

Department of Treasury and Finance

PROCUREMENT PRACTICES MANUAL

BEST PRACTICE FOR THE ENGAGEMENT OF CONSULTANTS (CIVIC AND CIVIL)

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Contents

1. Introduction	4
2. What is a Consultant?.....	4
3. When is a Consultant required?.....	4
3.1 Value Management Study Phase	4
3.2 Functional Brief Phase.....	5
3.3 Project Brief Phase	5
3.4 Design and Documentation Phase	6
3.5 Construction Phase	6
3.6 Post Occupancy Evaluation Phase.....	6
3.7 Facility Management, Operating Plans and Maintenance Plans Phase	7
4. How to procure a Consultant	7
4.1 General Information.....	7
4.2 Consultant prequalification scheme.....	7
4.3 Developing the commission brief.....	7
5. Methods of Selection - Covered Procurements	8
6. Methods of Selection - Non-Covered Procurements.....	8
6.1 Value Based Selection	8
6.2 Qualifications Based Selection	9
7. Market Approaches.....	9
7.1 Single Submission	9
7.2 Multiple Submissions	9
8. Fee levels and quality of service.....	10
8.1 Fees	10
8.2 Quality of Service	10
9. Engagement of non-Prequalified Consultants	11
10. Commission Contract.....	11
10.1 Standards	11
11. Procurement practices information.....	11

1. Introduction

This publication is one of a suite of procurement practices publications which, together with the Treasurer's Instructions, the [Procurement - Better Practice Guidelines](#), [International Procurement Obligations](#) and information provided on the Purchasing website (www.purchasing.tas.gov.au), set out mandatory requirements and best practice for Government building construction works projects.

Detailed planning and evaluation of projects will assist agencies in establishing the most appropriate means of meeting their requirements. The decision to engage a consultant, to assist in the process of acquiring a new building or redeveloping existing accommodation, will generally derive from the agency's strategic asset management plan.

A consultant may initially be engaged to assist in establishing the need for a project. This association will often continue. For example, developing a project brief that meets the requirement of the agency; providing the preliminary design for the project; developing the final design and producing procurement documentation, evaluation and assessment and then contract administration.

Please note that agencies are required to participate in the Structured Infrastructure Investment Review Process, which prioritises infrastructure projects for funding by the Government. SIIRP is a method for agencies to bid for budget funding for large scale infrastructure projects. SIIRP has four distinct phases: Investment Concept and Options Analysis; Business Case; Budget Committee Consideration; and Project Review – Closure and Benefits Realisation. Consultants may be engaged by an agency to support products required to be produced as part of the first three phases. For further information on the SIIRP, please go to the Treasury website www.treasury.tas.gov.au

2. What is a Consultant?

A consultant is a person who provides expert, professional advice. Consultants should have the relevant experience and ability, including being appropriately professionally qualified, to provide the services that are required. Consultants should have the resources to manage the proposed project. They should also have a history of satisfactory performance relevant to the required scope of works.

3. When is a Consultant required?

Following are project phases when an agency may require a consultant's participation (a variety of consultants may be necessary at any given phase of the project):

3.1 VALUE MANAGEMENT STUDY PHASE

Value Management is a structured, systematic and analytical process that seeks to ensure that all necessary functions of a project are provided at the lowest total cost, consistent with required levels of quality and performance.

Underlying the process is the principle that there is always more than one way to satisfy a need and that a rigorous and structured examination of the alternatives will produce the most acceptable solution.

The value management process encompasses the following steps:

- identifying and ranking the functions required, together with their relative cost and worth, and establishing benchmarks;
- arranging the required functions into process-related groups;

- generating value improvement options through considering innovative and alternative means of achieving the required functions; and
- short-listing viable options and developing them for evaluation.

Once the requirement for a build option has been established and funding is approved, a value management consultant may be required to continue the value management process. This will help identify further issues (such as site options). Value for money is optimised by extending the value management study, to include critical points in the project procurement process.

These are typically:

- functional brief;
- schematic design; and
- design development.

3.2 FUNCTIONAL BRIEF PHASE

The functional brief establishes all the functions which the facility should include to meet the agencies requirements.

The development of a functional brief requires a consultant to organise the agency's needs into specific requirements.

