued over \$10M.

A sensitivity analysis should be carried out on the Principal's estimate and the Tenders in Contention.

The sensitivity analysis investigates certain factors to determine if the tender ranking would change because of a change in quantities. These factors would typically include:

- changes to scheduled provisional items up to the relevant limit of accuracy for the specific type of provisional item in the Schedule (refer to MRS01 *Introduction to Technical Specifications* for information on the limits of accuracy for provisional items)
- changes to schedule or rate quantities that may be significant in cost, quantity or risk by analysing:
  - a) the scheduled quantity for items that appear excessively highly priced, which should be increased to the relevant limit of accuracy for that work (refer to Contract conditions and Annexures for information on limit of accuracy)
  - b) the scheduled quantity for items that appear excessively lowly priced, which should be decreased to the relevant limit of accuracy for that work (refer to Contract conditions and Annexures for information on limit of accuracy)
- contractual variations costed from the day-work schedules or a nominated fictitious variation such as that contained in Schedule M10. Refer to TIC Commentary Appendix A for more information (available on the departmental intranet).

If the Sensitivity Analysis indicates that the ranking would change with relatively small changes in the scheduled quantities (that is within the limits of accuracy), or because of the fictitious variation, the award of the tender needs to be carefully considered by senior departmental officers before the award takes place. Director (Prequalification and Contracts) should be contacted for advice in such instances. Where the likelihood of the change in quantities or the fictitious variation is high, award shall be based on the ranking based on the Sensitivity Analysis.

Note: The ULB provisions are not to be reapplied as part of the sensitivity analysis, a table similar to Form C7508 *Sensitivity Analysis List* in Appendix F needs to be prepared for the analysis of each scenario. The documentation of the assessment process must:

- include the assumptions made by the TAP
- contain the analysis of each tender
- directly compare between the outputs for the various tenders, and
- be included in the TAR.

During this analysis, it may become evident that the Item for Site Establishment and Disestablishment may appear to be excessively high, compared to either the Principal's estimate or the other Tenderer's tendered amounts. If so, the Principal may require the Tenderer to reduce the tendered amount for that item and reallocate the reduction to other items in the Schedule, as stated in the Conditions of Tendering. However, the total Tender Price after the reallocation must remain unchanged.

### 7.5.3 Capability assessment

Before the TAP can recommend the best tender, it needs to assess the capacity of the Tenderer to undertake the Contract. This includes the financial, managerial and technical aspects of the Tenderer to carry out the Works.

Over exposure of an organisation in technical, managerial or financial areas will impact on its capacity to deliver the Contract. The TAP must not recommend a tender if the Tenderer does not have the capacity to successfully complete the Contract.

Evidence that a Tenderer may not have the capacity to undertake the Contract includes:

- failure to satisfy the organisational management requirements of the tender documents
- insufficient financial resources to service the project, and
- over commitment to several Contracts.

During its consideration, the panel should refer relevant tender information to the Director (Prequalification and Contracts) for advice if:

- there are doubts about the Tenderer's prequalification status
- there are indications the Tenderer's prequalification status has changed appreciably
- the Tenderer presents evidence that appears to weaken its prequalification status, and
- the Tenderer appears to be financially or technically under capacity.

In addition, the TAP should refer the submitted information to the Director (Prequalification and Contracts) for advice on whether:

- the nominated project staff have been previously assessed for the relevant prequalification level
- the nominated staff are actually available for the project, and
- there is any relevant information in the performance assessment records of the Tenderer.

Where Tenderers are required to be registered as a specialist supplier, the TAP must refer the relevant information to the Director (Prequalification and Contracts) for advice.

Figure 7.6 outlines the capability / capacity assessment process undertaken by the TAP.

#### Technical capability

The TAP shall assess the organisational management information in the best tender, as submitted on the 'P' schedules (P4 through to P8) and compare it to the requirements of:

- the tender documents, and
- the relevant prequalification levels.

The TAP shall also assess the P4 and P5 schedules with input from Prequalification and Contracts Unit, if required.

A report must be forwarded to the Director (Prequalification and Contracts) via [contractorprequal@tmr.qld.gov.au](mailto:contractorprequal@tmr.qld.gov.au) and/or the relevant Engineering and Technology Technical Manager on completion of the technical capability assessment. This will enable the organisation's prequalification or registration files to be updated with recent information.

### **Financial capacity**

A financial check must be carried out by Prequalification and Contracts Unit on the Tenderer of the best tender to assess their financial capacity to complete the project. RoadTek and local governments are exempt from this requirement.

The Tenderer submits this information on 'P' schedules (P1 through to P3). Prequalification and Contracts Unit may request further financial information direct from the Tenderer.

### **Clarifying information**

If the TAP has doubts about the Tenderer's capacity to carry out the Works, it may request the Tenderer to clarify information previously provided by the Tenderer. Such concerns may include an apparent lack of experience, resources, business systems or finances. Section 7.4 contains information to consider when communicating with Tenderers.

The panel may seek further clarification by:

- interviewing the Tenderer
- assessing performance assessment reports
- seeking advice from referees, and
- seeking advice from the Director (Prequalification and Contracts).

When assessing the Tenderer's capacity to undertake the Works, the TAP should contact the Director (Prequalification and Contracts) for any relevant information that may be in performance assessment reports on departmental Contracts previously undertaken by the Tenderer.

The TAP can approach referees to obtain information relevant to the assessment process, for example:

- performance by the Tenderer on similar projects for other parties
- capabilities / capacities of the Tenderer and/or its key personnel, and
- interface and relational management behaviours.

Any information obtained from referees must be treated carefully. The TAP must consider the:

- reliability and industry standing of the referee
- relevance of the information provided
- avoidance of subjectivity or bias, and
- availability of documents to support any evidence given or claims made.

### **Selection panel conclusions**

On completion of the tender assessment process, the TAP must have identified:

- the tender to be recommended – the best tender, and
- the basis on which the best tender has been determined.

## **7.6 Tender assessment report**

The recommendation of the TAP and the basis of that recommendation must be documented in a TAR. Generic TAR templates are attached as Appendix J1 and J2. A TAR should:

- include provision for progressively recording the results of the various assessments and the recommendations of the TAP
- state the reasons for the recommendations and, where necessary, attach the supporting details and/or reports, and
- reflect any concerns or risks identified by the TAP.

Each member of the TAP must sign the completed TAR.

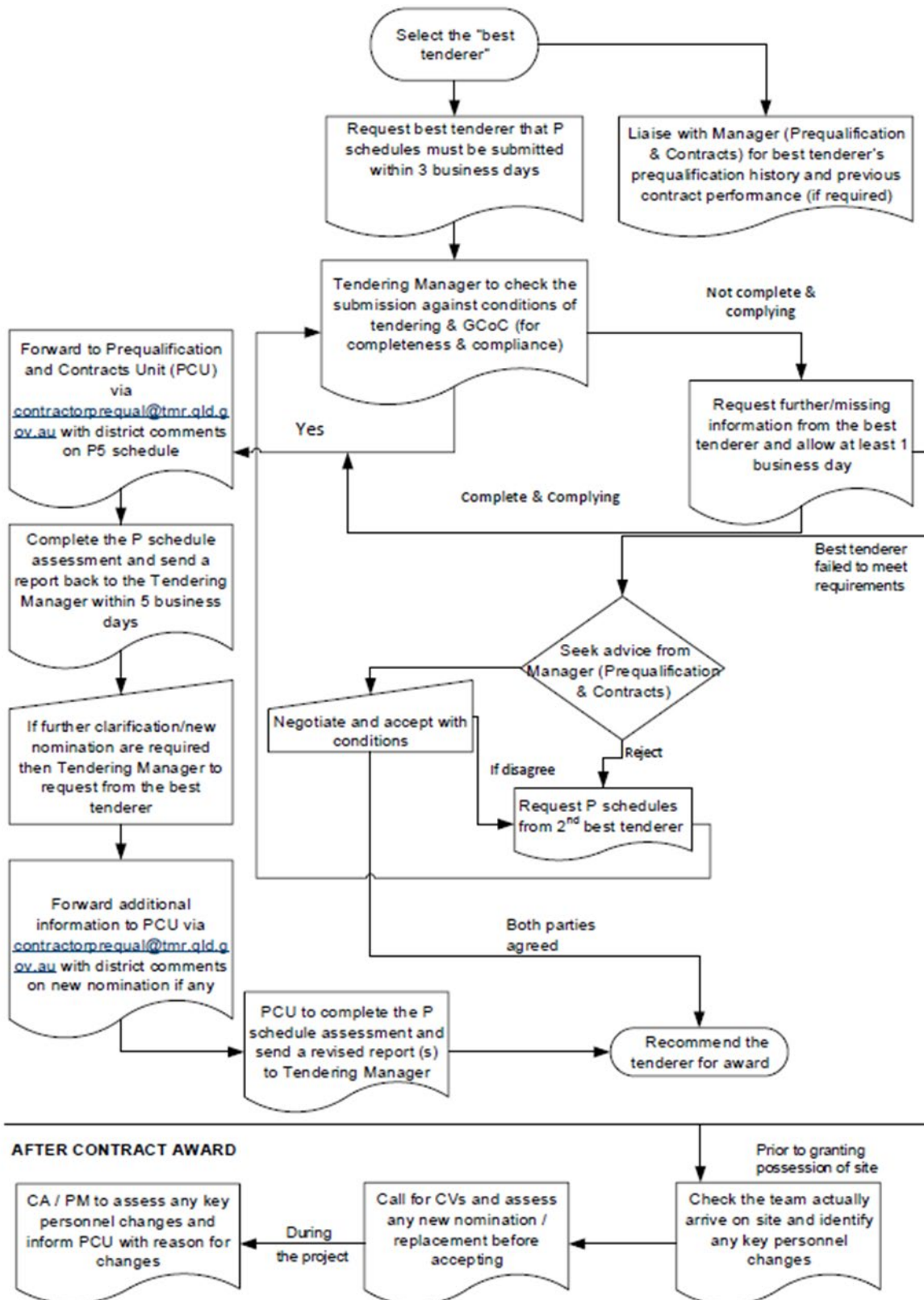
Where a member of the TAP does not agree with the recommendation, that member must prepare and sign a dissenting report, which shall be appended to the TAR.

As the recommended tender has not yet received approval, the identity of the recommended Tenderer must not be divulged to Tenderers. Although rare, recommendations have been overturned.

The Tendering Manager or chair of the TAP must ensure the completed TAR, with the completed TEP, is delivered to:

- the Project Manager (for distribution to the appropriate approvers), and
- the Probity Advisor.

Figure 7.6 – Capability / capacity assessment process



Regardless of the preferred Tenderer's and/or its Joint Venture partners' nomination of referees where the preferred Tenderer and/or its Joint Venture partners have contracted with the department in the past five years, the TAP will obtain the performance data held by the department on the preferred Tenderer and/or its Joint Venture partner's collaboration with the Queensland government from relevant departmental personnel including RoadTek. The department may also contact referees other than those nominated by the preferred Tenderer and/or its Joint Venture partners for more information if required.

## **8 Contract formation phase**

### **8.1 Overview**

Before the Contract can be formed, the best tender must be approved by the Principal's Delegate and financial approval processes completed, culminating in the issue of the Letter of Acceptance.

To gain this approval, the TAP must have completed the TEP. The Tendering Manager must have completed and submitted the TAR which must be endorsed by the Probity Advisor (if a Probity Advisor was appointed).

The above actions can be undertaken by parties contracted to perform and be responsible for those tasks. However, the Principal is directly responsible for the work in the Contract formation phase of the tendering process.

### **8.2 Financial approval process**

This section provides the Principal with guidance on the application of the financial approval process in accordance with delegated authority and responsibility in arranging approval and awarding of Contracts.

Appendix I – Financial Approval contains more detailed flowcharts of the approval process.

#### **8.2.1 Authorities and delegations**

The *Financial Accountability Act 2009 (Qld)* and the *Financial and Performance Management Standard 2009* establish the processes by which approval is granted to incur government expenditure (that is, to pay a particular sum to a particular company or organisation). All expenditure administered by the department, including projects funded by both state and federal governments, must comply with these requirements.

Under the above legislation, the Director-General has the power to delegate responsibility to certain departmental officers to approve expenditure of government funds for the purchase of goods or services. The department's financial delegations policies define the responsibilities of these officers.

The Financial Approval Process that facilitates actions towards financial approval and award of Contracts and identifies the current status of financial approval of any proposed Contract, is completed in 3PCM. Please refer to your District Finance area for details on the processes required to obtain Contract financial approval.



### 8.2.2 Approval steps

The steps involved in gaining financial approval are outlined in Appendix I – Financial Approval Flowcharts.

No financial approvals for federally funded projects may be concluded without first receiving federal approval, regardless of the amount involved or the approval officer involved.

### 8.2.3 Process for review of tender recommendations

The prime responsibility of the TAP is to recommend a tender that represents best value for money, however, the responsibility of endorsing or approving, rests on the duly authorised officers who should make decisions after carefully studying the TAP's recommendations.

If an endorser / approver is concerned about whether a recommendation has been improperly made or simply has questions about it, then further action is needed. They must firstly detail their reasons for disagreeing with the recommendation. Disagreements should be expressed only in terms of inconsistencies with the:

- Conditions of Tendering, and
- Tender assessment process detailed in the TEP.

Once the disagreement has been detailed, further actions available to the endorser / approver include:

- discussing their concerns with the TAP Chair
- requesting the TAP to reconsider their recommendation in light of other information, and
- reconstituting the TAP.

The District must forward all approved tender recommendations (including those that have already been financially approved at District level) to Portfolio Investment and Programming Branch. They will obtain any Ministerial or Executive Council financial approval as required.

Prior to awarding the Contract, the District must forward the following information to the Prequalification and Contracts Unit:

- Form C7817.1C *Details of Tenders Received* – refer to TIC internet page
- Form C7503 *Register of Notice to Tenderers* – refer Appendix F
- District Tender Analysis
- Post-Tender Correspondence, and
- Original Winning Tender.

Prior to the anticipated award date, Prequalification and Contracts Unit will email the relevant District detailing what is expected to be awarded and await confirmation that awarding can proceed pending financial approval being received from Portfolio Investment and Programming Branch.

## 8.2.4 Handover between TAP and Contract Administrator

It is good practice to carry out a comprehensive handover from the TAP to the Contract Administrator (CA), to ensure that the CA has a good understanding of concerns raised at the time of tender, consequently, potential risks that could unfold during delivery. For example, a ULB may have been selected as the tender that represents best value for money, the CA would need to understand the sensitivity / risk analysis undertaken as part of the evaluation of the ULB to ensure that the Contract is administered appropriately.

