

Treasurer's Instruction No	1206
Title	Minor Works Procurement: building and construction/roads and bridges
Effective date	25 March 2019
Objective and Background	Provides instructions on the procedures that agencies must follow for minor works procurement for building and construction/roads and bridges.
Version Number	17

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

- (1) **This Instruction applies to the procurement of building and construction and roads and bridges works 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 on the [Purchasing website - Buying for Government](http://www.purchasing.tas.gov.au) (www.purchasing.tas.gov.au).

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

- (2) **All building and construction works valued under \$250 000 (excluding GST) and all roads and bridges works valued under \$500 000 (excluding GST) must be treated as minor works.**

All building and construction works valued at \$250 000 (excluding GST) or over and all roads and bridges works valued at \$500 000 (excluding GST) or over must be treated as major works. Refer to Instruction 1207 for information on major works.

- (3) **Quotation processes for minor works purchases valued at \$50 000 or less (excluding GST) are at the discretion of agencies.**

Agencies are required to weigh the value of the purchase and the cost of seeking quotations against the need to ensure that value for money and the other government building and construction and roads and bridges procurement principles contained in Instruction 1201 have been observed.

- (4) **Agencies must seek at least three written quotations for the procurement of minor works valued at more than \$50 000 (excluding GST), unless approval for direct/limited submission sourcing is granted in accordance with Instruction 1217. Where local capability exists, at least two quotes must be sought from Tasmanian businesses.**

Agencies should maintain records of all suppliers approached and their responses including documented advice from suppliers who have declined to submit a quote.

If after seeking at least three written quotations, less than three submissions are received, agencies are not obliged to seek further quotations.

A Tasmanian business is defined in Instruction 1213.

AS 4120–1994 is to apply to quotations in the same manner as it applies to Tenders. Refer to Instruction 1201(2)(c) and (e).

Where an agency feels it is appropriate, an open tender process may be carried out for minor works.

- (5) **Agencies must ensure that minor works contracts are awarded only to suppliers that have declared that they and their employees and/or sub-contractors hold all the appropriate certifications, accreditations, registrations or licences necessary to undertake the work.**

The reference to appropriate certifications, accreditations, registrations or licences is a reference to the licences or accreditations etc that the contractor(s) must hold in order to undertake the type of work encompassed by the contract (eg a Plumbing Practitioner Licence or Electrical Contractors Licence etc). It does not refer to specific permits such as building or plumbing permits that would be required to be obtained in order to undertake the specific project.

The Crown Solicitor's pro forma procurement documentation contains relevant clauses requesting the information on licences etc and the completion of a statutory declaration. Where Crown Law documentation is not used, then agencies must liaise with Crown Law for assistance with the inclusion of relevant provisions.

An appropriate statutory declaration pro forma, prepared by Crown Law, is available from the [Purchasing website - Buying for Government](http://www.purchasing.tas.gov.au) (www.purchasing.tas.gov.au).

- (6) **For all minor works construction contracts valued at \$50 000 and over (excluding GST), it is mandatory to use AS 4905–2002, Minor Works Contract Conditions.**

For minor works contracts valued below \$50 000, it is highly recommended that AS 4905–2002, *Minor Works Contract Conditions* is used. AS 4905–2002 is available for purchase from SAI Global (www.saiglobal.com/).

For non-construction works, such as maintenance, agencies should use appropriate Australian Standard contracts and liaise with the Crown Solicitor to ensure the contracts are appropriately amended to reflect the Government's procurement, confidentiality and contractual policies.

Where an agency is awarding a contract that may be high risk or require certain clauses, it is recommended that the Crown Solicitor be involved in the drawing up of the contract.

- (7) **Agencies must ensure that persons making submissions are dealt with fairly and equitably during the procurement process.**
- (8) **The request documentation must provide all the information necessary to enable potential suppliers to prepare appropriate submissions in response.**
- (9) **The specifications for the procurement must not restrict competition, reflect bias to any brand, product or contractor, or act as a barrier to the consideration of any alternatives.**
- (10) **Agencies must ensure, by including provisions in the Conditions of Quotation and the Conditions of Contract that general disclosure rights are reserved for the Crown, to enable the public disclosure of relevant contract details.**

For suitable wording see the Conditions of Tender Crown Solicitor's pro forma RFT: Building and Construction and the *Guide to the Completion of Annexures to AS 2124-1992*.

- (11) **Agencies must include provisions in the Conditions of Quotation and the Conditions of Contract in relation to the Government's position on zero tolerance towards violence against women.**

Examples of clauses can be located in the procurement documentation templates prepared by the Crown Solicitor available from the [Purchasing website - Buying for Government \(Forms\)](#).

- (12) **Agencies must include a provision in quotation documentation that advises unsuccessful suppliers of their entitlement to be debriefed.**
- (13) **Fair and impartial procedures must be in place in relation to receiving and opening all submissions.**
- (14) **Agencies must provide suppliers with at least one electronic option for the lodging of their submission.**

The method used is a matter for the agency to determine ensuring all requirements in relation to handling and confidentiality can be met. Electronic options may include, for example, the use of the Tenders website electronic lodgement functionality or a secure email or facsimile facility. Where email or facsimile is used:

- the facility should be secure;
- access to the submissions should be controllable to prevent compromising security of responses/confidentiality; and
- access should be auditable and/or documented.

- (15) **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.**
- (16) **A secure facility must be provided at each designated lodgement location for receipt of submissions. The submission relating to any particular procurement is not to be opened until the time set for the closing of submissions has elapsed.**

It is recommended that submissions 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.

- (17) **Details of suppliers issued with quotation documentation must be recorded in an appropriate manner.**
- (18) **If addenda are required to be issued, agencies must ensure that:**
- one copy of every addendum is included in the final contract documentation;**
 - one copy of every addendum is included in each set of documents not yet issued;**
 - one copy of every addendum is forwarded by email notification of an addendum placed on the Tenders website (where appropriate), fax or**

courier to each of the prospective suppliers that have previously obtained documents; and

- (d) where the addendum results in a substantial change to the request for quotation and is issued with less than five working days remaining to the quotation closing date, an extension of the quotation closing date is to be granted to all prospective suppliers that have previously obtained documents.**

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

Where addenda are to be issued for documents which include a Schedule of Rates, the addenda are also to detail the necessary quantity or description changes. A supplementary Schedule of Rates may also be necessary.

- (19) Each addendum must state that the addendum will be incorporated in the procurement documents and suppliers 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 submission.**
- (20) Late submissions must be dealt with in accordance with the quotation documents.**
- (21) 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.**
- (22) All submissions must be fairly and equitably evaluated in a manner that is consistent with the Government's procurement principles. The final decision must be able to withstand public scrutiny.**

The Government's building and construction and roads and bridges procurement principles are contained in Instruction 1201.

- (23) Agencies must ensure that all submissions are evaluated in accordance with the evaluation criteria and methodology outlined in the request documentation.**

When evaluating submissions, it is necessary to consider:

- value for money;
- price; and
- compliance with specifications.

- (24) Contracts are to be awarded in accordance with Instruction 1211.**

CONFIDENTIALITY IN THE PROCUREMENT PROCESS AND IN RELATION TO CONTRACTS

Agencies should refer to Instructions 1229 and 1401.