

<b>Treasurer's Instruction No</b>	<b>1216</b>
Title	<b>Use and Engagement of Consultants: building and construction/roads and bridges</b>
Effective date	<b>1 November 2016</b>
Objective and Background	<b>Provides instructions on the procedures that agencies must follow when engaging consultants for building and construction/roads and bridges projects.</b>
Version Number	<b>9</b>

*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.**

A consultant in this instance is an individual or organisation engaged temporarily to give advice or provide a professional, technical or general management service in relation to any building and construction or roads and bridges work matter.

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.

#### **WHERE APPROPRIATE PREQUALIFIED CATEGORIES EXIST**

- (2) **Agencies must ensure that, where there is an appropriate category, only prequalified consultants are engaged.**

A list of prequalified building and construction consultants is located at [www.tenders.tas.gov.au](http://www.tenders.tas.gov.au). An eTendering login is required to access the list.

- (3) **All prequalified consultants must be engaged in accordance with the requirements contained in the *Procurement Practice Manual – Best Practice for the Engagement of Consultants*.**

The manual is available on the [Purchasing website - Buying for Government \(Publications\)](http://www.purchasing.tas.gov.au).

- (4) **Where an agency wishes to engage a non-prequalified consultant for a building and construction project, and prequalified consultants are registered for the particular work that is being undertaken, an exemption from the requirement to use a prequalified consultant may be approved by the Secretary of the Department of Treasury and Finance.**

An exemption will only be approved in exceptional circumstances, where conclusive justification of the request is provided. Retrospective exemptions will not be granted.

All exemptions granted, including the reasons for the granting of the exemption, will be disclosed in the Department of Treasury and Finance Annual Report. The contract and the method by which the procurement occurred (in this case, an exemption) will also be required to be reported by the agency in accordance with Instructions I212 and I213.

- (5) **Agencies must ensure that where building and construction sub-consultants are to be engaged by a consultant, the sub-consultant, where appropriate categories exist, is also prequalified to the appropriate levels.**

#### **WHERE NO SUITABLE PREQUALIFIED CATEGORY EXISTS**

- (6) **Where applicable prequalification categories do not exist, or for the engagement of consultants for roads and bridge projects, agencies must undertake a procurement process that ensures that the recommended consultant possesses the technical and financial capability, as well as other capabilities that the agency considers to be relevant to the project. This will require agencies to:**

- (a) **seek at least one quotation for procurement valued at \$10 000 or less;**
- (b) **seek at least 3 quotes for procurements valued at more than \$10 000 but less than \$100 000;**
- (c) **conduct an open tender for procurements with a value of \$100 000 or more; or**
- (d) **if relevant circumstances exist, seek approval for direct/limited submission sourcing in accordance with Instruction I217.**

Nothing in clause (6) above prevents an agency from engaging a consultant from a multi-use list or from a panel arrangement, provided the multi-use list or panel arrangement has been properly established in accordance with the relevant procurement process.

- (7) **Consultants engaged in accordance with clause (6) above, should be engaged in accordance with the relevant provisions of the *PPM – Best Practice for Engagement of Consultants*.**

Whilst the provisions of the PPM in relation to selection of the relevant consultant will not be applicable, the PPM sets out the contract to be used to engage a consultant, clauses to be included in the contract and the code of practice to be adhered to when selecting and commissioning consultants. These best practice requirements, together with any other relevant requirements in the PPM, are to be followed.

#### **DOCUMENTATION**

- (8) **All procurement documentation must include provisions in relation to the Government's position on zero tolerance towards violence against women.**

This requirement is in addition to the mandatory clause inclusions provided in the [Procurement Practices Manual - Best Practice for the Engagement of Consultants](#).

Agencies must seek advice from the Office of the Crown Solicitor in relation to appropriate wording.

## REPORTING OF CONTRACTS

- (9) All contracts awarded, regardless of the means of engagement, must be reported in accordance with Instructions I212 and I213.

## INSURANCE

- (10) Agencies must ensure that consultants retain suitable levels of Professional Indemnity (PI) insurance and Public Liability (PL) insurance for the scope of the services.

The Department of Treasury and Finance (for building and construction consultants) will ensure that consultants prequalified with that scheme have the minimum acceptable insurance cover at the time of registration. Agencies are responsible for ensuring that insurance is current at the time of the engagement and is appropriate for the assessed level of risk of the project.

To assist agencies to determine PI insurance and PL insurance levels appropriate to the scope of service being provided by consultants, further information is available in the publication *Guidelines on Professional Indemnity Insurance and Public Liability Insurance* located on the [Purchasing website - Buying for Government \(Publications\)](#).