## 8.3 Award of contract

### 8.3.1 Letter of acceptance

A tender is accepted by issuing a Letter of Acceptance that includes:

- Contract name and number
- Contract value
- date for practical completion, and
- position and address of the Principal's Representative.

The attention of the Contractor must also be drawn to Form C7871.TIC *Contract Document List* (which details correspondence issued and received) and Form C7872.TIC *Requirements to be executed by the Contractor*. Both forms are available on the TIC page on the departmental website.

The Contract documents should be posted to the Contractor either with the Letter of Acceptance, or under a separate cover (as done at present), requesting the Contractor to furnish the requirements within the time limits specified.

If the Tenderer included performance indicators or additional actions as part of the tender (for example, weekly progress meetings with stakeholders), then those should be referenced in the Letter of Acceptance to confirm their importance.

The Letter of Acceptance will be signed by the officer with the appropriate delegation (Principal's Delegate). This is usually:

Project or Contract type	Delegated authority
Road and bridge projects to be delivered under TIC-CO, TIC-DC, ECI, CPAs	Program Director (Infrastructure Delivery Services) of Program Management and Delivery
All projects to be delivered under TIC-SI, MIC-CO and MIC-SI	District Director
Marine projects such as dredging and boat ramp	Program Director (Statewide Program) of Program Management and Delivery
Marine projects such as beacon	General Manager (MSQ)

Templates for Letter of Acceptance for MIC-CO, TIC-SI, and MIC-SI are available at respective departmental web pages for these Contracts.

### **8.3.2 Formal instrument of agreement**

The process for compiling the Contract documents is based around the Formal Instrument of Agreement which is signed by both parties. Prequalification and Contracts Unit will issue the Formal Instrument of Agreement. The Contract documents include:

- Formal Instrument of Agreement
- Letter of Acceptance
- Post-tender correspondence
- Original winning tender submission
- Notices to Tenderers, and
- Tender documents (issued at call of tenders).

In the event of any dispute regarding the Contract, this document is conclusive evidence of the written agreement between the Principal and the Contractor.

A Purchase Order should only be created after the Letter of Acceptance has been signed or the Formal Instrument of Agreement has been executed (signed) by both parties.

Formal Instrument of Agreement is not required for MIC-CO and Sole Invitation Contracts.

### **8.4 Feedback to unsuccessful Tenderers**

A feedback meeting can help Tenderers understand how the department perceived the proposal and may help Tenderers to develop better tender responses in the future.

Soon after the award of the Contract, the Principal must inform all unsuccessful Tenderers:

- of why the submission was unsuccessful
- about areas of weakness or non-compliance in the submission
- qualitative feedback on how the Tenderer's submission performed against the evaluation criteria for example: What was done well? What was lacking?
- suggestions on how to improve future submissions
- the name of the successful Tenderer, and
- the Contract sum.

Do not disclose:

- individual selection criteria scores
- sub-criteria weightings (%)
- prices of the other Tenderers, or
- comparisons with other Tenderers or discussion of the winning Tenderer(s).

Prequalification and Contracts Unit will issue the letter to unsuccessful Tenderers.

## **Appendix A – Probity Auditors / Advisors and probity plans**

For more information regarding probity auditors, probity advisors and probity plans, please refer to the public document '*Procurement guidance: Use of probity auditors and advisors in procurement*' published by the Office of the Chief Advisor - Procurement of Department of Housing and Public Works.

A Probity Plan template is available via email request [infrastructureproc@tmr.qld.gov.au](mailto:infrastructureproc@tmr.qld.gov.au).

**Appendix B1 – Complex project TEP template  
(Tender selection methods 2, 3 and 4)**

See [Appendix B1 – Complex Project TEP template \(Tender Selection Methods 2, 3 and 4\)](#).

## Appendix B2 – Complex project TEP example (Tender selection methods 2, 3 and 4)

<b>Project name</b>	<b>Springhill Diversion</b>
<b>Project number</b>	SRTG 11
<b>Project Manager</b>	John Jones Senior Engineer (Delivery)
<b>Project Manager contact details</b>	Phone: 07 4567 789 Email: john.z.jones@tmr.qld.gov.au
<b>Tendering Manager</b>	Bill Smith Principal Engineer
<b>Tendering Manager contact details</b>	Phone: 07 4567 781 Email: bill.x.smith@tmr.qld.gov.au

### Project summary

<b>Item</b>	<b>Details</b>
Total Project Cost Estimate	\$100M
Scope of Works	New 6 km of 4 lane upgrade diversion, (green field) 2 x 2 lane bridge creek crossings with twin bridges 1 x 3 of 2100 culvert crossing 2 km upgrade of existing 2 lane road
Special considerations	3 km of 4 lane roadway within sensitive environmental flood plain. Traffic management on existing road, as very heavy truck route. Extensive network of engineering services and Public Utility Plant present near the existing road, with a high likelihood of encountering unmarked / incorrectly detailed services. New road is in close proximity to residential development in some areas, and Removal of 1 existing 2 lane bridge over environmentally-sensitive area.
Timeline	A political promise to open this new section of road has been made with the completion date identified as November 2010.
Previous design and investigation work	The Design is complete to 70% being: <ul style="list-style-type: none"> <li>• Pavement, roads and drainage 90%</li> <li>• Bridges 50%</li> <li>• Public Utility Plan (PUP) relocation design 50%.</li> </ul> Detailed hydrology report Traffic report providing existing and proposed requirements

Item	Details
Current departmental project resource dedicated to the delivery of the project	1 x Senior Project Manager 50% 1 x Project Manager 100% 2 x Specialists in D & C 40% 1 x Specialist in Environment 20% 2 x Administration support 60%
Version number:	2
Revision date:	31 October XXXX
File number / document number	AA/4567/32

## 1 Brief for TAP

### 1.1 Project description

Development and analysis of the proposal to construct a diversion of the congested Spring Hill District was initiated in March XXXX. The initial project scope focused on the need to upgrade the existing road infrastructure, while recommending the construction of a new single lane diversion to the North. Traffic analysis and modelling conducted by John's Consulting in XXXX identified the need for four new lanes to be constructed. This led to the need to change the proposed alignment of the new road further north, such that the current design has the new road much closer to the Spring Junction and Spring Valley residential areas.

The main issues identified during the development of the business case are outlined below:

- environmental concerns in relation to construction through the Spring Valley flood plain
- the exact alignment of the new diversion road and the impact of the road and construction on the community, and
- extensive network of PUP and high likelihood of unmarked and/or incorrectly detailed engineering services.

For more details with regard to the issues identified above, refer to the project Business Case identified as Reference A.

In addition to the issues identified above and detailed in the Business Case, there is now increased political pressure on the project, as the government has made a commitment to deliver the new diversion within five years. This new requirement has taken 18 months of the previous project timeline. The revised completion date has significantly changed the dynamics of the project and the proposed delivery method.

#### 1.1.1 Project location

The new diversion road starts at the intersection of Cliff Road and Jones Drive, Springwood and proceeds North of Spring Hill, between the suburbs of Spring Junction and Spring Valley, before terminating at the newly constructed Northern Bypass. For complete details of the proposed route review, the preliminary design provided in the Request for Tender (RFT) documentation.

The upgrade Works identified will take place on the existing Spring Hill Road between the intersections of George and Nugget Streets.

### **1.1.2 Type of work**

The Contract includes but is not limited to all the work required to complete the new road construction and upgrade as indicated on the drawings. For complete details of the work required under the Contract, review the projects Design Brief provided within the RFT.

### **1.1.3 Scale and scope of Work**

For full details of the scope of Works, refer to the Project Brief contained within the RFT. In summary, the project involves the design and construction of:

- 6 km of four lane upgrade diversion, (green field)
- two creek crossings with twin bridges, each to accommodate three lanes with an extra wide shoulder
- extended culvert to carry 100 year flow at the local swamp within a very sensitive environmental area
- 2 km upgrade of the existing two-lane road to four lanes, and
- removal of an existing two-lane bridge.

## **1.2 Project objectives**

The project objectives detailed in the Business Case are summarised below:

- reduce travel time between the satellite centres of Karana in the West to Linville in the North by 15 minutes during peak hour traffic
- reduce Spring Hill congestion by 20% through the removal of Karana to Linville through traffic
- no unintentional damage or interruption to PUP and engineering services during construction
- gain community support for the project, and
- accommodate the environmentally sensitive Spring Valley flood plain.

## **1.3 Stakeholders**

The complete stakeholders list is provided in the Business Plan. Key stakeholders worthy of special mention are:

- Honourable John MacDonald, State member for Gosling
- Spring Hill Mayor Phil Jones
- Mrs Joan Parcilla, 'Springhill Action Group (SAG)' Chairperson
- Mr Adam Teldak, Principal Spring Valley High School, and
- Mrs Sandra Williams, President of the environmental action group 'Save the Wetlands' Foundation.

## **1.4 Contract type (refer to the Project Delivery Strategy for further details)**

### **Design and Construct**

The full risk analysis and delivery selection procedures and justifications are provided in the Business Case. The main factors leading to the decision to use a Design and Construct (D & C) delivery method are detailed below:



- the current documentation is not sufficiently detailed for TIC-CO delivery
- a competitive D & C tender is likely to deliver the best 'Value for Money'
- D & C would provide the best chance of innovation by gaining multiple ideas, via a competitive tender of up to three short listed Contractors, and
- the construction time risk and opportunity for innovation to achieve early completion, would be best achieved through a D & C using time as a non-price criterion with substantial weighting. This would encourage Tenderers to nominate an early completion date during tender which is at their risk, and
- D & C delivery requires less Principal resources.

## **1.5 Construction timetable**

### **1.5.1 Programming intentions and objectives**

Given the recent political announcement that the diversion will be completed within five years, the nominated Practical Completion date identified in the RFT documentation is XXXX. The expected project program is outlined below:

- 1 March XXXX this year – Award Contract
- 20 March XXXX next year – Commence construction, and
- 15 October XXXX two years' time – Practical completion.

### **1.5.2 Constraints**

The current Spring Hill road infrastructure and corridor is a primary route for heavy traffic transporting small electrical components from the Jenkins Port to the newly established Fitzgerald Technology Park. The development of this Park is integral to the Queensland Government's 'Smart State' program. Every effort must be made to ensure that there is no disruption to this important industry and government venture.

### **1.5.3 Urgency**

In general, there is pressure throughout the state to deliver numerous infrastructure and road projects to support the continued record population increase within south of Queensland. This project has been made significantly more politically sensitive due to the recent State Members announcement that the diversion will be complete within five years.

### 1.5.4 Target dates

Milestones	Target dates	Date achieved / notes
Advertise EOI	25 May XXXX This year	
Close EOI	25 June XXXX	
Evaluate EOI	28 June – 5 July XXXX	
Release RFT	1 August XXXX	
Tenderers Interactive Meetings	20 August XXXX	
Close RFT	5 November XXXX	
Complete evaluation	10 November XXXX – 20 January XXXX Next year	
Award Contract	1 March XXXX Next year	

<b>HOLD POINT</b>	
Brief for TAP	
Signature: _____	/ /
Tendering Manager	Date

## 2 Appointment of TAP

### 2.1 TAP membership

Role	Name	Official position	Insert date and signature
<b>Chairperson</b>	Bill Smith	Tendering Manager	28 Feb xxxx, كُت
<b>Project representative</b>	Eric Pollic	Project Engineer	28 Feb xxxx, كُت
<b>Independent representative</b>	Joanne Symes	N/A	28 Feb xxxx, كُت
<b>Other</b>	Adam Sparkes	Major Projects Delivery Manager	28 Feb xxxx, كُت
<b>Probity Advisor</b>	Richard Watkins	Reporting to Project Manager	28 Feb xxxx, كُت

### 2.2 Convening of the panel

Being a two-stage selection process, a number of the steps and activities will be conducted twice, being once for the evaluation of the EOI and on a second occasion for the evaluation of the RFT. The TAP will be responsible for evaluating the submissions and providing a report to the Sponsor. As a rough guide, each TAP member will be required for the following:

- 28 June – 5 July XXXX – Allow four days to individually evaluation EOIs
- 9 – 10 July XXXX – Conduct of the EOI evaluation as a team
- 15 July XXXX – Present assessment report recommending tenders to move to second stage for approval
- 25 July XXXX – Approval received for second stage

- 20 August, 10 September, 1 October XXXX – interactive meetings with short listed Tenderers
- November XXXX – 20 January XXXX – TAP individual evaluations
- 22-30 January XXXX – TAP moderation, and
- 5 February XXXX – Tender Evaluation Report submitted.

Time indicated for evaluation of submissions is subject to the individual TAP members' experience in evaluating submissions and understanding of the project.

### **2.2.1 Panel responsibility**

Each Member of the TAP shall be required to declare whether they have an actual or potential conflict of interest with any Registrant or Tenderer or had contact, which could have influenced any decision making, with any of the Registrants or Tenderers during the evaluation period.

### **2.2.2 Outline of responsibility**

All TAP members will treat all information and documentation, obtained throughout the evaluation process, as 'Commercial in Confidence'.

The TAP members are required to sign the Probity / Conflict of Interest declaration in Section 2.2.3 which also covers issues in relation to TAP member confidentiality.

The Probity Advisor will summarise the details of the Probity Brief to the TAP members before getting them to sign the Probity / Confidentiality / Conflict of Interest declaration.

### **2.2.3 Assessment panel conflict of interest declaration**

Probity and conflict of interest declarations for external Contractors and consultants must use the form '*Acknowledgement of Obligations Confidentiality and Conflict of Interest Deed – Contractor or Consultant*' found internally on the departmental intranet Procurement Process templates site.

Probity and conflict of interest declarations for Queensland government employees must use the form '*Acknowledgement of Obligations Confidentiality and Conflict of Interest Deed – QLD government employee*' found internally on the departmental intranet Procurement Process templates site.

## **2.3 Additional resources**

Additional resources anticipated to be engaged during the conduct of this procurement activity are outlined below:

- Mr Eric Moulder (department's Project Officer) – TAP Secretary, required for the duration
- Probity Advisor – SAA Legal Services, required for the duration
- Independent Verifier – JJM Consulting to provide technical engineering expertise with the following:
  - a) allowance for appropriately-qualified engineers to be present for all design review meetings with Tenderers
  - b) provide a detailed engineering assessment of the Tendered designs, and
  - c) prepare specific design related questions to seek clarification if required.
- Independent Estimator – PRO QS Pty Ltd to conduct a detailed cost estimate of the tendered designs, and

- Environment Advisor – Cloty Environmental Services to provide specialist environmental review of tender designs and review and critic the response to the environmental selection criteria.

