CONTRACTOR PREQUALIFICATION SCHEME

SCM0256 Agency Guidelines

General construction works up to $1 million

November 2019
What’s changed?

This scheme has been updated to simplify scheme conditions and make it easier for agencies to engage prequalified suppliers. Changes include:

- Automatic increase in contract financial range for registered contractors from $150,000 to $250,000. The contract financial range for certified contractors has been increased to between $250,000 and $1 million.
- Data collection regarding the applicant’s status as a small to medium enterprise, Aboriginal-ownership and regional capabilities has been improved.
- Improved reporting capacity including:
  - Scheme database identification of Aboriginal-owned businesses for sourcing and reporting, and availability of data to agencies on request
  - Scheme database improvements around identification of regional contractors for sourcing and reporting
- Refresh of work categories within the scheme to align with agency business demands including:
  - Building works (multi-trade) has been reclassified as non-residential building works
  - Building remediation works and Aluminium windows and doors have been as a result of low demand. Existing suppliers will be relocated to other relevant work categories (such as residential or non-residential building works)
- Proactive scheme management process implemented including:
  - Issue of guides to update contractor profiles
  - Additional fields have been added to the online application form to upload licences
  - A governance process to refresh scheme and contractor data based on an annual timetable to ensure Scheme and contractor integrity to new policy and legislative requirements
- Improved user-friendly guidelines for contractors and buyers
- Guide on how to use Scheme Explorer function to search for prequalified contractors.

Where to start

ProcurePoint documents

SCM0256 Agency Guidelines and associated documents for applicants and agencies are available in ProcurePoint at www.procurepoint.nsw.gov.au/scm0256

Terms and definitions

Refer to terms and definitions used in this document

eTendering

To select prequalified contractors, log in to eTendering (Scheme Explorer)
Enquiries

For enquiries please contact: constructionsuppliers@finance.nsw.gov.au or contact the NSW Procurement Service Centre (details inside front cover).
# Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ProcurePoint documents</td>
<td>i</td>
</tr>
<tr>
<td>Terms and definitions</td>
<td>i</td>
</tr>
<tr>
<td>eTendering</td>
<td>i</td>
</tr>
<tr>
<td>Enquiries</td>
<td>ii</td>
</tr>
<tr>
<td><strong>1 Scope and application</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>2 Purpose</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>3 Procurement planning</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>4 Using the scheme</strong></td>
<td>1</td>
</tr>
<tr>
<td>4.1 Prequalified contractor listings</td>
<td>1</td>
</tr>
<tr>
<td>4.2 eQuote</td>
<td>2</td>
</tr>
<tr>
<td><strong>5 Engaging contractors</strong></td>
<td>3</td>
</tr>
<tr>
<td>5.1 Market approaches guide</td>
<td>3</td>
</tr>
<tr>
<td>5.2 Quote rules</td>
<td>3</td>
</tr>
<tr>
<td>5.3 Contractual agreements</td>
<td>3</td>
</tr>
<tr>
<td>5.4 Trusts and trustees</td>
<td>3</td>
</tr>
<tr>
<td>5.5 Insurances</td>
<td>4</td>
</tr>
<tr>
<td>5.6 Relevant occupational licences or certification</td>
<td>4</td>
</tr>
<tr>
<td><strong>6 Contractor performance</strong></td>
<td>4</td>
</tr>
<tr>
<td><strong>7 Scheme maintenance</strong></td>
<td>4</td>
</tr>
<tr>
<td><strong>8 Terms and definitions</strong></td>
<td>5</td>
</tr>
</tbody>
</table>
1 Scope and application

These guidelines are applicable to general construction works up to $1 million (ex GST). They should be read in conjunction with SCM0256 Scheme Conditions.

For general construction works up to $1 million:

- All NSW government agencies must engage contractors from this scheme in accordance with NSW Procurement Board Direction PBD-2014-04C Construction procurement prequalification schemes for work valued to $1 million.
- State-owned corporations, NSW Government subsidiaries (under the Corporations Act), universities and local councils may use this scheme. As these entities are not bound by the Public Works and Procurement Act 1912, use of the scheme is in accordance with their individual governance requirements.

NOTE: Unaccredited agencies do not require the assistance of accredited agencies for selecting contractors for general construction works up to $1 million. PBD-2014-03C Agency Accreditation Scheme for Construction – threshold for unaccredited work.

2 Purpose

The purpose of this scheme is to reduce the time, cost and risk to agencies of engaging with prequalified contractors who:

- are legitimate business entities with a sound financial track record
- have demonstrated expertise, capacity and capability for specific work categories and regions (including Sydney metro)
- meet the criteria for small to medium enterprises, or Aboriginal-owned businesses (if required).

3 Procurement planning

This scheme is relevant to NSW Procurement’s Plan-Source-Manage approach to procurement. It assists agencies in the planning phase to identify contractors who are suitability qualified to tender for construction and related services. Please note:

- the source and manage phases of procurement are outside of the scope of the prequalification scheme
- agencies using this scheme are encouraged to develop their own sourcing strategies in accordance with the NSW Procurement Policy Framework.

4 Using the scheme

4.1 Prequalified contractor listings


Prequalified contractors are listed according to work categories and the value of work for which they have been prequalified:

- Registered Contractors are eligible for contracts valued up to $250,000,
Certified Contractors are eligible for contracts valued between $250,000 and $1 million. Information about prequalified contractors is also available online through Scheme Explorer in eTendering. Refer to http://tenders.nsw.gov.au/?event=public.schemeExplorer/selectScheme

4.2 eQuote

An agency can use eTendering to release a quote to the market using eQuote, an electronic process managed through e tender. To do this you must first be registered with eTendering.

