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## Tender Procedure

**Any variation to the following procedures requires prior approval from the ACT Block Grant Authority (ACTBGA).**

**Approval for variations will only be given if the reasons are sufficiently strong to justify a departure from the traditional procedures, which ensure proper accountability in the expenditure of public funds.**

### 1.0 RESPONSIBILITIES OF THE APPROVED AUTHORITY

The Approved Authority is the body the Minister determines in writing to be the authority of a school system, school, centre or organisation in relation to the Capital Grants Program.

- a) The Approved Authority is legally responsible for the expenditure of and accounting for a grant.
- b) The Approved Authority, after acceptance of a grant, will arrange for the completion of the documentation necessary to obtain competitive tenders for the project.
- c) The Approved Authority, once competitive tenders have been received, will complete and return to the ACTBGA, the Results of Tender form and all information requested therein.
- d) The Approved Authority will make available (if requested) to the ACTBGA a full set of project documents at the time competitive tenders are called.
- e) The Approved Authority will permit an officer of the ACTBGA, and any person accompanying that officer, to have access to the site, if deemed necessary, during the planning, documentation, tendering and construction periods. In some cases, a visit may be necessary after the project is completed.

### 2.0 TENDER PROCESSES

2.1 Under the ACTBGA's Agreement with the Australian Government the ACTBGA requires the Approved Authority to implement projects in accordance with the tender processes outlined in the current *Capital Grants Program Guidelines* including:

- a) Project implementation must be oversighted by a competent, building industry professional independent of those carrying out the work.
- b) Schools should have access to professional advice (consultants), independently of the builder or project manager, about the implications of design, materials and construction choices.
- c) There must be effective competition to the greatest extent practicable for all major elements of a project. Being fair and equitable to the market and achieving greater value for money.
- d) Procurement processes used by schools and by those submitting offers must be based on sound building industry practice in accordance with the Australian Standard Code of

Tendering – AS4120 available from <http://www.saiglobal.com> and the Building Code 2016. For further information on the Building Code 2016 see <https://www.abcc.gov.au/building-code>.

- e) All tender assessment criteria must be specified in tender documentation and should include tenderers' capability and capacity, financial and technical capacity to carry out the work.
- f) There must be written contracts for the engagement of all major parties. It would be expected that these contracts would be based on standard industry contracts, and the contracts must clearly state the responsibilities and liabilities of the parties to the contract and noting the privacy requirements set out in the current *Capital Grants Program Guidelines*. Where the school intends to enter into a contract for the construction of the project which is other than a standard lump sum contract, the BGA must be advised prior to entering into the contract.
- g) The contract between a school and the independent professional overseeing the implementation of a project should include the condition that the person overseeing the project must monitor the performance of all subcontracts for the project on behalf of the school to ensure the work is undertaken in accordance with the terms and conditions of those contracts.
- h) A reasonable project end date must be estimated.
- i) Claims for payment must be certified by a competent building industry professional independent of the builder or project manager.

2.2 Schools must not accept tenders, nor enter into commitments in relation to approved projects, until:

- a) the ACTBGA has advised them of the Minister's approval of the grant;
- b) they have signed an agreement with the ACTBGA which binds the school to the conditions on which the grant was offered; and
- c) final approval has been given by the ACTBGA following submission of the Results of Tender form and relevant documentation.

2.3 The Australian Government will not accept any legal obligation to meet costs incurred by schools in preparing their applications, in calling tenders or in having plans prepared prior to the approval of projects. It will, however, consider recommendations by BGAs for approval of such costs from BGA allocations, where schools have incurred additional costs at the request of the BGA.

### 3.0 SPECIFIC CONDITIONS RELATING TO TENDERS

Specific conditions with which schools and the ACTBGA are expected to comply are detailed below. Any proposed departure from these conditions should be discussed with the ACTBGA prior to commencing the tendering process.

- a) Competitive tenders must be obtained for approved projects on the basis of the Guidelines referred to in 2.1 (d) above. Although Registration of Interest is the preferred procedure, any one of the following procedures may be followed:

**Registration of Interest** - expressions of interest called for publicly. Applicants are evaluated and a number of those meeting the requirements are invited to submit full tenders. The registration period should not be less than seven (7) days.

**Selected Tenders** – tenders are invited from a range of previously approved tenderers whose capability has been confirmed.

**Open Tender** - invitation to tender by way of advertisements in the capital city press or major regional newspapers.

- b) Normally a minimum of six (6) tenders should be invited to ensure that at least four (4) conforming tenders are available. The selection of contractors to submit tenders is the responsibility of the Approved Authority in consultation with the architect.
- c) If fewer than four (4) conforming tenders are received it will be necessary for the Approved Authority to seek additional tenders or obtain the approval from the ACTBGA to proceed with fewer than four tenders. In some cases it may be necessary to ask the Approved Authority to seek additional tenders for the project.
- d) The preferred tender is expected to provide the best value for money.
- e) The tender period should normally be not less than twenty-one (21) days to give contractors and suppliers a reasonable opportunity to submit quotations.
- f) Tender documents should indicate that tenders are to remain active for a minimum period of thirty (30) days from the date of closure of tenders.
- g) Projects are not to be split into two or more separate contracts without the prior approval of the ACTBGA.
- h) Any work to be executed (for example, a prior demolition) outside the approved project must be identified prior to commencing the tendering process. Approval must be sought from the ACTBGA before including any non-approved work in the tender specifications.
- i) Where nominated sub-contracts estimated to cost more than \$75,000 are included in the main contract, public tenders for the individual sub-contracts must be called. In the case where a sub-contract is estimated to cost between \$5,000 and \$75,000 (inclusive), at least three comparable written quotations must be obtained.
- j) Any provisional sum or prime cost item estimated to cost more than \$75,000 is to be let on the basis of public tender. In the case where a provisional sum item or prime cost item is estimated to cost between \$5,000 and \$75,000 (inclusive), at least three comparable written quotations must be obtained.
- k) Separate tenders must be provided for each approved BGA project.
- l) A contingency sum to the value of 5 percent of the contract price or the estimated tender price is permitted to be included in tender documents. The approval of the ACTBGA is required, before inclusion in contract documents, if a contingency sum outside these limits is proposed.

#### **4.0 SPECIAL NOTES**

- 4.1 Action at any stage after the project has been approved that will vary the project cost, number, type or area of the facilities contained in the letter of approval must be referred to the ACTBGA for approval prior to implementation of the change by submitting the Variation Request form.
- 4.2 The Approved Authority must advise the ACTBGA of the following information concerning tenders:
  - a) Details of where and when public tender notice(s) appeared (copies of the advertisement(s) should be supplied).
  - b) The names of the contractors supplying tenders and their prices; and the names of the contractors who registered their interest if this procedure was followed.
  - c) The amount and nature (normally fixed price) of the preferred tender.
  - d) Details of any provisional sum or prime cost item included in the contract price.
  - e) The total estimated cost of all previously approved items not included in the contract.