<b>HOLD POINT</b>	
TAP appointed	
Signature: _____	/ /
Principal	Date

**Attach any Statutory Declarations or Deeds of Confidentiality that the TAP members had to sign.**

### 3 Documentation and communication

#### 3.1 Tender selection method (refer to the Project Delivery Strategy for further details)

- Method 1 – price only considerations
- Method 2 – price and non-price considerations (single stage process)
- Method 3 - price and non-price considerations (two stage process)
- Method 4 – project specific selection process

Pre-qualified Contractors and consultants will be invited to Register Interest in the project via an EOI. The preference is to invite three Registrants,, however the TAP has the flexibility to shortlist up to four and as low as two Registrants to be invited to tender. Requests for Tender will be released, after the TAP report on the conduct of the EOI evaluation has been approved by the sponsor.

#### 3.2 Tender selection criteria and weightings

As detailed in the previous section, the selection evaluation criteria and weighting have been developed by the Project Team for the EOI evaluation. The team was also responsible for determining the Non-Price Criteria (NPC) weighting and the minimum acceptable NPC score by objectively balancing the importance of the non-price criteria with best value for money.

##### 3.2.1 Risk, opportunity and urgency

Risk / opportunity	Urgency	Description
Limited planned and unplanned PUP / engineering services interruptions	Establish communications with applicable engineering service providers. Conduct detailed desktop engineering services investigations. Conduct onsite survey and investigation to determine the accuracy of information provided.	There is extensive Public Utility Plant present near the existing road, with a high likelihood of encountering unmarked / incorrectly detailed services.

<b>Risk / opportunity</b>	<b>Urgency</b>	<b>Description</b>
Environmental	<p>Establish and maintain communication with environmental interest group.</p> <p>Engage the interest groups at selected times to outline planning and seek comment / feedback.</p> <p>Manage and monitor the Flora and Fauna within the environmentally sensitive area.</p>	The new diversion road will traverse the environmentally sensitive Spring Valley flood plain.
Design innovation	Encourage open and innovative approaches to be adopted by the design teams during the tender period. The current bridge designs are at 50%.	The only factor unlikely to change from the design brief provided, is the general location of the bridges and viaducts, with all other aspect (Design, construction methodology, approaches, materials used, and so on) able to embrace innovation.

### 3.2.2 Project specific and non-project specific factors

<b>Project specific and non-project specific factors</b>	<b>Description</b>
State Government's Policy	The Fitzgerald Technology Park is a significant government and industry development and is integral to the success of the State Government's Policy.
Connection to the newly constructed Northern Bypass	The Northern Bypass is due for completion in February XXXX next year. The project will need to coordinate construction activities at the connection to this road through the Bypass Contractor. The alignment of the connection will also need to be designed after consultation with the Bypass designers.
Queensland State Government Election	The Queensland elections are due in the first half of XXXX next year. Depending on when the election is called, there is a high likelihood that the project will be made a hot political issue. The success or failure of the project to deliver against the identified project objectives will impact on the local standing member and government.
New Housing Estate Development	Spring Valley is experiencing unprecedented growth with four large scale housing development applications (totalling 1,350 new homes) approved in the past 12 months. Subject to the numbers included in each stage of the respective developments, current estimate is that there will be approximately 700 more residents in Spring Valley before the end of the project.

### 3.2.3 Selection criteria

The selection criteria for the EOI are provided below:

<b>Selection criteria</b>	<b>Sub-elements</b>
Task appreciation	Registrants' understanding of the nature and scope of the Contractor's Activities, in particular their requirement to conduct and coordinate design and construction activities.

<b>Selection criteria</b>	<b>Sub-elements</b>
Current capacity and capability	Schedule of resources allocated to this project. Resource availability and current workload.
Previous performance	Similar projects relevant to this project. Make specific reference in relation to how your performance on these previous projects will benefit this project. Demonstrated experience in the delivery of projects through D & C Contracts. Examples of projects delivered under a tight timeframe. Involvement of key personnel in the projects identified that are being offered for this project.

The selection criteria for the main tender are:

<b>Selection criteria</b>	<b>Sub-elements</b>
<b>Methodology</b>	Details of how the proposed design is going to be constructed, including programme of Works.
<b>Management systems</b>	Systems to be adopted to ensure the project objectives are met, quality standards adhered to, programme met and budget managed. Specifically, the proposed Traffic Management Plan for the project addressing the control of heavy trucks on this route, handling of PUP including mitigation of the possibility of encountering unmarked / incorrect services.
<b>Resources</b>	Key personnel nominated - particularly relevant experience of environmental specialist proposed to this project highlighting their work in an environmentally sensitive area similar to this project.
<b>Design</b>	Nominated design
<b>Price</b>	

### 3.2.4 Weighting of criteria

#### Expression of Interest (EOI)

<b>Selection criteria</b>	<b>Weighting</b>	<b>Basis of weighting</b>
<b>Local Benefit Test</b>	20%	Agreement with whole of government
<b>Best Practice Principles and Other</b>	20%	
<b>Task appreciation including risk assessment</b>	15%	Discussion amongst project team and tendering manager based – experience decision. Project team and tendering manager pair-wise exercise – see below.
<b>Current capacity and capability</b>	20%	
<b>Previous performance</b>	25%	

**Main Tender**

Selection criteria	Weighting	Basis of weighting
Plans	10%	High value placed on quality of Contractor so price weight is low.
Design	20%	
Price	70%	

Non-price criteria weighting decided by pair-wise matrix – summarised below:

Criterion	Code	Criterion				
		A	B	C	D	Total
Methodology	A		2	1	3	
Management systems	B	0		0	3	
Resources	C	1	2		3	
Design	D	0	0	0		
<b>Total Score</b>		1	4	1	9	15
<b>Rank</b>		3	2	3	1	
<b>Non-price criteria weighting (100%)</b>		10%	20%	10%	60%	100%
<b>Non-price criteria weighting (20%)</b>		2%	4%	2%	12%	20%
<b>Non-price criteria weighting rounded</b>		<b>3%</b>	<b>4%</b>	<b>3%</b>	<b>10%</b>	<b>20%</b>

Preference rating:

0 – Not as high a priority

1 – Equal priority

2 – Slightly higher priority

3 – Higher priority

**3.2.5 Scoring matrix**

The scoring matrices for the EOI evaluation and the main tender evaluation are attached at Appendix XX.

**3.3 Pre-close of tender meeting****Expression of Interest (EOI)**

Pre-close tender meeting will be held on the 20 July XXXX. Those wishing to be considered as main Tenderers must attend. All members of the TAP must also attend.

Agenda – the focus will be on the environmental impacts and the level of resourcing required by the Contractor.

**Main tender**

Two meetings will be scheduled with each short-listed Tenderer to discuss their specific bids. The TAP and Probity Auditor will be required at all the meetings. The Tenderers should attend with key personnel. Dates for the tender meetings will be set once the EOI has been evaluated.

**3.4 Tender submission**

**Expression of Interest (EOI)**

Non-price criteria as stated in the tender document will be required plus an outline of resources available.

**Main tender**

Tenderers will be submitting (in addition to non-price criteria and price):

- a design, including a Schedule of Quantities
- health and safety records (including Lost Time Injuries (LTI) for last two years for whole company)
- schedule of key personnel and hours dedicated to the project
- a general resource schedule, and
- plant schedule.

**3.5 Interview plan (if applicable)**

Tenderers will be requested to make a presentation to the TAP two weeks after submitting their bids. Each presentation should be no more than two hours and only cover material from their bid. No extra information is to be presented. Handouts to the audience will not be allowed.

<b>HOLD POINT</b>	
Tender documents completed	
Signature: _____	/ /
Tendering Manager	Date

<b>HOLD POINT</b>	
Approval to invite tenders	
Signature: _____	/ /
Principal	Date



**Procurement delegate endorsement**

<p>As a Procurement Delegate with the appropriate level of delegation, I am satisfied that:</p> <ul style="list-style-type: none"> <li>• the procurement option selected is appropriate and sufficient justification has been provided</li> <li>• the Invitation documentation meets the requirements of the departmental procurement standards</li> <li>• the evaluation criteria and Conditions of Contract are appropriate for this procurement</li> <li>• the Invitation method selected is appropriate</li> <li>• the supplier market selected to invite is appropriate</li> <li>• the Invitation will provide value for money for the department.</li> </ul> <p>I am aware of my responsibilities under the probity and accountability provisions of the QPP and I acknowledge that I am accountable for this decision.</p>			
<b>Invitation name:</b>			
<b>Invitation number:</b>			
<b>Name:</b>			
<b>Position title:</b>			
<b>Branch:</b>			
<b>Procurement delegation:</b>	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5		
<b>Additional comments:</b>			
<b>Signature:</b>	<table border="1" style="width: 100%;"> <tr> <td style="width: 70%;"></td> <td style="width: 30%;"><b>Date:</b></td> </tr> </table>		<b>Date:</b>
	<b>Date:</b>		

## **Appendix B3 – Simple project TEP template (Tender selection method 1)**

See [Appendix B3 – Simple Project TEP template \(Tender Selection Method 1\)](#).

**Appendix B4 – Simple project TEP example (Tender selection method 1)**

<b>Project name</b>	Toowong Rd Improvements
<b>Project number</b>	STHD - 00
<b>Project description</b>	Two lane widening on Toowong Rd between Springhill Rd and the Western Freeway.
<b>Project Manager</b>	Sally Smart Senior Engineer (Delivery)
<b>Project Manager contact details</b>	Phone: 07 3000 4000 Email: sally.x.smart@tmr.qld.gov.au

Version number:	
Revision date:	
File number / document number	

**1 Brief for TAP****1.1 Project objectives**

The project objectives are detailed in the Business Case and summarised below:

- provide a safe facility for cyclists travelling from Toowong to Ipswich
- increase safety at the Smithers and Spring Hill Rd Intersections
- collect revenue from commuters parking along Toowong Rd
- keep Toowong Rd open to traffic throughout construction
- minimise disruption to local residents during construction.

## 1.2 Project summary

Item	Details
<b>Out turn cost estimate</b>	\$4.9M
<b>Scope of Works</b>	km of two-lane widening at grade intersection upgrades Construction of cycle lane on the southern side of Toowong Rd Creation of metered on street parking on the northern side of Toowong Rd
<b>Special considerations</b>	Traffic management on live traffic Site Fibre optic cable runs the full length of northern side Residential area – night work unlikely
<b>Project location</b>	Toowong Rd between Spring Hill Rd and the Western Freeway on ramp
<b>Timeline</b>	Construction completion 20 December next year

## 1.3 Stakeholders

The main stakeholders to be considered in this project are:

- Toowong Residents Association – Chairperson David Lee. Have an interest in keeping the noise low during construction, especially at night.
- Spring Hill Regional Council – Roads Manager Philip Fox. Very supportive of the project and co-contribution of funds for new parking meters. Has a concern about keeping the traffic flowing during construction?
- Telstra – Utilities Liaison Manager Fred James – will be required on Site while the excavation runs near the fibre optic cable. Major communications failure if this cable is severed.

## 1.4 Contract type (refer to the Project Delivery Strategy for further details)

Transport Infrastructure Construction Contract

## 1.5 Programme to Contract award

Milestones	Target dates	Date achieved / notes
<b>Advertise tenders</b>	25 February XXXX	
<b>Tender period starts</b>	1 March XXXX	
<b>Pre-close tender meeting</b>	16 April XXXX	
<b>Close tenders</b>	30 April XXXX	
<b>TAP evaluation</b>	3 May XXXX	
<b>Award Contract</b>	1 June XXXX	
<b>Commence construction</b>	1 July XXXX	

<b>HOLD POINT</b>	
Brief for TAP	
Signature: _____	/ /
Tendering Manager	Date

## 2 Appointment of TAP

### 2.1 TAP membership (refer to Addendum A-B for further documentation)

Role	Name	Official position	Insert Date and Signature
Chairperson	Sally Smart	Project Manager	12 Jan XXXX, كُتِبَ
Project representative	Bill Bentley	Project Support Officer	12 Jan XXXX, كُتِبَ

### 2.2 Convening of the panel

Step	Date
Pretender meeting	28 February XXXX
Pre-close meeting	16 April XXXX
Tender evaluation	3 May XXXX
Tender report	5 May XXXX
Award Contract	1 June XXXX

<b>HOLD POINT</b>	
TAP appointed	
Signature: _____	/ /
Principal	Date

**Attach any Statutory Declarations or Deeds of Confidentiality that the TAP members had to sign.**

## 3 Documentation and communication

### 3.1 Tender selection method (refer to the Project Delivery Strategy for further details)

- Method 1 – price only considerations
- Method 2 – price and non-price considerations (single-stage process)
- Method 3 – price and non-price considerations (two-stage process)
- Method 4 – project specific selection process

### 3.2 Pre-close of tender meeting

A Pre-close tender meeting is scheduled for the 16 April XXXX. All Tenderers will be required to attend. The TAP will also be required to attend.

The main agenda item will be 'Site conditions and constraints on Works program'.

### 3.3 Tender submission

The standard TIC-CO response forms only are required.

<b>HOLD POINT</b>	
Tender documents completed	
Signature: _____	/ /
Tendering Manager	Date

<b>HOLD POINT</b>	
Approval to invite Tenders	
Signature: _____	/ /
Principal	Date

### Procurement delegate endorsement

As a Procurement Delegate with the appropriate level of delegation, I am satisfied that:	
<ul style="list-style-type: none"> <li>• the procurement option selected is appropriate and sufficient justification has been provided</li> <li>• the Invitation documentation meets the requirements of the departmental procurement standards</li> <li>• the evaluation criteria and Conditions of Contract are appropriate for this procurement</li> <li>• the Invitation method selected is appropriate</li> <li>• the supplier market selected to invite is appropriate</li> <li>• the Invitation will provide value for money for the department.</li> </ul>	
I am aware of my responsibilities under the probity and accountability provisions of the <i>Queensland Procurement Policy</i> and I acknowledge that I am accountable for this decision.	
<b>Invitation name:</b>	
<b>Invitation number:</b>	
<b>Name:</b>	
<b>Position title:</b>	
<b>Branch:</b>	

<b>Procurement delegation:</b>	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5	
<b>Additional comments:</b>		
<b>Signature:</b>		Date:

## **Appendix C – Defects liability period**

### **1 Introduction**

Although it is desirable to have a defect-free final product, this is often difficult to achieve in transport infrastructure construction. Defects do appear in infrastructure, even after practical completion and subjecting the Works to traffic and other intended loading. It is the responsibility of the Contractor to repair defects that occur after the practical completion of Works but within a specified period. This defined period is termed as the 'defects liability period'.

The department's current policy on defects liability period for TIC-CO and TIC-SI, MIC-CO and MIC-SI, is to limit the period to 90 days unless there are unusual project circumstances that would justify a longer period. This Appendix sets out the principles and considerations that should be met before the Director (Prequalification and Contracts) approves any variation to the current defects liability period of 90 days.