3.3 PROJECT BRIEF PHASE

At the project briefing phase, architectural and engineering consultants develop the project brief on behalf of the agency.

The project brief combines the functional brief with the specific physical and technical design requirements of the project. The design requirements may include, however are not limited to, the following:

- site investigation and survey information;
- space and accommodation requirements;
- building function requirements (for example, structural, power, heating, ventilation, security, fire protection and communications systems and proposals);
- site development requirements (for example, landscape philosophy, car parking);
- occupational health and safety requirements; and
- budgeting and life cycle costing.

In all cases where multiple schematic design options are required, the procuring agency should ensure that:

- consultant architects involve the specialist sub-consultants at project brief and design phases, so that all technical requirements, such as, for example, maximum energy efficiency options, are considered;
- specialist sub-consultants are consulted for building services advice on alternative quality standards, together with the accepted quality benchmarks and an assessment of the benefits that accrue from each alternative;

- specialist sub-consultants quantify the capital, operating and maintenance costs for typical alternative systems. The analysis should use the net present value technique over the design life of the building;
- consultants prepare at least two costed viable concepts for consideration; and
- project brief and schematic design are documented, agreed to by all parties and approved by the agency.

Where an agency considers that there is insufficient in-house expertise to assess schematic design proposals, a consultant with this expertise should be engaged to provide that assistance (refer Value Management Study phase).

3.4 DESIGN AND DOCUMENTATION PHASE

The design and documentation process of a project includes the following stages:

- schematic design – defines the solution to meet the project brief. This may include energy conservation and efficiency features, cost effectiveness, construction methods, and operating and life-cycle cost analyses;
- design development – firms up schematic design into final design, including: schedules of finishes and materials, integration of building services with architectural and structural systems, verification of cost estimate, verification of time program; and
- documentation – to document the final design, including preparation of specification and tender drawings, final integration with structural and building services, statutory approvals as appropriate.

It is the agencies responsibility to ensure that:

- all aspects of design are subjected to review to ensure that the requirements of the brief are achieved;
- safety in design considerations have been implemented early in the design and documentation stage (safety in design should be reviewed throughout the procurement process);
- changes made to the functional brief, during the design process, are thoroughly assessed for their impact on the whole project and are documented in detail for future reference. This is essential in case of future litigation and the need to allocate legal liability; and
- procurement documentation is thoroughly assessed prior to calling for quotes or tenders, to avoid potential addenda, qualifications or delays during the assessment.

Should the procuring agency consider that there is insufficient in-house expertise to carry out the independent review of any of the above tasks, then a consultant with this expertise should be engaged to provide assistance.

3.5 CONSTRUCTION PHASE

During this phase construction is completed. A full consultant team, complete with specialist sub-consultants, is generally required for this phase.

3.6 POST OCCUPANCY EVALUATION PHASE

This is an assessment that measures how effectively the facility meets the agency's needs. It provides feedback to the agency for the development of the functional brief for future projects.

The post occupancy evaluation is usually performed by the project architect, but can be carried out by an independent architect or a consultant specialising in post occupancy evaluation.

3.7 FACILITY MANAGEMENT, OPERATING PLANS AND MAINTENANCE PLANS PHASE

Consultant commission briefs should require operating plans and maintenance plans. Unless there is capacity available within an agency, a consultant should be engaged to manage the maintenance of the building - in particular, building services maintenance.

Every facility has operating and maintenance costs associated with it. These costs continue throughout the economic or functional life of the building and equal about 80 per cent of the combined capital and operating cost.

4. How to procure a Consultant

The following sections should be read in conjunction with the requirements of the Treasurer's Instructions and [Better Practice Guidelines](#). Where engagement of a consultant is a 'covered procurement', reference to the [International Procurement Obligations](#) is required.

4.1 GENERAL INFORMATION

The method of selecting consultants should not drive fees down to a point where consultants cannot afford to assign properly qualified staff for sufficient periods of time to carry out the assigned task as this would lead to a reduction in the scope and quality of the service provided.

Consultants should be selected on the basis of:

- professional competence, qualification and expertise in providing the service required;
- managerial ability;
- availability of the necessary resources for the duration of the project;
- a demonstrated understanding of the agency's needs; and
- a demonstrated preparedness to provide the required quality of service.

