

Treasurer's Instruction No	1209
Title	Advertising and Receiving Tender Submissions for Major Works: building and construction/roads and bridges
Effective date	1 January 2009
Objective and Background	Provides instructions on the process that agencies must follow for all building and construction/roads and bridges major works when advertising and receiving tender submissions.
Version Number	3
Last Reviewed Date	November 2008

Black letter (or bold) items within these Instructions are mandatory and other plain font items are instructional or for the purpose of providing guidance only.

- (1) **This Instruction applies only to the procurement of building and construction and roads and bridges and is to be read in conjunction with other Instructions relating to such procurements which are contained in the 1200 series of the Treasurer's Instructions.**

Further information on building and construction procurement, including a definition of "building and construction" and "roads and bridges" and information on the types of services that fall under these categories is located at www.purchasing.tas.gov.au>Buying for Government.

For information in relation to procurement of goods and non-construction related services, refer to the 1100 series of the Treasurer's Instructions.

ADVERTISEMENT

- (2) **Tenders for major works for building and construction must be publicly advertised unless the Secretary of the Department of Treasury and Finance, or other authorised delegate, approves an exemption under Instruction 1217 enabling an agency to seek offers from a limited number of suppliers.**
- (3) **All agencies must, at minimum, place advertisements for tenders in the Saturday edition of either *The Mercury*, *The Examiner* or *The Advocate* and on the Tenders website at www.tenders.tas.gov.au.**

To ensure that the appropriate target audience is reached, where appropriate, a tender advertisement should be placed in more than one of the local newspapers.

- (4) **Each individual tender advertisement must include the following as a minimum:**

- (a) name and address of agency including contact details;
- (b) a description of the procurement and any conditions for participation;
- (c) short title of tender: describing the type of work and geographic location;
- (d) name of contract and unique ID;
- (e) pre-qualification requirements: work category, financial range (threshold) and quality assurance, if required;

Where an agency becomes aware that a contractor may submit a bid for a tender in which the contractor is either not pre-qualified in the appropriate category or not to the required threshold, the agency should direct the contractor to the "Application for Registration as an Approved Contractor", located at www.purchasing.tas.gov.au>Winning Government Business>Resource Library>Forms.

- (f) closing of tenders: time and date and address for lodgement of tenders;

Refer to the information below on the appropriate tender periods and closing requirements.

- (g) source of tender documents, stating place, telephone number and office hours where tender documents are available;
- (h) the timeframe for delivery (estimated contract period); and
- (i) any other relevant information, depending on the nature of the tender or expression of interest.

Where the provisions of a free trade agreement applies, the time limit for submission of applications for pre-registration or pre-qualification must also be included in the advertisement. Refer to the *Free Trade Agreements Guideline* for further information. The Guideline can be located at www.purchasing.tas.gov.au>Buying for Government>Resources>Publications.

An agency may supply the tender documentation to a contractor, where that contractor is not yet pre-qualified or is not pre-qualified to the required threshold or category. However, the appropriate pre-qualification must be in place prior to the closing of the tender to enable any submission to be evaluated. Where pre-qualification levels are not appropriately met prior to the closing of the tender, a submission cannot be evaluated as the tenderer will not have met the conditions for participation.

TENDER PERIOD

- (5) All major works tenders for both building and construction and roads and bridges must be open for a minimum of 2½ weeks (18 days) advertising time when the projects are valued at less than \$1 million and 3½ weeks (25 days) for projects valued at \$1 million and over.

Once tenders have been called, the tender period should not normally be extended and, as a general rule, a request by a single tenderer for an extension of the closing date should not be considered. However, if the number of tenderers is likely to be significantly reduced due to an insufficient tender period or due to the issue of addenda, consideration should be given to extending the tender closing date.

(6) A tender:

- (a) must not close earlier than 2.00pm;**
- (b) must not close on a Monday or a day immediately following a public holiday;**
- (c) must close at least one week after the recognised industry Christmas close-down.**

It is usual practice to close tenders on a Wednesday at 2.00pm where possible, after taking the above factors into account.

(7) If addenda are required to be issued, agencies must ensure that:

- (a) one copy of every addendum is included in the final contract documentation;**
- (b) one copy of every addendum is included in each set of tender documents not yet issued;**
- (c) one copy of every addendum is forwarded by email notification of an addendum placed on the Tenders website, fax or courier to each of the prospective tenderers that have previously obtained tender documents; and**
- (d) where the addendum results in a substantial change to the tender and is issued with less than five working days remaining to the tender closing date, an extension of the tender closing date is to be granted to all tenderers.**

A 'substantial change' means a change which would require the tenderer to re-work their submission and/or pricing.

In a Design and Construct contract, where an addendum results in a substantial change to the tender and is issued with less than three to four weeks remaining to the tender closing date, an extension of the tender closing date should be granted to all tenderers.

Each addendum for a particular work is to be consecutively numbered and precisely define and describe the alterations, additions or deletions required, with reference to the appropriate elements in the tender documents.

Where an addendum is to be issued for tender documents which include a Schedule of Rates, the addendum should also detail the necessary quantity or description changes. A supplementary Schedule of Rates may also be necessary.

- (8) Each addendum must state that the addendum will be incorporated in the tender documents and tenderers must be required to confirm receipt, in writing, of the addendum and that allowance has been made for each addendum. The receipt is to be included with the tender.

RECEIVING AND OPENING TENDERS

- (9) Fair and impartial procedures must be in place in relation to receiving and opening all tenders.
- (10) Each procurement is to be allocated a specific closing time, date and place of lodgement, which is to be clearly stated in all documents and advertisements.
- (11) Tenders must be received before the time and date shown on the Form of Tender.
- (12) A secure facility for receipt of tenders must be provided at each designated lodgement location. The tender documentation relating to any particular tender is not to be opened until the time set for the closing of tenders has elapsed.

Facsimile machines may be used to receive tenders if the confidentiality of the tender can be guaranteed. Further information on facsimile receipt is available at www.purchasing.tas.gov.au>Buying for Government.

- (13) The tender box shall be closed for tenders at the exact time for closing of tenders.

It is recommended that tenders should be:

- opened in the presence of a minimum of three officers, including at least two senior officers of the agency; and
- clearly identified and recorded.

- (14) Where an agency provides potential suppliers with opportunities to correct unintentional errors of form between the opening of submissions and any decision, the agency must provide the same opportunity to all participating potential suppliers.

LATE TENDERS

- (15) Where a tender is not impacted by thresholds for building and construction under a free trade agreement, late tenders must not be accepted unless:
- (a) circumstances beyond the tenderer's control were the cause of the lateness; and
 - (b) accepting a late tender will not compromise the integrity of the tendering process or provide any unfair advantage to the tenderer lodging the late tender.

- (16) Where a tender is impacted by a free trade agreement (refer Instruction 1202) an agency must not accept late tenders unless the delay is due solely to mishandling by the agency.**

CONFIDENTIALITY IN THE PROCUREMENT PROCESS AND IN RELATION TO CONTRACTS

Agencies should refer to Instructions 1229 and 1401.