In all cases, the Principal should retain relevant securities (generally in the form of a bank guarantee for 4% of the contract value) until the Administrator has issued a final certificate. For Minor Infrastructure Contracts, the Principal only retains retention security.

It may be viewed that there are benefits of having a longer defects liability period, due to the fact that there is a long period for defects to appear and the Contractor could be required to repair them. The major issue for Contractors is that securities are not released until the final certificate is issued after the defects liability period. This could mean they are not able to obtain security for a new Contract and cannot achieve continuity of work. Thus, Contractors seek to minimise security commitments. Other issues for Contractors are:

- the practicability of deciding what defects are attributable to the Contractor and its workmanship. With extended liability periods, it will become more difficult to attribute the cause of the defect, that is, whether it is a design-related defect or the quality of the construction
- a clear and consistent basis for setting the period, and
- the logistics of maintaining remote Works for long periods.

It is accepted that the incidence of defects occurring during the defects liability period is due to many causes and the department's primary aim should be to address these causes. The department's approach should be to achieve good practices and processes that lead to defect minimisation, rather than depending on the defects liability period. However, addressing these issues is outside the scope of this Appendix. The Contractor should not be responsible for design shortcomings, but for constructing the Works to the construction specification and design drawings.

### **2 Underlying principles**

The Contractor should hold the risk for the period in which it would be reasonable to expect that a very high proportion of construction defects would become apparent.

The length of the defects liability period should reflect the particular circumstances of the project and take account of:

- the prevailing climatic and materials conditions
- construction sequencing



- any specialised equipment or technique that has not been previously proven, and
- the risks transferred to the Contractor, for example, design risks in a TIC-DC Contract.

If a longer period is used, the amount of retention security retained should be reduced as per these guidelines. This does not apply to D & C Contracts which would ordinarily have a longer standard defects liability period. Unusual project circumstances where it may be appropriate to have a longer defects liability period include:

- the Works are not subject to normal operational loads during the standard defects liability period
- there are significant seasonal environmental effects
- there are significant mechanical or electrical components involved where the manufacturing guarantee and warranty periods (statutory or otherwise) exceed the defects liability period
- landscape establishment periods need to be accommodated, and
- longer defects liability periods may be appropriate when using performance-based specifications, for example, those commonly seen in D & C Projects.

An excessive defects liability period must not be used as an alternative to effective surveillance or to 'proof' design. Both the TIC-CO and TIC-SI provide a process for compliance testing and audit testing which needs to be complemented with effective statistical and visual surveillance.

Decisions should be equitable to all those concerned.

It is not reasonable to transfer all risks to the Contractor. The Administrator is involved throughout the Contract and therefore the Principal can accept some of the responsibility for defects, should they occur.

Defects liability periods should generally be standardised. A non-standard defects liability period should only be used if there are unusual project circumstances.

### **3 Defects liability period considerations**

There are many factors that need to be taken into consideration when determining the defects liability period for departmental construction contracts. Some specific issues are:

- practices in other states
- issues / Works that justify longer defects liability periods, and
- relationship contracting.

#### **3.1 Practices in other states**

Practices adopted by other road authorities vary considerably. Most have no formal policies. Decisions are taken at local / regional level for minor Works and state office level for major Works. Most road authorities use a defects liability period of 12 months or longer for D & C Contracts.

#### **3.2 Works / issues that justify longer periods**

Departmental TIC-DC Contracts are treated separately from traditional Contract provisions. The defects liability period adopted would normally be 12 months or longer.

For TIC-CO, TIC-SI, MIC-CO and MIC-SI, a longer defects liability period may be justified when:

- the Works are not subject to normal operational loads during the standard defects liability period
- there are significant seasonal environmental effects, and
- there are significant mechanical or electrical components involved for which the manufacturing guarantee and warranty periods (statutory or otherwise) exceed the defects liability period.

These are discussed below. Landscaping Works is another area that requires special consideration in determining suitable defects liability periods. Landscaping Works are discussed under Section 4 of this Appendix and in MRTS16 *Landscape and Revegetation Works*.

### **3.3 Works not subjected to operational loading during the defects liability period**

Sometimes, there may be parts of the Works for which a certificate of practical completion has been issued, but the Works have not been subjected to normal day-to-day loadings, for example, traffic or drainage run-off. This might happen with two adjoining projects, where one project is completed well in advance of the other, but the pavement is not open to traffic. In such cases, there are grounds for a longer defects liability period for the earlier project to cover a 90 day period after the Works become subject to normal operational loadings. However, this cannot be done after the Contract has been awarded, but must be considered and decided beforehand. It is accepted that prediction of completion dates for projects is difficult. Therefore, extreme care needs to be taken in deciding the defects liability period when a particular project is to depend on the completion of another. Director (Prequalification and Contracts) should be consulted for further information.

### **3.4 Significant seasonal environmental effects**

A defects liability period of 90 days will not expose the completed Works to the full range of significant seasonal events. The design should take account of seasonal variations and the Contractor has no liability if construction complies with the Contract. Therefore, the defects liability period should not be extended to allow for seasonal environmental effects.

However, there may be circumstances where a longer defects liability period could be justified. For example, there could be concerns over the quality of bitumen transport and bituminous products (seals and asphalts) laid during the cooler months and not exposed to higher temperature periods prior to issuing the final certificate. It could be unreasonable for the Principal to accept risks arising out of such circumstances. At the same time, it is recognised withholding of securities and retentions unnecessarily may impose an unreasonable cost on the Contractor.

Parts of Queensland can experience long periods of relatively dry stable conditions followed by prolonged wet periods. In those areas with a wide variation in the time and extent of this cycle (for example, tropical north Queensland) it may be reasonable to extend the defects liability period to ensure that the completed project is exposed to a significant part of the wet cycle. This may be of concern when small to medium sized projects are constructed during the dry season and the defects liability period ends before the start of the next wet season. In such circumstances, it would be prudent to consider the tender award and completion date, so that the next wet season is within the defects liability period.

In no circumstances should the defects liability period be extended beyond 12 months to allow for seasonal environmental effects.

### 3.5 Significant mechanical or electrical components involved

Most engineering equipment is covered by a warranty period of twelve months from the date of delivery. Such warranties should cover faulty design, materials and workmanship only and normally exclude any consequential damages. It would be reasonable for the department to decide on a longer defects liability period to be compatible with the supplier's warranty period.

It is rare for departmental construction Contracts to involve significant mechanical or electrical components. Therefore, it would be reasonable to handle such Contracts on a project specific basis and advice should be obtained from the Director (Prequalification and Contracts) as to whether a longer defects liability period is required.

## 4 Landscape

Landscape Works (as defined in MRTS16 *Landscape and Revegetation Works*) shall be maintained by the Contractor from the time of installation until the end of the landscape establishment period. The landscape establishment period shall continue for its stated period irrespective of other Contract milestones or events (for example, practical completion).

Given that the current MRTS16 *Landscape and Revegetation Works* contains significant detail on the requirements of establishment and maintenance of living landscape Works, the defects liability period is not to be lengthened as a 'de facto' arrangement to ensure plants are established.

As the Landscape establishment period normally ranges from three to 12 months, there may be instances where the completion of the landscape establishment period could delay the issue of a final certificate. In these circumstances, the following contractual options are considered appropriate:

- Separable portions are favoured to cover the necessary establishment periods, if there is no requirement for a long defects liability period on the majority of the Works. Suitable retention of funds or securities to cover the expected costs of establishment and maintenance of the landscaping would need to be estimated based on the scope of outstanding Works.
- A separate Contract for the living landscape could be used, or
- Maintenance of the living landscape for the balance of the landscape establishment period could be included as a 'below the line item' (Principal Supplied Item).

## 5 Recommended levels of security

If a longer defects liability period is adopted, then the amount of retention security held should be reduced with prior approval by the Director (Prequalification and Contracts) required. The table below gives guidance for normal TIC Contracts.

**Table C5 – Recommended levels of security**

Defects liability period	Amount of retention security retained after practical completion
90 days	20%

## 6 Discussion

A defects liability period should be selected that represents the period within which faults and defects (which are the responsibility of the Contractor), if any, are most likely to manifest themselves in the project. Knowledge of what this period should be depends on experience with materials used, specific types of installation complexity, tolerances, labour force skill and construction systems.

After negotiation with industry bodies and taking account of current specifications, the appropriate sharing of risk and the maintenance of healthy competition, it is considered that a defects liability period of 90 days is appropriate for the majority of TIC-CO, TIC-SI, MIC-CO and MIC-SI Contracts. The principles and guidance outlined above provides a basis to decide where specific projects or specific geographical locations may warrant a longer defects liability period.

The defects liability period must not be used as a substitute for inappropriate design and/or specifications for geometry, materials, pavements and so on. Nor, should the defects liability period be used as a replacement for quality assurance and good surveillance. The department's approach should be to achieve good surveillance practices and better-quality assurance culture, leading to defect minimisation, rather than depending on the defects liability period.

Any proposal to adopt a defects liability period longer than 90 days should be examined critically. The adoption of a non-standard period must be approved by the Director (Prequalification and Contracts) and should be in accordance with this Appendix and TIPDS Volume 2, Section 6.5.4. The adoption of a longer defects liability period should be accompanied by a commensurate reduction to the retained securities.

## **Appendix D – Checklist**

See [Appendix D – Checklist](#).

## Appendix E – Advertisement example

### Introduction to online tender

The Government has two online tender websites:

- Queensland Government tenders for procurement of services are required under the *Queensland Procurement Policy* to be advertised and the results of the tender published, on the Queensland Government's QTenders website, commonly known as QTenders. This caters for a variety of goods and services as well as some minor building-related projects.
- The Building and Asset Services QBuild eTender website (BASE) is a Department of Housing and Public Works website detailing tenders for construction projects including public housing, civic, education, health and sports facilities. Relative to the QTenders website, the QBuild eTender system has additional operating features which facilitate electronic tendering for infrastructure projects.

The QBuild eTender site has been modified to enable other agencies to invite tenders via this website. Specific to the department, this provides an opportunity to improve efficiency in the tender process for transport infrastructure projects.

### Online tender requirements

Prequalification and Contracts Unit introduced the QBuild eTender training to the Regions / Districts in 2014 / 2015. When advertising tenders for infrastructure projects, the Queensland Government Procurement Transformation QTenders website is to be used. The tender will need to be created on the QTenders website, but documents **should not** be uploaded to the site if the project contains a prequalification requirement. The following gives guidance on completing the advertisement details only on this website. Access to the website can be obtained as per the contact details on the QTenders website. Various user manuals are available from QTenders to assist in the creation of tenders and advertisements for your tender.

Once the tender is created on the QTenders website, the lifecycle of the tender must be completed at the various milestones, that is: close of tenders and award as per the *QTenders User Manual* documentation.

Figure E.1 – QTenders administration page

The screenshot shows the Queensland Government QTenders administration page. The header includes the Queensland Government logo and the text 'QTenders'. Below the header is a navigation bar with links for HOME, HELP, and LOG IN, along with a search bar and links for Advanced Search and How to Search. The main content area is titled 'Welcome to QLD QTenders' and contains several sections:

- Intermittent Phone Issues:** A notice about telephone issues and the preferred method of communication via email.
- Agency Tender Managers - Is your Tender Closing at 5pm?:** Information about tender closing times and the impact of operational problems.
- Forward Procurement Pipeline:** A notice about the interactive Forward Procurement Pipeline dashboard.
- Not Registered?:** Information about the quick and easy supplier registration process.
- Tender Notifications via email:** Information about receiving emails about new tender opportunities.
- Queensland Government Procurement Strategy 2019:** Information about the new approach to purchasing.
- Are you a small business?:** Information about online tendering resources for small businesses.

The right-hand sidebar contains:

- QTenders System Support:** Contact information for system support, including email (BSU@hpw.qld.gov.au) and phone (07 3215 3699).
- QTenders mobile App:** Information about the mobile app and links to download it from Google Play and the App Store.
- Making a Procurement Complaint:** Information about how to make a complaint, including the contact number for the QPP Compliance Unit (1300 10 50 30).

The following examples will focus on the content required for the 'Description' box. This should outline a concise description of the project, along with any prequalification levels and legislative requirements necessary to provide accurate information to Tenderers.

Figure E.2 – New tender advertisement sample page

**New Request - General**

This page controls the basic properties of a tender. See the detailed help for an explanation of each field [Detailed Help](#) (Clicking detailed help will open a new browser window)

<< Previous General Go

Save as Draft Save as Template

Agency Department of Transport and Main Roads - South West Region

**Briefing / Site Visit**

Request Type Invitation to Offer


Type Of Work\*  Works  
 Goods & Services

**Mega Category** - Select -

**Invitation List**

Title\*

Request No.\*

Description\* 

Tender description template - please edit the XXXXXX as required and remove the yellow lines.

The information you enter below is displayed in "Section 1 - Tender Overview" of the tender page.

The Queensland Government is seeking Proposals for XXXXXX. It includes XXXXXX, XXXXXX, XXXXXX and XXXXXX.

Depending on requirements these goods / services specifically include:

- XXXXXX

body p span strong

**ICT Tender**  Yes  
 No

**Release Date** 22/11/2016

**Closing Date** 22/11/2016 10:59

UNSPSC 1\*  % Add/Edit

2  % Add/Edit

3  % Add/Edit

Electronic Tender Box None

Physical Tender Box None

**Advertisement samples**

The way in which the Description of the tender is worded will vary, depending on the specific project requirements. For instance, federal funding, a requirement to be accredited under the *Australian Government Building and Construction WHS Accreditation Scheme* or changing legislation should be clearly outlined.



Below are examples of wording for advertisements.

**Project with Federal Funding over \$6M and represents at least 50% of the total construction value and the Contract value is greater than \$4M (incl GST), or Federal Funding over \$10M irrespective of the proportion of federal funding:**

<b>Description</b>	<p>Tenderers prequalified at levels RX BX FX or higher are invited to tender for [project description].</p> <p>Tenderers are required to hold Australian Government Building and Construction WHS Accreditation and advised the <i>Building Code 2016</i> and <i>Queensland Code</i> apply to this project.</p> <p>Registered eligible Tenderers can access the documents via the QBuild eTender website: <a href="https://www.hpw.qld.gov.au">https://www.hpw.qld.gov.au</a></p> <p>Any queries relating to this tender can be directed to [insert contact person for the district].</p>
--------------------	---

**Projects with no Federal Funding:**

<b>Description</b>	<p>Tenderers prequalified at levels RX BX FX AX or higher are invited to tender for [project description].</p> <p>Tenderers are advised the <i>Building Code 2016</i> and <i>Queensland Code</i> apply to this project.</p> <p>Registered eligible Tenderers can access the documents via the QBuild eTender website: <a href="https://www.hpw.qld.gov.au">https://www.hpw.qld.gov.au</a></p> <p>Any queries relating to this tender can be directed to [Contact person in the district]</p>
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**Projects where departmental registered or prequalified suppliers are to be used**

*Where the complexity does not warrant a prequalified 'R' level on projects such as asphalt overlays.*

It is likely that you may have a combination of these examples. It is important that you give an accurate description of the project, outlining all the necessary requirements in the advertisement to allow Tenderers to decide whether or not they will take the time to tender on the project.

