Capital Works Management Framework

Policy Advice Note

Application of financial capacity assessments to projects delivered under the non-traditional procurement system

Policy requirement 9 of the *Capital Works Management Framework* (CWMF) states that, for all government building projects exceeding $1 million in value, a formal financial capacity assessment of the preferred tenderer is to be undertaken by the Queensland Building and Construction Commission (QBCC) at the tender evaluation stage.

In line with the CWMF's stated policy objective of facilitating effective management of the risks to Government associated with building procurement, policy requirement 9 is to be interpreted as a requirement to undertake an assessment at each stage of a multi-staged non-traditional form of contract.

The purpose of this policy advice note is to provide departments (and their project managers) with further information regarding the application of this policy requirement to projects delivered under the non-traditional procurement system.

Background

The CWMF addresses two basic types of procurement systems recognised by the building and construction industry, namely ‘traditional’ and ‘non-traditional’.

Under the traditional procurement system, the State retains full responsibility for the design and documentation process and the contractor constructs the building for a lump sum amount.

Under the non-traditional system, the contractor has varying degrees of responsibility for the design and documentation process. Additionally, this method of procurement can allow for the contractor to be engaged to undertake, or be involved in, elements of the design phase. (Further information on procurement methods is available in the CWMF guideline, *Procurement Strategy and Contract Selection*.)

Understanding tender evaluation stages

Under the traditional procurement system, there is typically only one tender evaluation stage. This generally concludes with the acceptance of the preferred tenderer. However, under more complex versions of the non-traditional procurement system, there can be: an initial review of offers received from tenderers prior to the acceptance of a preferred contractor for the initial stage; and a subsequent review of an offer submitted by that successful contractor prior to the project progressing to the next stage.

For example, and in simple terms, under the CWMF-recognised ‘Managing Contractor Two Stage Design and Construction Management (Negotiated Guaranteed Construction Sum)’ contract (a staged version of the non-traditional system):

1. The Principal initially prepares a project brief including a budget estimate and estimated completion time.
2. The Principal then seeks submissions from appropriately prequalified registrants under the Prequalification (PQC) System.
3. These submissions are evaluated and a tenderer is identified and accepted as the Managing Contractor for stage one of the contract.
4. During stage one of the contract, the Managing Contractor is required to work collaboratively with the Principal to revise the project brief and refine the design to meet budget and time constraints.
5. At a suitable time during stage one of the contract, the Principal requests that the Managing Contractor submit a Guaranteed Construction Sum (GCS) offer.
6. The Managing Contractor’s GCS offer is evaluated and considered by the Principal.
7. If the GCS offer is accepted, the second stage of the contract commences and the Managing Contractor completes the design and documentation, and manages the construction.

The time elapsed between the acceptances of stages one and two will vary between projects, but can range from three to nine months, depending on project size and complexity.

Implications for departments and their project managers

As with traditionally procured projects, departments, through their project managers, need to request a financial capacity assessment of the preferred tenderer from the QBCC and receive a ‘satisfactory’ assessment prior to accepting the tenderer for any stage of a multi-staged project procured using a non-traditional form of contract.

Additionally, departments, through their project managers, need to request that these QBCC financial capacity assessments are undertaken using an estimated or known (depending on the stage) contract value that adequately reflects the work to be undertaken under the full scope of the contract. In the case of multi-staged non-traditional forms of contract, this contract value will:

- at stage one, be the estimated cost to complete the whole contract (i.e. not just the design and documentation work and early works packages to be undertaken at stage one)
- at stage two, be the estimated cost to complete the remaining part of the contract to complete the project (Note: this will exclude elements completed under stage one).

A department, through its project manager, may decide that a second financial capacity assessment is not required for the second stage, where:

the date of acceptance of the second stage in a multi-staged non-traditional contract is within four months of the acceptance of stage one, and

- the revised project cost to complete stage two is within 10% (say) of the initial contract value on which the QBCC assessment was undertaken, and

enquiries made to the PQC Registrar by departments, through their project manager, indicate that the contractor is not displaying any signs of financial and/or managerial stress.

When managing multi-staged non-traditional contracts, project managers need to be mindful of the programmed dates for acceptance of stages one and two of the contract.

Should it be expected that these two dates will be close to, or in excess of, four months of each other, project managers will need to consider, and manage for, the anticipated time and cost implications associated with having financial capacity assessments of the preferred tenderer undertaken by the QBSA during the tender evaluation stage of both stages of the contract.

While advice on such time and cost issues can be sourced from the PQC Registrar, project managers are advised that financial capacity assessments can take approximately three weeks from the date they are requested and are only valid for 30 days from the date of issue.

Project managers should also note that this period of three weeks is provided as a guide only and, depending on the ability and/or willingness of the tenderer to provide the required information, some assessments can take longer.

Given that non-traditional forms of contract are:

- regularly used on projects where time and cost are critical (i.e. High/Risk and Significant projects under the CWMF)
- almost always used on projects greater than $100 million in value

the risks of project failure (including the risk of the contractor failing financially) on such projects are often high and need to be managed accordingly.

For further information

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