4.2 CONSULTANT PREQUALIFICATION SCHEME

Treasury maintains a Consultant Prequalification Scheme that provides a record of consultants prequalified to perform Government work. This Scheme serves to maintain a comprehensive record of consultants available, their expertise, experience, organisational capacity and a history of their performance on Government projects.

Further information regarding the Consultant Prequalification Scheme is available in the [Procurement Better Practice Guidelines \(Principles and Policies\)](#).

4.3 DEVELOPING THE COMMISSION BRIEF

When the service to be provided has been determined and the need to engage a consultant has been established, the commission brief is developed.

The commission brief will include a detailed scope of work, explaining to the consultant the outcome that is expected from the service. Included in the scope of works will be reference to such issues as:

- preparation for and attendance at the Parliamentary Standing Committee on Public Works hearing(s);

- preparation of estimates;
- construction cost control;
- value management study requirements; and
- documentation standards to be adhered to, for example the national specification standard, NATSPEC.

The commission brief should include:

- the selection criteria and their weighting. This indicates to the consultants what emphasis the agency places on the consultant's capabilities, allowing submissions to be more focused. It provides the basis for selecting a consultant and ensures that an auditable process is set in place;
- details the proposed commission and includes an initial functional brief;
- forms the basis for the consultant to submit a fee proposal;
- forms the basis for further fee-claim negotiations when a brief is changed;
- provides a common basis for submissions when more than one consultant is invited to submit a proposal.

5. Methods of Selection - Covered Procurements

Where a procurement is subject to the provisions of a procurement obligations set out in international agreements, the methods of selection and market approaches identified below do not apply and an open tender process is required. For the mandatory requirements please refer to Treasurer's Instruction PP-2 *Procurement Processes - Market Approaches* and the [International Procurement Obligations](#).

6. Methods of Selection - Non-Covered Procurements

For non-covered procurements the two methods that agencies are to consider when looking to select a consultant to provide a service relating to procurement and maintenance of Government building assets are:

- Value Based Selection; and
- Qualifications Based Selection.

It is a matter for the agency selecting the consultant to choose the more appropriate of the two methods of selection to match the size and complexity of the project.

6.1 VALUE BASED SELECTION

Using the Value Based Selection method, the consultant is selected on the submission that offers best value for money, taking into consideration both the qualifications of the consultant and other criteria including quality, reliability and price.

In the majority of cases, this value for money based assessment will be the most appropriate method of consultant selection. Note that when using this method of selection, it is recommended that there should only be a low weighting attributed to price.

6.2 QUALIFICATIONS BASED SELECTION

The Qualifications Based Selection method of procuring consultants is the process of ranking submissions from consultants based on their qualifications and ability to provide the services required. During the second stage, price (as a component of the overall value for money assessment) is negotiated with the highest ranked consultant. If the agency and the first preferred candidate cannot negotiate an agreed price, the agency can then enter into negotiations with the second preferred candidate. The process used should be auditable.

7. Market Approaches

The mandatory requirements regarding the approach to market for consultants are set out in the Treasurer's Instruction PP-2 *Procurement Processes - Market Approaches*.

Depending on the cost and complexity of the services required, where prequalified consultants exist, one or more consultants capable of performing the work are selected from the prequalified consultants register.

The process for selecting consultants consultant commission brief, which will include type, size and complexity of the service required and the required timing.

There are options available for requesting proposals from prequalified consultants:

- Single Submission; and
- Multiple Submissions.

7.1 SINGLE SUBMISSION

A submission from a single consultant is the least resource intensive and should be considered as the first option. Where the Department of Treasury and Finance's prequalification scheme can provide a consultant that has the required expertise in the type of service needed and has the staff available for the duration of the project, then a single submission should be sought.

This approach has been accepted by the consulting industry for projects with a capital value up to and including \$1 million (or a fee value up to and including \$100 000 where a capital value is not yet determined).