<b>Description</b>	<p>Transport and Main Roads Prequalified Asphalt Suppliers are invited to tender for [project description].</p> <p>Tenderers are advised the <i>Building Code 2016</i> and <i>Queensland Code</i> apply to this project.</p> <p>Registered eligible Tenderers can access the documents via the QBuild eTender website: <a href="https://www.hpw.qld.gov.au">https://www.hpw.qld.gov.au</a></p> <p>Any queries relating to this tender can be directed to (District contact).</p>
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## **Appendix F – Tender forms**

See [Appendix F – Tender forms](#).

## Appendix G – Use of non-price criteria in tendering

### 1 Introduction

Ensuring value for money is the primary principle of the *Queensland Procurement Policy*. Value for money is based on the principle of accepting a reasonably priced tender from an organisation that will provide the best overall outcome for the client. It is not a requirement that this is the lowest priced tender. There are many factors other than price which can contribute to enhanced value to the department. Therefore, it is advantageous to the department to consider both price and non-price criteria in procuring the services of Contractors for infrastructure projects. This Appendix describes the process which can be used to achieve the above purpose.

There are many advantages in using non-price considerations in tendering. The eligibility requirements for prequalification for departmental projects contain a number of generalised non-price criteria that address organisational capability including management systems, experience and financial capability. A part of the assessment for prequalification relies on evidence of performance on past projects, which may or may not be directly relevant to specific project circumstances, complexity and/or risk factors. Non-price tender evaluation enables the Principal to call for current evidence of the competence of the Contractor to undertake specific aspects of a project that are not covered by prequalification.

Prequalified organisations are acknowledged to have the competence to deliver specific project types. However, just because an organisation submits the lowest price, does not necessarily indicate that it is the most capable organisation to successfully deliver the specific project in terms of value for money. Non-price assessment enables the department to specify project issues to be addressed and assessed to select the best Tenderer who can deliver the required outcomes.

There are three main tendering approaches which involve non-price considerations. They are:

- a) a two-stage shortlisting process using 100% non-price criteria in stage 1, followed by 100% price only in Stage 2
- b) a two-stage process using 100% non-price criteria in stage one, followed by price and non-price in Stage 2, and
- c) a single-stage tendering process using combined price and non-price criteria.

This Appendix deals primarily with single stage combined price and non-price tendering processes. However, for a two-stage tendering process, the same principles can be applied to the use of non-price criteria for shortlisting. TIPDS Volume 1 provides detailed guidance on when it is appropriate to use a two-stage tendering process.

Identification of non-price factors, the weighting to be given to price and non-price factors and the preparation of required tender documentation form essential elements of this tendering approach. These will be discussed in detail in this Appendix.

## 2 Application of non-price selection criteria

It is not appropriate to use non-price criteria on every departmental project. For routine, non-complex projects where the characteristics of the project are adequately described by the relevant prequalification level assigned to the project, the department is most likely to achieve best value for money from a single stage price only tendering process. However, for projects that have unique or complex characteristics where capability has not been demonstrated as part of the prequalification arrangements, the use of non-price selection criteria may increase the probability of achieving the successful delivery of departmental Contracts.

(Note: Just because a project is complex it does not necessarily mean that non-price criteria should be used. Projects with an R5 level of prequalification by their nature are complex, but non-price criteria should only be used if there are project characteristics that are not covered by prequalification.)

The use of non-price criteria should be considered for projects with the following characteristics:

- an estimated total Contract cost of \$20M (excl GST) and over
- with specific requirements which would require the Contractor to possess and demonstrate commensurate capabilities or experience within their submission
- involve greater complexity (including technical, social political and/or environmental issues) than the project characteristics defined by the relevant prequalification level and which would attract significant risks, and
- to be delivered by non-traditional methods which require a highly relational and cooperative approach to ensure project success.

For Contracts less than \$20M, approval must be obtained in writing from the Executive Director (Program Management and Delivery) if non-price selection criteria are to be used. For Contracts greater than or equal to \$20M, non-price criteria for a local benefit test is a mandatory requirement in accordance with QPP. Consideration should be given to the factors listed under Section 3 of this Appendix. Refer to TIPDS Volume 1 or contact the Director (Prequalification and Contracts) for more information.

## 3 Identification of non-price factors

The types of non-price factors that require consideration may include the following:

- project-specific requirements (for example, very complex construction staging, very complex traffic management, complex and competing stakeholder interest) that exceed or are not covered by the prequalification system.
- Government priorities such as indigenous participation, local benefits<sup>4</sup> or Best Practice Principles for projects over \$100M in accordance with the QPP, and
- desired industry cultural change initiatives that would have long-term benefits.

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<sup>4</sup> Local benefit may include use of local suppliers or non-local suppliers that deliver a local benefit.

The following factors may assist in the selection of projects for non-price considerations:

- scale and complexity of the project
- regional and/or strategic significance of the project
- project delivery method
- construction methodology requirements and expertise, and
- skills in effectively managing and resolving claims and significant issues.

Concepts to consider when developing non-price selection criteria:

- a) Criterion is a 'differentiator' that can spread the scores. The desired response can be scored across a range of values (for example, one to 10), that is, the criterion does not require a single word or yes / no response.
- b) Criterion does not require prior detailed knowledge of the project.
- c) Any standard submission requirement under the Conditions of Tendering should not overlap and be selected as criterion.
- d) Desired response is consistent with the criterion.
- e) For Early Contractor Involvement (ECI) procurement processes or D & C Contracts which have a price and non-price criteria, the non-price criteria must not overlap or duplicate the price criteria.
- f) In relation to the QPP, where a 'local benefits' evaluation criterion is used for projects > \$20M, the intent is for the Tenderer to demonstrate where and how they will allow for 'local benefits' and pass that responsibility to their sub-contractors in their tender. For example, on the current project the Tenderers could be asked to describe how they would implement and monitor usage of their approach. Engineering Policy EP163 *Infrastructure Procurement Amendments* provides further detail on how to implement the local benefits test on departmental projects.
- g) Another requirement of the QPP is to develop a Best Practice Principles evaluation criterion for projects > \$100M, with respect to quality, safe workplaces.

For tendering of infrastructure Works, it is advisable to limit the number of non-price criteria to three to five (five criteria are generally for the very complex work). Further consideration of setting page limits and creating response templates will reduce the documentation required from Tenderers.

For some complex projects, there may be a large number of non-price selection criteria that may be relevant and it may be difficult to identify which ones need to be considered in the tendering process. This difficulty can be overcome using a 'pair-wise' ranking procedure described in Section 5 of this Appendix. By completing this procedure, relative rankings of criteria can be derived, out of which the top three to five criteria may be selected for the tendering process.

#### **4 Weighting for price and non-price selection criteria**

The relative importance of price with respect to non-price factors is decided through assigning weights. This requires considerable attention. A higher weighting to non-price factors can contribute to achieving better non-price objectives. However, this may also result in an increase in likelihood of the preferred tenderer not having the lowest tender price. On the other hand, a high weighting for price may have a marginal impact on the final non-price outcomes of the project. Choosing the appropriate weighting is a matter of balancing the importance of the non-price criteria with best value for money. A good practice is to study the effect of possible scenarios using different combinations of weightings. A possible starting point may be 85% price and 15% non-price combination. The desirable range of weighting for price may vary from 80% to 90% for most Contracts.

Notwithstanding prescribed weightings for Local Benefits Test and Best Practice Principles, the total non-price criteria weighting is not to exceed 30%. For non-price weighting above 30%, there must be a well-considered reason, endorsed by the relevant Regional Director and approved by the Executive Director (Program Management and Delivery).

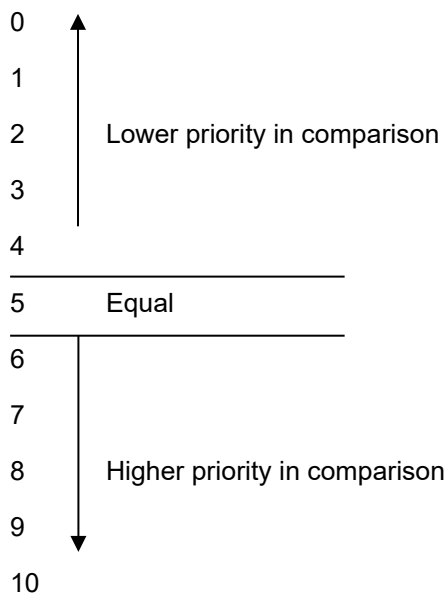
After deciding weightings between price and non-price, non-price selection criteria also needs to be weighted against each other, depending on their relative importance. For very complex projects, selecting weightings also may not be easy. In such cases, the ranking procedure mentioned earlier and given in the next section may be extended to determine weightings as well.

#### **5 Suggested ranking procedure**

The pair-wise matrix described here is a technique by which every item in a list is compared to every other item according to a single criterion, the final ranking emerging from a simple tally of the scores. The first step is to prepare a matrix with all criteria listed from top and down at the left side column (see the example given below), label them preferably with letters and list these letters along the top row.

A Preference Rating Range is determined before the comparison begins. There is no limit to the number of levels within the Preference Rating Range but the more levels the greater the ability to show differentiation between criteria.

The following example uses a Preference Rating Range of 0 – 10



There have been six criteria identified:

1. experience in complex construction staging
2. examples where non-routine / innovative time and cost saving strategies were employed
3. experience in dealing with multiple stakeholders with competing interest
4. local benefits
5. Site security, and
6. examples of working collaboratively with the Principal to resolve a dispute and lessons learnt.

Note: Bad examples of non-price criteria will be those that are not able to be scored or overlapped with prequalification. Bad examples include:

- provide an organisation chart
- provide Curriculum Vitae of key staff
- provide a list of similar projects within the past six years, and
- provide a history of any claims under the *Business Industry Fairness (Security of Payment Act 2017 (Qld)*.

The split of weighting between price and non-price has been determined at 70% price and 30% non-price.

A matrix is set up, similar to that in the example below. The non-price criteria are listed in separate rows and assigned a letter identifier. These letters are then assigned to columns across the top of the matrix. Every possible pair of criteria is then assessed by assigning a preference rating from the given range (1 - 10 in this example).

Always work down the columns. For example, for the column labelled 'A', compare it with row 'B', then 'C', then 'D' then 'E'. Next proceed to the 'B' column. Compare 'B' with 'A', then 'C', then 'D', then 'E'. Continue comparing 'C' with all the rows, then 'D' and 'E' with all the rows. Totals are then made down the columns.

The sum total of the scores in the mirror image cells (for example, AB + BA) must equal the highest preference level. In the simple example below AB + BA = 10, AC + CA = 10 and so on.

All squares of the matrix are completed, except for those that compare like criteria. These cells are simply blanked out. The scores are totalled at the bottom from which a ranking can be established.

#### Example of a ranking / weighting matrix

Criterion	Code	A	B	C	D	E	Total
		Complex construction staging	A		4	3	
Innovative time and cost saving strategies	B	6		4	3	3	
Competing stakeholders interest	C	7	6		4	4	
Local benefit	D	8	7	6		5	
Site security	E	8	7	6	5		
<b>Total Score</b>		29	24	19	14	14	100
<b>Rank</b>		1	2	3	4	4	
<b>% Weighting</b>		29%	24%	19%	14%	14%	100%
<b>Non-price criteria weighting (raw)</b>		5.8%	4.8%	3.8%	2.8%	2.8%	20%
<b>Non-price criteria weighting (moderated)</b>		6%	5%	4%	2.5%	2.5%	20%

To calculate the percentage for each non-price criteria, multiply the percentage allowed for non-price weighting by the total score and divide by the sum of all the total scores.

The comparative pair-wise assessment is subject to some sensitivity. Care must be taken to check the logic of each score in the context of other scores in the matrix. For example:

- if there were factors A, B and C
- if A is considered higher priority than B
- and B is considered higher priority than C
- then C must be a lower priority than A.

## 6 Preparation of tender documentation

It is important that non-price selection criteria and the evaluation methodology be decided prior to calling for tenders and included in the tender documents. Relevant clauses of 'Conditions of Tendering' need to be amended. The information that should be provided includes:

- list of non-price selection criteria identified for the project



- weightings for price and non-price criteria
- information on submissions including the tender schedules which need to be completed and returned, and
- information on evaluation methodology, that is, assessing tenders on non-price selection first prior to assessing the priced component.

## 7 Tender evaluation methodology

Tendering Manager is free to select a suitable methodology for tender evaluation. However, the metrics associated with unique non-price criteria must be developed prior to calling tenders. Should advice be required from the Prequalification and Contracts Unit on the metrics proposed, details should be submitted at the Prototype check stage.

A sample methodology successfully adopted in past departmental Contracts is described below. This method is based on the Best Value Index (BVI). It uses a formula that converts price and non-price factors into 'best value' indices and adds them together to derive the BVI. The conforming tender with the highest BVI is recognised as the tender that best meets the department's value for money policies. It is this tender that will continue through the tender assessment process.

The formula to calculate the BVI is described below.

The BVI is calculated by adding two other indices, namely price index (PI) and non-price selection criterion index (NPI).

$$BVI = PI + NPI$$

Where:

BVI = Best Value Index

PI = price index

NPI = non-price selection criterion index

### Price index

The price index (PI) is a weighted score calculated for a tendered price. PI is the weighted Price Score (PS) multiplied by the price weighting (PW).

$$PI = PS \times A\% / 100$$

Where:

A% is the weighting for the price.

The formula which can be used to calculate the Price Score includes the submitted tender price and a 'Threshold Price'. The threshold price could be either the price of the lowest conforming tender or the price used to identify the lowest bid.

Using the following formula, the tendered price is ranked with the highest score of 10 for the price which is equal to the price of the 'threshold price'.

$$PS = 10 - 10 \times ABS(PT - PTh)/PTh$$

Where:

- PS = Price Score of the tender
- PT = submitted tender price
- PTh = threshold price
- ABS = absolute value

### **Non-price index**

The NPI is a weighted score calculated from the individual scores the TAP allocate to the tenders. The following procedure is to be used to calculate the NPI:

Each of the non-price selection criteria is scored out of 10 (10 high).

The total non-price weighting is distributed among the individual criteria.

