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## Tender Procedure

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

**Approval for variations will only be considered if the reasons are sufficiently strong enough to justify a departure from the traditional procedures. This ensures appropriate accountability for 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 or Construction Management forms 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 seek professional and independent advice in relation to the implications of design, building materials and construction choices proposed by the Builder or Construction Manager.
- c) The tender process must endeavour to provide a transparent and competitive process in relation to all major elements of the project, to ensure the equitable use of government funds and also to deliver good 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>

Design detailing should also reflect the requirements of the National Construction Code 2016. For further information on the National Construction Code 2016, see <https://www.abcb.gov.au/ncc-online/NCC>. Schools must also comply with the Australian Government Building and Construction OHS Accreditation Scheme.

- e) All tender assessment criteria must be specified in tender documentation and should include tenderers' capability and their financial and technical capacity to carry out the work.
- f) Executed building contracts are required for the engagement of all major parties. It is expected that these contracts are based on standard industry contracts, and they must clearly state the responsibilities and liabilities of each entity who is a party to the contract. Also note 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 applicant must seek approval from the BGA before entering into the contract.
- g) The independent professional engaged to oversee the project on behalf of the school (Architect or Project Manager) must ensure that the contractor performs their work in accordance with the terms and conditions of the contract.
- h) A reasonable project end date must be estimated.
- i) Claims for payment must be certified by a competent building industry professional (Architect or Project Manager) independent of the Builder or Construction 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 or Construction Management forms 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 Codes 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 (EOI) called for publicly. Applicants are evaluated and assessed based upon the criteria identified in the EOI advertisement 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 four (4) tenderers should be invited, to ensure that at least three (3) conforming tenders are available for consideration. The selection of contractors to submit tenders is the responsibility of the Approved Authority, in consultation with the Architect or Project Manager.
- c) If fewer than three (3) conforming tenders are received, it will be necessary for the Approved Authority to seek additional tenders or obtain approval from the ACTBGA to proceed with an alternative, yet competitive, agreed process.
- d) The preferred tender is expected to provide the best value for money.
- e) The tender period should normally be no less than twenty-one (21) days, to allow contractors and suppliers a reasonable opportunity to submit competitive 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 must not be split into two or more separate contracts without the prior approval of the ACTBGA.
- h) Any work to be undertaken additional to the approved project (for example, a prior demolition) must be identified prior to commencing the tendering process and approval sought from the ACTBGA for its inclusion in the overall scope of works to be tendered.
- i) Where sub-contractors are engaged to undertake non-trade related works that are considered separate to the main building contract (e.g. the provision of specialist data & IT equipment or loose furniture), competitive pricing is required for works between \$5,000 and \$150,000. At least three (3) competitive written quotes are required, and any sub-contract works or purchases of equipment greater than \$150,000 must be subject to a formal competitive tender process or otherwise as agreed with ACTBGA.
- j) Separate tenders must be provided for each approved BGA project.
- k) 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 A Variation Request form must be submitted to the ACTBGA for approval prior to the implementation of any action or change (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.
- 4.2 The Approved Authority must advise the ACTBGA of the following information concerning tenders:
  - a) Details of where and when tenders were invited (Registration of Interest). Details of the notice(s), where and when they appeared and a copy of the actual advertisement, must be provided.
  - b) A record of the names of contractors who registered their interest for consideration of tendering.
  - c) The names of the contractors who submitted a tender, including their prices.
  - d) The amount and nature (normally lump sum price) of the preferred tender.
  - e) Details of any provisional sum or prime cost item included in the contract price.
  - f) The total estimated cost of all previously approved items not included in the tender price.