In order to satisfy probity issues, the selection should follow a formal process. The decision to request a single submission and the procedures applied should be scrutinised by a senior officer within the agency who is not directly associated with the project. Agencies need to ensure the process is fair – for example, where there are equally suitable consultants for particular engagements, agencies should be mindful of not necessarily engaging the same consultant every time, but rather allowing other suitable consultants the opportunity to undertake the work.

7.2 MULTIPLE SUBMISSIONS

Where the commission is of significant value, that is, where the capital value of the project is greater than \$1 million (or the fee value is in excess of \$100 000 where a capital value is not yet determined), the advantages of multiple submissions outweigh the increased cost of the process to both Government and the consulting industry.

This approach requires:

- that consultants making a submission will each develop a proposal to provide the required service; and

- the procuring agency to nominate a selection committee of three senior officers to assess the submissions requiring each to gain an understanding of the project criteria, spend time in preparing for and attending the consultant interviews, preparing reports on the interviews and making a report recommending a consultant.

To contain costs to the consulting industry, submissions should normally be sought from three consultants only. Interviews may be conducted with these consultants as part of the assessment process.

The basis of evaluating submissions from consultants should be determined before consultants are selected to submit a proposal.

Further information regarding the evaluation process and selection criteria is contained in the [Procurement - Better Practice Guidelines - Processes and Documentation](#) and [Procurement - Better Practice Guidelines - Accountability and Reporting](#).

8. Fee levels and quality of service

8.1 FEES

Commission fees need to relate to the quality of intellectual effort and time required by the consultant to fulfil the required task. However, the key to assessing the acceptability of a fee is the value for money it represents to Government. Rather than reducing fees, consultants should be encouraged to reduce the capital and recurrent costs of a project, while still retaining the agency's output needs. As a result, fees should relate to the quantity and quality of services required, not to a general fee scale.

A commission fee framework should take into consideration the following:

- the nature of the project in respect of size, complexity and delivery method;
- the consultant skills required; and
- an appropriate fee framework that provides budgetary control of commission fees.

It is important to ensure not only that the consultant receives an adequate fee to perform the task, but that all sub-consultants in the commission will also receive fees that are adequate for effective performance.

8.2 QUALITY OF SERVICE

When engaging a consultant, it is important to ensure that:

- the technical content of a project is adequately briefed in accordance with the stated agency requirements;
- the intended design solution produced by the consultant satisfies the brief; and
- the scope of work for a project is adequately defined by the agency and has a realistic budget.

Time should be spent by agencies at the both the value management study phase and functional brief stage to ensure all requirements are captured. Inadequate information provided at both these stages may effect a consultant's ability to appropriately determine its fee, which may have adverse impact on overall quality of service outcomes of a project.

9. Engagement of non-Prequalified Consultants

While it is a mandatory requirement for prequalified consultants to be engaged, on some occasions there will be a need to engage consultants where there is no existing prequalification category. When this occurs, agencies are required to undertake a procurement process in accordance with Treasurer's Instructions PP-2 *Procurement Processes - Market Approaches* and PP-5 *Procurement Processes - Engagement of Civil and Civic Consultants*.

10. Commission Contract

10.1 STANDARDS

In accordance with Treasurer's Instruction PF-1 *Procurement Framework - Procurement Principles*, the Australian Standard AS 4121-1994 *Code of ethics and procedures for the selection of consultants* should be adhered to when selecting and commissioning consultants.

The procurement documentation and contact requirements are set out in Treasurer's Instruction PP-5 *Procurement Processes - Engagement of Civil and Civic Consultants*.

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Where an agency is awarding a contract that may be high risk, it is recommended that the Office of the Crown Solicitor be involved in preparing the contract. Annexures are to be filled out specifically as instructed by the Crown Solicitor for each commission and as well as providing details of the commission itself, set out any specific Tasmanian Government amendments to the Australian Standard contract.

In determining the insurance levels to be included, a risk assessment should be undertaken to determine an appropriate level of insurance.

11. Procurement practices information

The following publications constitute the complete *Procurement Practices Manual*:

- *Best Practice for the Engagement of Consultants (Civic and Civil)*;
- *Contractual Documentation, Delegation and Risk*; and
- *Best Practice for the Maintenance of Building Assets*.

All publications, together with other relevant guidance material, templates and checklists are available from the Purchasing website at www.purchasing.tas.gov.au.

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