The following formula could be used to score the non-price selection criteria:

$$NPI = \text{Sum of all } (NPS \times NPW)$$

Where:

- NPI = index of the non-price selection criterion
- NPS = score (10 high) the selection panel gives to the individual non-price selection criterion
- NPW = weighting% of the individual non-price selection criterion  
(total should be 100 – weighting of price)

### **Evaluation sheet**

It is recommended that the standard spreadsheet is used for tender evaluation. This will assist in calculating the tenderer's BVI in a consistent manner. An example of the spreadsheet can be found in Table 10 of this Appendix.

## **8 Recommendation for assessment of tenders**

1. It is recommended that the TAP convene a meeting where all panel members can discuss and decide the scores for the conforming tenders.
2. The non-price criteria assessment must precede the disclosure and assessment of the priced component.
3. To facilitate the assessment process, the panel members should familiarise themselves with all information available for each criteria for each conforming tender to be analysed prior to the meeting, prepare written notes of the tenderer's response in each selection criterion and have their individual scores allocated to each weighted sub-criteria. Panel members may wish to score non-weighted sub-criteria for the sole purpose of calculating the score for the weighted sub-criteria.

4. The panel should discuss the information provided in each tender, including the information provided by the Tenderer's referees and other sources, for the relevant selection criterion and compare the information against the word pictures and make a judgment as to which scoring range (that is, unsatisfactory, marginal, fair and so on) the tender will be placed for each criterion. Some engineering judgement in scoring may need to be exercised by the tender panel, whereby further information or clarification is provided by the Tenderer post tender to enable assessment of the non-price criterion, that is, a low score is given due to lack of information at tender closing time.
5. As a group, decide on the evaluation score for the selection criterion, if necessary by comparing with other tenders in that range. For example, if the tender is judged to be in the scoring range of 'fair', decide a score say from three to six.

## 9 Further advice

It is recommended that those Districts which would like to use non-price tendering contact the Director (Prequalification and Contracts) for further guidance and training on the tendering systems mentioned in this Appendix.

## 10 Example

Given below is an example to illustrate the above tender evaluation methodology.

In this example, the following non-price criteria are selected with the total weighting of 15% (the weighting for price is, therefore, 85%).

Selection criterion no.	Description	Weighting actor
1	<insert criterion 1 >	7%
2	<insert criterion 2 >	4%
3	<insert criterion 3 >	4%

Separate schedules for each selection criteria are prepared to obtain information from Tenderers.

An evaluation sheet is prepared to assist in calculating the tender's BVI. This sheet contains 'word pictures' to assess scoring of Tenderer's responses. This evaluation sheet is given as Table G10. The following are explanatory notes for the use of the evaluation sheet.

- a) Column A contains the weighting for each evaluation criteria.
- b) Column B contains the non-price selection criteria (NPSC) descriptions (rows 2, 3 and 4).
- c) Columns C to G contain 'word pictures' which describe the relationship between each NPSC and the following scoring ranges:
  - Unsatisfactory – score range 0–1
  - Marginal – score range 2–3

- Fair – score range 4–6
- Strong – score range 7–8
- Very Strong – score range 9–10.

Should alternative criteria be proposed, metrics similar to those provided in Table G10 are required to be developed. Advice must be sought from the Director (Prequalification and Contracts) in these instances.

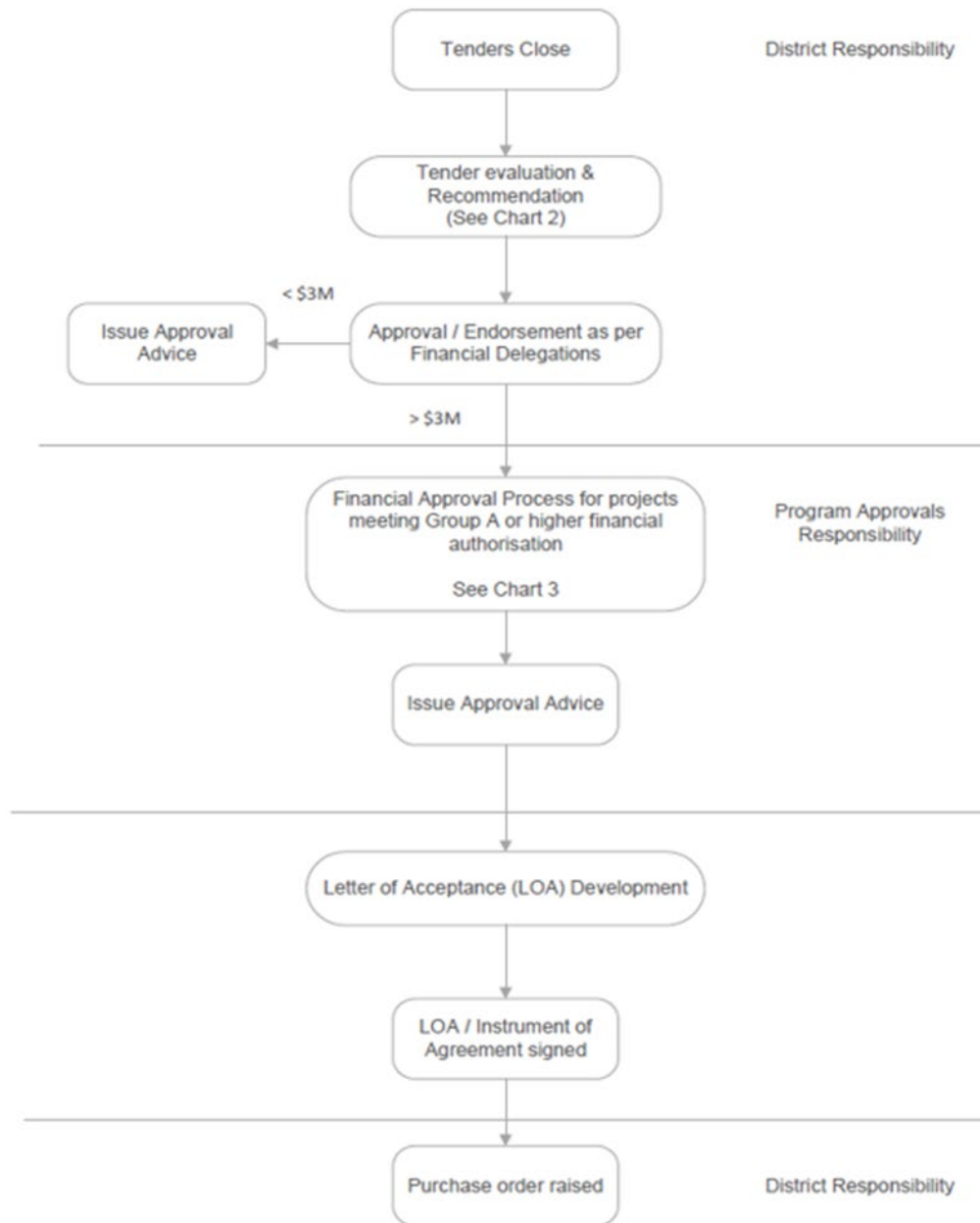
**Table G10 – Example of evaluation sheet form**

	Value						Tender 1		Tender 2		Tender 3	
	Range	Unsatisfactory	Marginal	Fair	Strong	Very strong	Score	NPI	Score	NPI	Score	NPI
<b>Wt</b>	<b>Score</b>	<b>0-1</b>	<b>2-3</b>	<b>4-6</b>	<b>7-8</b>	<b>9-10</b>						
7%	<b>Insert criterion 1</b>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>		0		0		0
4%	<b>Insert criterion 2</b>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>		0		0		0
4%	<b>Insert criterion 3</b>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>	<i>insert scoring guidance</i>		0		0		0
						<b>Sum of Non-Price Indices (NPIs)</b>		0		0		0
						<b>Tender Values</b>						
						<b>Price Index (PI)</b>						
						<b>BVI ( = NPI + PI) (highest Best)</b>						
						<b>Ranking</b>						

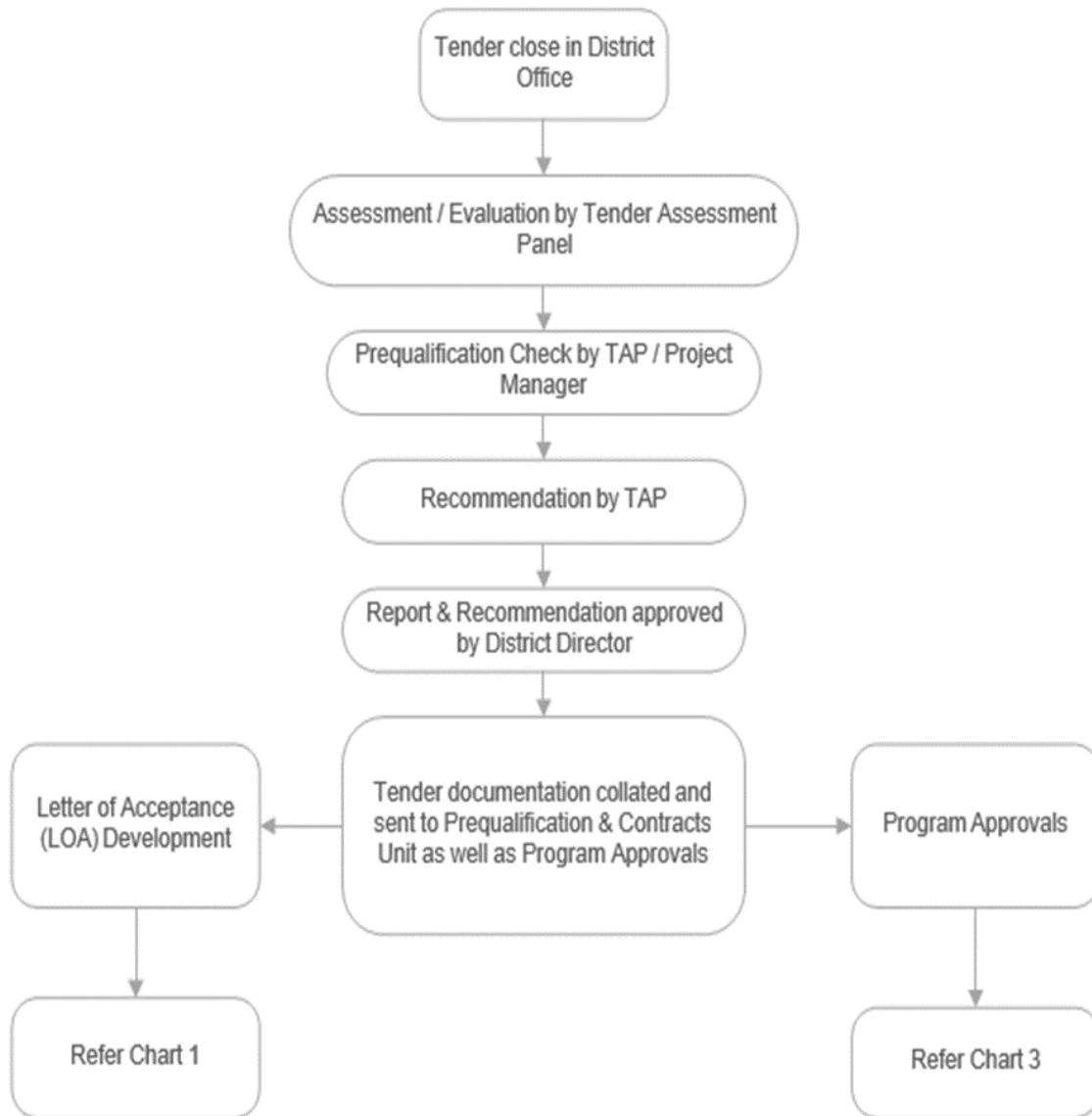
## **Appendix H – Not used**

## Appendix I – Financial approval flowcharts

Figure I.1: Overview of financial approval



**Figure I.2: Tender evaluation and recommendation**

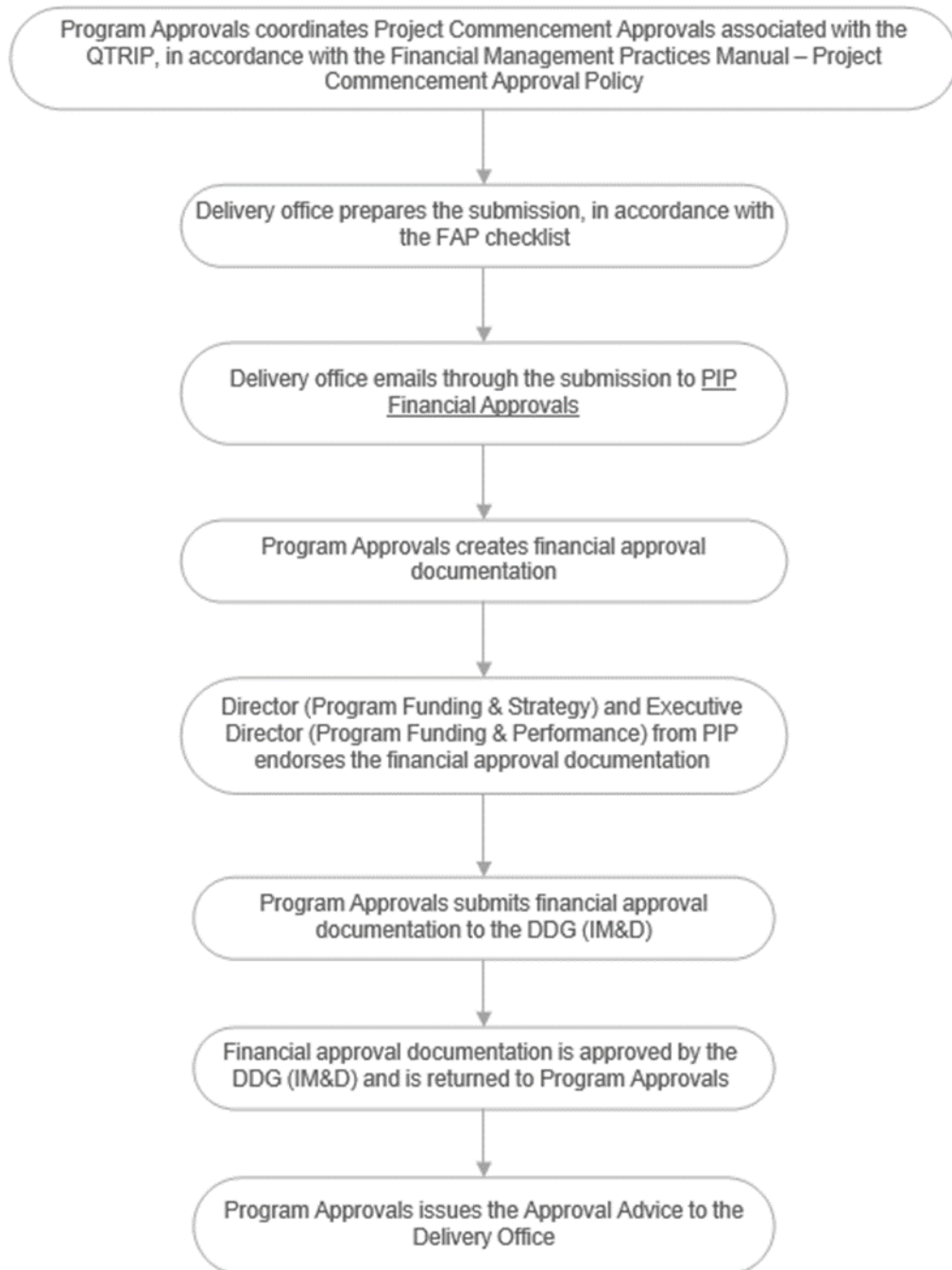


**Notes:**

*For further information of the contract formation phase refer to Section 8 of Volume 2 of TIPDS*



**Figure I.3: Financial approval**



**Notes:**

*In accordance with Queensland Treasury's Project Commencement Approval Policy (implemented 1 July 2012), the department's Financial Management Practice Manual (FMPM) requires project commencement approval to be sought by the relevant delegate before any contracts are awarded or expenditure occurred*

## **Appendix J1 – Tender assessment report template (1 stage)**

See [Appendix J1 – Tender assessment report template \(1 stage\)](#).