- If applicable, register as a new user

To match prequalified contractors with agency requirements:

- Go to the eQuote management page on the eTendering website
- Select the ‘Buying’ tab
- To find suitable vendors select the appropriate ‘Category’ and ‘Scheme’.

Alternatively, agencies can select prequalified tenderers from the appropriate work categories using the current database in accordance with your approved procurement plan or governance model.
5 Engaging contractors

5.1 Market approaches guide
Refer to the Market approaches guide in ProcurePoint for approaching the supplier market

5.1 Quote rules
The recommended minimum number of quotes for work is as follows:

- Contracts up to $150,000 – one quote
- Contracts over $150,000 – three quotes.

The key principle of obtaining value for money in the procurement must be addressed by the procuring officer in all cases.

These recommended guidelines do not override any approved procurement governance requirements developed for an agency’s business. Quote rules also can also vary if you are dealing (for instance) with Aboriginal-owned businesses, or small and medium enterprises (particularly in regional areas). Agencies should check the relevant policies for allowable variances from the quote rules.

5.3 Contractual agreements
The contractual agreement between the agency and the contractor is outside the scope of this scheme. However, agencies should use NSW Government’s standard construction contracts where appropriate. These contain simple, effective provisions that are familiar to contractors and reflect NSW Government policy and provide a reasonable allocation of contract risk:

- MW21 for straight forward construction contracts valued at less than $1 million
- Mini Minor Works for contracts valued at less than $250,000 with simple terms

For scheme engagements below $30,000, agencies can use agency specific terms and conditions, or a supplier’s terms and conditions. The onus is on the agency to assess if the alternative terms and conditions can adequately govern the engagement, having considered the level of associated risk. Alternatively, use Mini Minor Works General Conditions of Contract.

5.4 Trusts and trustees
A trust in itself is not a legal entity and is always controlled by a trustee. Only the trustee can sign a contract on behalf of the trust. Trustees as administrators for a particular trust can be prequalified in this scheme, if they meet the application requirements and are authorised to enter into a contract on behalf of the trust. (Trusts are not eligible as they can only contract via a trustee).

When trustees are prequalified and tender/quote for government business they should be assessed in the procurement process in the same way as any other eligible entity in meeting the evaluation criteria developed for that process.

As a guide, when looking at financial capability, you must look at the financial accounts of the trust (these accounts should be in the correct name of the trust). Agencies are advised to apply their own due diligence and, if necessary, seek legal and commercial advice during the tendering process.

Agencies should ensure the contract correctly describes the trustee as entering the contract in its capacity as trustee of the trust, rather than it its own capacity. This means making sure the ABN of
the trust is quoted (not the trustee’s ABN). For example, ABC Pty Ltd (ACN 123 456 789) as trustee of the Jones Family Trust (ABN 9 876 654 321).

5.5 Insurances

For this scheme, the contractor is not required to provide evidence of insurance at prequalification stage. However, agencies should ask for proof of public liability, workers compensation and/or professional indemnity insurance (as required) at the tendering and contract award stages.

5.6 Relevant occupational licences or certification

Contractor provide evidence of all necessary licenses for work categories which have this as a mandatory requirement. The type of license will be determined by the NSW Government licensing agency (or equivalent) and various work categories under this scheme prescribe the mandatory licensing requirements.

Agencies are advised to apply their own due diligence at the tendering stage to ensure the contractor’s license is current.

6 Contractor performance

Certified contractors are required to submit proof of good performance when they apply to the scheme. Contractor performance reporting and record keeping is the responsibility of individual agencies.

Agencies are requested to advise the Department of contractors who breach scheme conditions or do not meet their contractual obligations. These contractors may then be suspended or removed from the scheme. If suspended, they will not be eligible to receive tendering opportunities until the reason for their suspension is addressed to the satisfaction of the Department.

7 Scheme maintenance

The Department provides a small, dedicated team to administer the scheme and assist agencies and contractors with enquiries and feedback for continuous improvement. Contact constructionsuppliers@finance.nsw.gov.au
# 8 Terms and definitions

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency</strong></td>
<td>NSW Government agencies</td>
</tr>
<tr>
<td><strong>Construction services</strong></td>
<td>Services relating to construction of buildings or works, including a) pre-erection works b) construction works c) repairs, alterations and restorations.</td>
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<tr>
<td><strong>Contractor</strong></td>
<td>An applicant who has been prequalified to provide construction services up to $1 million (ex GST)</td>
</tr>
<tr>
<td><strong>Contractor performance report (CPR)</strong></td>
<td>A report completed using the Department’s CPR template or a similar document that articulates the key performance criteria of a Contractor.</td>
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<td><strong>DPIE, or the Department</strong></td>
<td>Department of Planning, Industry and Environment</td>
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<tr>
<td><strong>eTendering</strong></td>
<td>The NSW Government’s repository for past, current and future tenders. Contractors can apply for prequalification schemes, manage their scheme application and change contact details. Agencies use the site to select prequalified contractors for tendering opportunities.</td>
</tr>
<tr>
<td><strong>Government</strong></td>
<td>New South Wales Government</td>
</tr>
<tr>
<td><strong>ProcurePoint</strong></td>
<td>The central repository for all NSW Government procurement documents</td>
</tr>
<tr>
<td><strong>Scheme</strong></td>
<td>A procurement list of prequalified contractors intended to be used more than once for procurements by one or more agency</td>
</tr>
<tr>
<td><strong>SCM0256</strong></td>
<td>Contractor prequalification scheme for construction and related works up to $1 million (ex GST)</td>
</tr>
</tbody>
</table>