## **Appendix J2 – Tender assessment report template (2 stage)**

See [Appendix J2 – Tender assessment report template \(2 stage\)](#).

## **Appendix K – Sole Invitation (TIC-SI and MIC-SI)**

### **1 General**

Minor Infrastructure Contracts – Sole Invitation (MIC-SI) should be used only with local government or RoadTek and should not be used for Contracts with private Contractors.

Sole invitee Contracts have many advantages over conventional Contracts, which may contribute to greater efficiencies. Overheads of these Contracts are generally less due to the absence of Security other than Retention. In addition, there are no unsuccessful tendering costs.

This manual incorporates principles embodied in the following documents with respect to dealings with local government in so far as they do not conflict with the requirements of the Contract:

- Partners in Government, and
- Roads and Transport Alliance Memorandum of Agreement.

When dealing with local government, notwithstanding the contractual nature of the relationship, major importance and value should be placed on goodwill, good faith and cooperation between the parties.

After the expiry of the Defects Liability period, the local government must certify actual costs of the Works to the department (including approved variations, delay costs and so on).

Where the actual cost for the Works is greater than the amount as certified by the Administrator in the Final Payment Certificate, the local government must absorb that difference in cost. In these circumstances, reference is to be made to the 'Protocol' agreement between the department and local government.

Where the amended actual cost for the Works is less than the amount as certified by the Administrator in the Final Payment Certificate, the local government must spend that difference on roadworks by the end of the succeeding financial year after the end of the defects liability period.

### **2 RoadTek as a Contractor**

It is acknowledged that RoadTek is a commercialised business unit of the Principal. RoadTek, as a business unit of the Principal, cannot in any legal sense enter into a Contract with the Principal (that is, the State of Queensland). Therefore, an agreement is required in the case where the Tenderer is RoadTek. Refer to TIPDS Volume 1 and Appendix H for more details.

Any dealings between the department and RoadTek in respect of the provision, maintenance and management of State Road Infrastructure should be based on the 'Mutual Obligations Agreement'. Dealings with RoadTek should take into consideration 'payment equivalents' for such matters as insurances, taxation and so on. Related administration procedures such as the provision of insurance particulars before commencement of work therefore do not apply. These 'concessions' are as annotated in the Contract documents as they occur. In addition, profits or losses shall be in accordance with the current policy. Relationship management should be given a priority in dealing with RoadTek and any disputes, if they arise, should be dealt with as per the procedure set out in 'Mutual Obligations Agreement'.

### 3 Reaching conditional agreement

Once the Tenderer has prepared and presented its Tender, the stage is set for the negotiating procedure which will usually end in a binding Contract with the local government, or an agreement with RoadTek (which is to be executed as if it is a binding Contract).

It is essential that the Principal's negotiating officer has available a range of cost estimates and historical information on the items in the schedule to ensure the negotiated price represents value for money.

For a part Schedule of Rates / part Lump Sum Contract, it is necessary to agree on the rates and lump sum amounts for all items in the schedule so that an agreed Contract Sum can be calculated.

It is expected that the Principal's negotiating officer will have carried out the following prior to the closing date for the Tender:

- build the estimate as if it were a bid
- price major items from first principles using basic cost estimating procedures
- where items of work may be best performed by sub-contract, obtain indicative prices
- adopt 'commercial' plant hire rates
- compare estimates for items (major only) with costs achieved for similar items from any private
- Contractors, other RoadTek bids, local government (where performance is proven)
- check and review the price by reference to estimated total cost of resources and overheads, that is, labour, plant, sub-contract, materials on Site and off Site, overheads and management reserve as calculated from the Works Programme
- determine items that may be best treated as provisional items
- compare rates with costs from similar jobs, and
- estimate the number of wet days during the Contract period.

While price will be a major consideration in reaching agreement, it is important, prior to and during any negotiation, to give consideration to other matters that may be used to offset financial considerations:

- changes in completion dates
- use of different materials or procedures that will increase (or decrease) normally acceptable standards
- specific expertise (Contractor has appropriate plant available in the area)
- staff and equipment to be allocated by the Contractor for the project (possession of adequate skills and knowledge)
- engineering risk management (demonstrated successful experience with local conditions) and
- ability to contribute to the broader objectives of the purchaser (community and social factors for example, QPP).

## 4 Negotiation

The major aim of negotiating is to:

- agree on price
- agree on changes to the Tender Documents, and
- sign the Conditional Agreement Form (C7013.IC).

The price agreed must ensure the Principal receives at least equal value as would have been obtained from any available source of alternate supply.

During any negotiations the following issues must be considered:

- basis for rates for individual items
- Contract Sum
- composition of the Daywork Rates so that delay rates, for example, for Variations and so on may be readily calculated
- estimated number of wet days and the effect on individual rates
- realistic alternatives that provide advantages for either or both parties
- provisional items
- trade-offs between quality and price
- effect of safety provisions on the rates (job safety must not be compromised)
- effect of Contract duration on price, and
- supply of major materials required on the project.

## Appendix L – Policies for Transport and Main Roads contracts

### 1 Policies for Transport and Main Roads

#### Table L1(a) – Policies for construction requirements

Note: All policies are available (via Google search) on the internet.

Disclaimer: The following table is provided as a guide only. Policies get updated from time to time and requirements may change or be exempted in special circumstances. Always refer to the latest version and read the entire policy (including associated fact sheets, guidelines and other relevant information) before making any decision. Terms in one policy may differ to another policy (for example, the word 'building'). Contact Prequalification & Contracts unit for more information.

Policy	Fed/ State	Thresholds / Application	Summary
<b>Training Policy – training component</b>	State	Civil construction > \$3m (incl GST), or <u>Building work</u> > \$500k (incl GST)	<ul style="list-style-type: none"> <li>Equation to calculate "deemed hours" (10% labour hours based on contract sum) then minimum 60% deemed hours to be allocated to 'new entrants' and the balance to upskill existing workers.</li> <li>10 business days from Letter of Acceptance to submit compliance plan (through Training Policy Administration System, TPAS), 15 business days from Practical Completion to submit practical completion report (through TPAS).</li> <li>Additional requirements if &gt; \$100m (15% training hours, skills development plan and nominated training coordinator).</li> <li>TPAS Administered by Department of Employment Small Business &amp; Training (DESBT).</li> <li>It is the District's responsibility to initially setup the contract in TPAS. Project Manager may contact <a href="mailto:trainingpolicy@desbt.qld.gov.au">trainingpolicy@desbt.qld.gov.au</a> for access and questions on how to use the system.</li> <li><a href="https://desbt.qld.gov.au/training/employers/trainingpolicy">https://desbt.qld.gov.au/training/employers/trainingpolicy</a></li> <li>Clause 29.3 C7830 General Conditions of Contract</li> <li>Clause 27A C7821 Conditions of Tendering</li> </ul>
<b>Training Policy – indigenous component</b>	State	Applies where a section of the road is within an indigenous community, or project is designated by the Director General.	<ul style="list-style-type: none"> <li>Principal to prepare 'Indigenous Economic Opportunities (IEO) Overview' as part of tender document. All tenderers are required to submit 'IEO Plan Outline' (via Tender Schedule S8). Successful contractor to submit the final 'IEO Plan' (signed by all parties) via TPAS within 15 days of the date of practical completion.</li> <li>For civil construction, 1.5% of contract sum (or as agreed) to be allocated towards 'IEO Plan' in carrying out the work.</li> <li>Administered by Department of Aboriginal and Torres Strait Islanders Partnership (DATSIP).</li> <li><a href="https://desbt.qld.gov.au/training/employers/trainingpolicy">https://desbt.qld.gov.au/training/employers/trainingpolicy</a></li> <li>Clause 13 C7836 Clause Bank</li> <li>Clause 27A C7821 Conditions of Tendering</li> </ul>
<b>Queensland Code of Practice for the Building and Construction Industry (aka Queensland Code)</b>	State	Applies to Queensland government contracts	<ul style="list-style-type: none"> <li>Compliance with industry best practice, defines ethics and standards of behaviour, outlines expectation of WHS and environmental management.</li> <li>The Minister for Employment and Industrial Relations has rescinded the Implementation Guidelines to the Queensland Code of Practice for the Building and Construction Industry (the Guidelines) effective from 20 February 2017. Agencies may waive any obligations in respect to compliance with the Guidelines that are required under current contracts.</li> <li>All tenderers to submit Queensland Code Compliance Schedule (Tender Schedule S6).</li> <li><a href="https://www.oir.qld.gov.au/industrial-relations/building-and-construction-code-practice-2000">https://www.oir.qld.gov.au/industrial-relations/building-and-construction-code-practice-2000</a></li> <li>Clause 14.6 C7830 General Conditions of Contract</li> <li>Clause 28 C7821 Conditions of Tendering</li> <li>Clause 31.6 C7821 Conditions of Tendering</li> </ul>
<b>Queensland Charter for Local Content</b>	State	Applies where (a) total QLD government contribution >\$5.5m (incl GST) for SEQ or >\$2.75m (incl GST) for regional Queensland or (b) where QLD government contribution is less than those limits and the Federal government project contribution project >\$20m (excl GST)	<ul style="list-style-type: none"> <li>Supports 'local' business – refer DSD website for definition of local.</li> <li>Refer to DSD website for further information on the submission of Procurement Notification, Statement of Intent (Tender Schedule S4), and Project Outcome Report.</li> <li>Administered by the Department of State Development (DSD)</li> <li><a href="http://www.statedevelopment.qld.gov.au/resources/charter-for-local-content.html">http://www.statedevelopment.qld.gov.au/resources/charter-for-local-content.html</a></li> <li>QCLC may be used in situation (b) in lieu of the Australian Industry Participation Policy</li> <li>Clause 14.8 C7830 General Conditions of Contract</li> <li>Clause 31.4 C7821 Conditions of Tendering</li> </ul>

<b>Queensland Procurement Policy 2021</b>	State	<p>Applies to all Queensland government procurements and includes:</p> <ul style="list-style-type: none"> <li>• Best Practice Principles (&gt;\$100m project value)</li> <li>• Ethical Supplier Threshold</li> <li>• Ethical Supplier Mandate</li> </ul>	<ul style="list-style-type: none"> <li>• Government's overarching policy for the procurement of goods and services</li> <li>• 'Best Practice Principles' apply for <b>projects</b> valued at \$100 million and above and declared projects.</li> <li>• Effective from 1 August 2019 all contracts are required to include an obligation on suppliers to comply with the Ethical Supplier Threshold – suppliers must provide fair pay and safe working conditions</li> <li>• Effective from 1 October 2019 the Ethical Supplier Mandate applies whereby demerits and sanctions may be issued where a supplier fails to meet a policy requirement. <ul style="list-style-type: none"> <li>• <a href="http://www.hpw.qld.gov.au/Procurement/ProcurementStrategy/Policy/Pages/default.aspx">http://www.hpw.qld.gov.au/Procurement/ProcurementStrategy/Policy/Pages/default.aspx</a></li> <li>• <b>Clause 31.9 C7821 Conditions of Tendering</b></li> <li>• <b>Clause 99.1 – 99.3 C7836 Clause Bank</b></li> </ul> </li> </ul>
<b>Building Code 2016</b>	Fed	<p>Applies if federal funding is \$5m and represents 50% of total construction project value or \$10m irrespective of construction value %, or applies to the Contractor if Contractor has previously tendered for federally funded projects .</p>	<ul style="list-style-type: none"> <li>• Code for the Tendering and Performance of Building Work 2016 (the Building Code 2016) was issued on 2 December 2016.</li> <li>• The Building Code 2016 is administered by the Australian Building and Construction Commission (ABCC).</li> <li>• All tenderers to submit Building Code compliance outline (Tender Schedule S5).</li> <li>• Additional requirement for a Workplace Relations Management Plan (WRMP) if Federal funding contribution to an <u>individual project</u> delivered under an agreement, grant or other similar arrangement is &gt; \$5 million and represents at least 50% of the construction project value of that project or &gt; \$10 million irrespective of proportion of construction project value. <ul style="list-style-type: none"> <li>• <a href="http://www.abcc.gov.au/">http://www.abcc.gov.au/</a></li> <li>• <b>Clause 14.5.1 C7830 General Conditions of Contract</b></li> <li>• <b>Clause 31.5 C7821 Conditions of Tendering</b></li> </ul> </li> </ul>
<b>Australian Government Building and Construction WHS Accreditation Scheme</b>	Fed	<p>Applies if contract* is \$4m or more (incl GST) <b>and</b>:</p> <ul style="list-style-type: none"> <li>-federal contribution is &gt;\$6m <b>and</b> represents at least 50% of project* value <b>OR</b>;</li> <li>-the federal contribution is &gt;\$10m irrespective of % of project value.</li> </ul>	<ul style="list-style-type: none"> <li>• References should be included in the advertisement and tenderer's accreditation is confirmed prior to providing access to documents. If a tenderer is in the process of becoming accredited, the accreditation must be approved before the contract is awarded.</li> <li>• Administered by Office of Federal Safety Commission (OFSC).</li> <li>• <a href="http://www.fsc.gov.au/sites/fsc/needaccredited/accreditationscheme/pages/theaccreditationscheme">http://www.fsc.gov.au/sites/fsc/needaccredited/accreditationscheme/pages/theaccreditationscheme</a> <b>Please see the attached flowchart to decide whether or not this scheme applies to your project.</b> <ul style="list-style-type: none"> <li>• <b>Clause 14.5.5 C7830 General Conditions of Contract</b></li> <li>• <b>Clause 26 C7821 Conditions of Tendering</b></li> </ul> </li> </ul> <p>*refer definitions next page</p>
<b>Northern Australia Roads program (NARP) and Northern Australia Beef Roads program</b>	Fed	<p>This applies, if the project is nominated by the Federal Government</p>	<ul style="list-style-type: none"> <li>• This is a federal government initiative. Districts will notify in advance if the project comes under this program</li> </ul>
<b>Indigenous Employment and Supplier Use Framework</b>	Fed	<p>Applied if the federal funding contribution to the project (not for contract) is greater than \$7.5m or applies to all projects funded under Roads of Strategic Importance (ROSI) regardless of value of funding contribution</p>	<ul style="list-style-type: none"> <li>• Indigenous employment and supplier frame work came into effect from 1<sup>st</sup> July 2019.</li> <li>• The objective of the framework is to increase indigenous employment and business participation across the supply chain in the delivery of land transport infrastructure projects funded by the Australian Government</li> <li>• More information on framework can be found on : <a href="https://investment.infrastructure.gov.au/about/resources/national_partnership_agreement.aspx">https://investment.infrastructure.gov.au/about/resources/national_partnership_agreement.aspx</a></li> <li>• <b>Clause 99.4 C7836 Clause Bank</b></li> </ul>

Updated information on above table can be found on PDO Connect, email [tender\\_contracts@tmr.qld.gov.au](mailto:tender_contracts@tmr.qld.gov.au) for details.



**Table L1(b) – Policies for TMR**

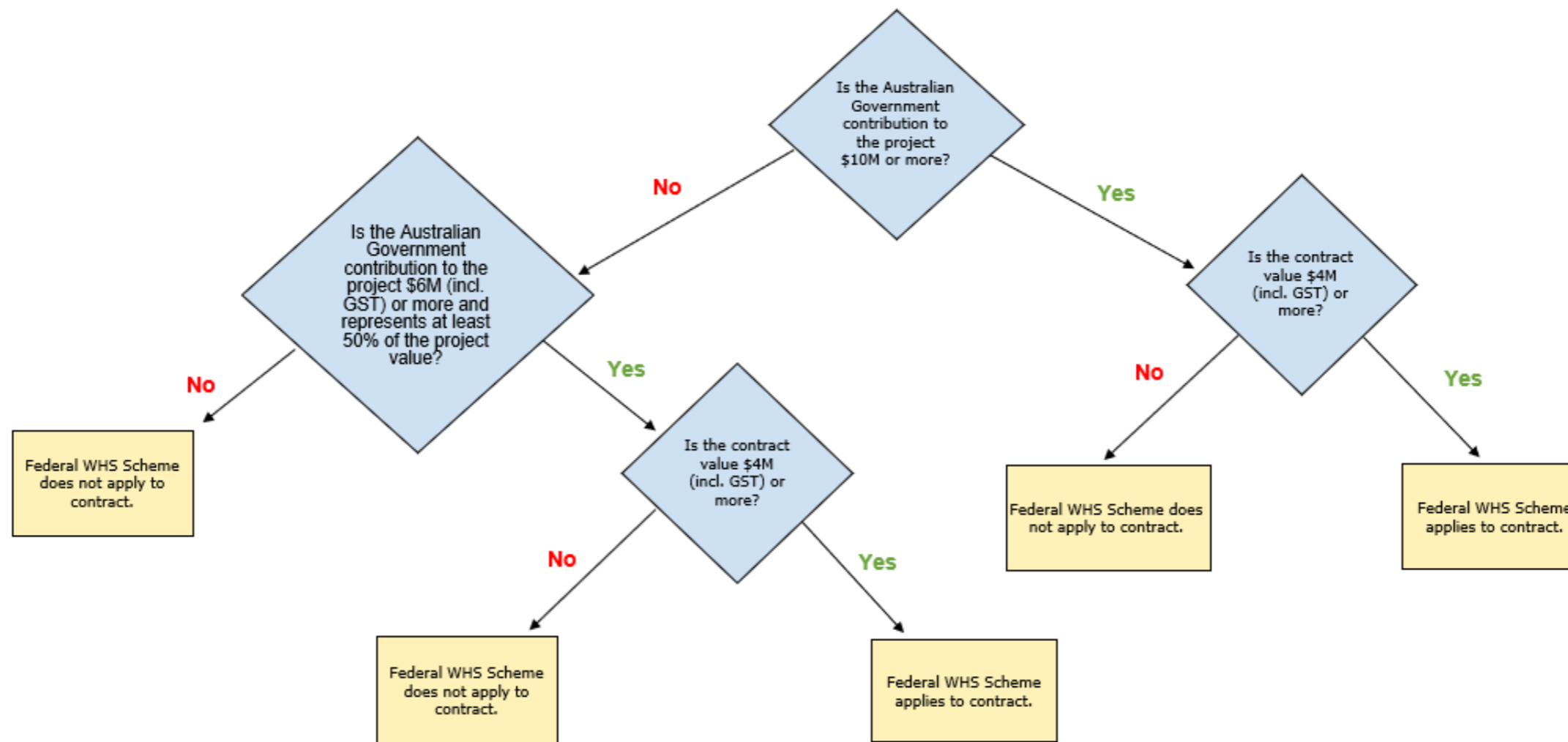
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<b>Queensland Procurement Policy 2021</b>	State	Applies to all Queensland government procurements and includes: <ul style="list-style-type: none"> <li>Best Practice Principles</li> </ul>	<ul style="list-style-type: none"> <li>Government’s overarching policy for the procurement of goods and services</li> <li>‘Best Practice Principles’ apply for <b>projects</b> valued at \$100 million and above and declared projects.</li> <li>Effective from 1 August 2019 all contracts are required to include an obligation on suppliers to comply with the Ethical Supplier Threshold – suppliers must provide fair pay and safe working conditions</li> </ul>

		<p>(&gt;\$100m <b>project</b> value)</p> <ul style="list-style-type: none"> <li>Ethical Supplier Threshold</li> <li>Ethical Supplier Mandate</li> </ul>	<ul style="list-style-type: none"> <li>Effective from 1 October 2019 the Ethical Supplier Mandate applies whereby demerits and sanctions may be issued where a supplier fails to meet a policy requirement. <ul style="list-style-type: none"> <li><a href="http://www.hpw.qld.gov.au/Procurement/ProcurementStrategy/Policy/Pages/default.aspx">http://www.hpw.qld.gov.au/Procurement/ProcurementStrategy/Policy/Pages/default.aspx</a></li> <li>Clause 31.9 C7821 Conditions of Tendering</li> <li>Clause 99.1 – 99.3 C7836 Clause Bank</li> </ul> </li> </ul>
<b>Building Code 2016</b>	Fed	<p>Applies if federal funding is \$5m and represents 50% of total construction project value or \$10m irrespective of construction value %, or applies to the Contractor if Contractor has previously tendered for federally funded projects .</p>	<ul style="list-style-type: none"> <li>Code for the Tendering and Performance of Building Work 2016 (the Building Code 2016) was issued on 2 December 2016.</li> <li>The Building Code 2016 is administered by the Australian Building and Construction Commission (ABCC).</li> <li>All tenderers to submit Building Code compliance outline (Tender Schedule S5).</li> <li>Additional requirement for a Workplace Relations Management Plan (WRMP) if Federal funding contribution to an <u>individual project</u> delivered under an agreement, grant or other similar arrangement is &gt; \$5 million and represents at least 50% of the construction project value of that project or &gt; \$10 million irrespective of proportion of construction project value. <ul style="list-style-type: none"> <li><a href="http://www.abcc.gov.au/">http://www.abcc.gov.au/</a></li> <li>Clause 14.5.1 C7830 General Conditions of Contract</li> <li>Clause 31.5 C7821 Conditions of Tendering</li> </ul> </li> </ul>
<b>Australian Government Building and Construction WHS Accreditation Scheme</b>	Fed	<p>Applies if contract* is \$4m or more (incl GST) <b>and</b>:</p> <ul style="list-style-type: none"> <li>-federal contribution is &gt;\$6m <b>and</b> represents at least 50% of project* value <b>OR</b>;</li> <li>-the federal contribution is &gt;\$10m irrespective of % of project value.</li> </ul>	<ul style="list-style-type: none"> <li>References should be included in the advertisement and tenderer's accreditation is confirmed prior to providing access to documents. If a tenderer is in the process of becoming accredited, the accreditation must be approved before the contract is awarded.</li> <li>Administered by Office of Federal Safety Commission (OFSC).</li> <li><a href="http://www.fsc.gov.au/sites/fsc/needaccredited/accreditationscheme/pages/theaccreditationscheme">http://www.fsc.gov.au/sites/fsc/needaccredited/accreditationscheme/pages/theaccreditationscheme</a> <b>Please see the attached flowchart to decide whether or not this scheme applies to your project.</b> <ul style="list-style-type: none"> <li>Clause 14.5.5 C7830 General Conditions of Contract</li> <li>Clause 26 C7821 Conditions of Tendering</li> </ul> </li> </ul> <p>*refer definitions next page</p>
<b>Northern Australia Roads program (NARP) and Northern Australia Beef Roads program</b>	Fed	<p>This applies, if the project is nominated by the Federal Government</p>	<ul style="list-style-type: none"> <li>This is a federal government initiative. Districts will notify in advance if the project comes under this program</li> </ul>
<b>Indigenous Employment and Supplier Use Framework</b>	Fed	<p>Applied if the federal funding contribution to the project (not for contract) is greater than \$7.5m or applies to all projects funded under Roads of Strategic Importance (ROSI) regardless of value of funding contribution</p>	<ul style="list-style-type: none"> <li>Indigenous employment and supplier frame work came into effect from 1<sup>st</sup> July 2019.</li> <li>The objective of the framework is to increase indigenous employment and business participation across the supply chain in the delivery of land transport infrastructure projects funded by the Australian Government</li> <li>More information on framework can be found on : <a href="https://investment.infrastructure.gov.au/about/resources/national_partnership_agreement.aspx">https://investment.infrastructure.gov.au/about/resources/national_partnership_agreement.aspx</a></li> <li>Clause 99.4 C7836 Clause Bank</li> </ul>

**Federal WHS Accreditation Scheme  
APPLYING THE SCHEME TO TMR CONTRACTS**



Examples:

- 1) Project value is \$40M. Federal Government contribution is \$7M. Scheme does not apply as the contribution does not represent at least 50% of the project value.
- 2) Project value is \$8M. Federal Government contribution is \$6M. Estimated contract value is \$5M. Scheme does apply.
- 3) Project value is \$30M. Federal Government contribution is \$10M. Scheme does apply when the contract value is \$4M (incl. GST) or more.

Definitions from the Federal Government's Fact Sheet:

- \* Project Value - means total project value including design, project management, land, contract etc.
- \* Contract Value - pertains to the Head Contract or Main Contract (construction and/or design and construction) which includes Building work.
- \* Building work - covers building, structures or works that form, or are to form, part of the land (e.g. includes roads and bridges)

Prequalification & Contracts Unit

Updated information on above table can be found on PDO Connect, email [tender\\_contracts@tmr.qld.gov.au](mailto:tender_contracts@tmr.qld.gov.au) for details.

## Appendix M – Low value infrastructure procurements – Small Scale Minor Works (SSMW)

### 1 Small Scale Minor Works (SSMW) Contract

#### 1.1 When to use

The Department of Housing and Public Works' Small Scale Minor Works Contract uses Australian Standard AS 4120 – 1994 *Code of Tendering* as amended by these Conditions of Contract (Refer Form C7831.SSMW Annexure A (*Contract Details*)). While this form of Contract is commonly used for building-related Works, it may also be used for low value low risk transport infrastructure Works, where payment is made on a lump sum basis and the value of the Works is under \$80,000 (excluding GST).

Examples where the SSMW may be used (subject to a risk analysis by an RPEQ-registered Engineer):

- fender replacement on a floating walkway
- traffic counts
- installation and removal of traffic sign
- utility location (2D or 3D)
- pavement imaging
- vegetation management
- heritage masonry Works for departmentally-managed heritage-listed buildings
- railway tunnel minor remedial and safety Works
- installation and removal of cattle grids on various other state-controlled roads
- traffic control engaged directly by the department (excluding traffic control Works by RoadTek)
- upgrading pedestrian facilities for example, ramps, refuge islands and so on
- minor traffic signal modifications and lighting modifications
- low value road construction, and
- installation of traffic signs, line marking and any other road furniture.

The tender process is described in more detail in Section 4.2 of this manual.

#### 1.2 Tender planning phase – Small Scale Minor Works

The tender planning process includes the following actions that must be taken (where appropriate) before finalising the tender documentation:

- selecting a Tendering Manager (which could be the Project Manager)
- defining the scope of Work required to undertake the tender (project scope which includes risks and opportunities, timing, cost and Contract type)
- before tender planning commences, the Tendering Manager should be aware of the fundamental aspects of the project. This knowledge will help identify any risks there may be in the tendering process, thereby enabling the process to operate effectively. These aspects are detailed in the business case and include:
  - project scope and objectives
  - stakeholders

- estimated cost
- constructability
- project timing
- identification of impacts especially traffic, approvals, environmental and cultural heritage risks
- risk analysis, including identification of constraints and critical success factors
- planning activities undertaken to date, and
- delivery strategy.

### 1.3 Tender analysis phase – Small Scale Minor Works

Before commencing the tender analysis, the Tendering Manager should ensure:

- specialist resources are identified to aid the evaluation
- the tender assessment process is defined (including timing, work distribution and so on) and
- the TEP is signed and completed.

Once the tenders are received, it is critical the tender assessment process is followed as per the TEP, or alternatively a standard assessment process must be used.

## 2 Contract formation phase

In the Contract formation phase the 'best tender' is approved by the Principal's delegate, financial approval processes are completed, culminating in the issue of the Letter of Acceptance and purchase order.

**Table M3 – Tender Development Phase – Small Scale Minor Works**

Phase	Document	Required for SSMW	Form No.
<b>Tender phase</b>	Probity Plan	No	
	Infrastructure Procurement Plan	No	
	Tender Evaluation Plan (TEP)	Yes	Refer to TIPDS Volume 2 Appendix B
	Invitation to Submit Tenders	Yes	SSMW Tender Form
	Conditions of Tender and Conditions of Contract	Yes	SSMW
	Annexure A to Conditions of Contract	Yes	Form C7831.SSMW
	Technical Specifications and Standard Drawings	As required	
	Addenda	As required	
<b>Tender award</b>	Tender Assessment Report (TAR)	Yes	Refer to TIPDS Volume 2 Appendix J
	Formal Instrument of Agreement	No	
	Post Tender Correspondence (to be incorporated in the Letter of Acceptance)	As required	
	Letter of Acceptance	Yes	C6995

