**Procurement Policy and Procedures**

**July 2017**

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TABLE of Contents

[VPA PROCUREMENT POLICY 4](#_Toc459990759)

[1. Purpose 4](#_Toc459990760)

[2. Purchasing principles 4](#_Toc459990761)

[3. Types of procurement 4](#_Toc459990762)

[I. Existing purchasing arrangements 4](#_Toc459990763)

[II. Selective process 4](#_Toc459990764)

[III. Open process 5](#_Toc459990765)

[IV. Panels 5](#_Toc459990766)

[4. Inquiry and Complaints process 6](#_Toc459990767)

[5. Disclosure of contracts 7](#_Toc459990768)

[VPA PROCUREMENT PROCEDURES 8](#_Toc459990769)

[1. Approval in principle to proceed 8](#_Toc459990770)

[2. Approach to Procurement 8](#_Toc459990771)

[3. Exemptions 10](#_Toc459990772)

[4. Approval of Purchases 11](#_Toc459990773)

[5. Engagement of Barristers 11](#_Toc459990774)

[6. Critical Incidents 12](#_Toc459990775)

[7. Breaches 12](#_Toc459990776)

[8. Procurement Reporting 12](#_Toc459990777)

[RfQ PROCEDURES 12](#_Toc459990778)

[1. RfQ Documentation 12](#_Toc459990779)

[2. Sending RfQs to Suppliers 13](#_Toc459990780)

[3. Requests for Clarification 13](#_Toc459990781)

[4. Confidentiality and Security of Quotations 13](#_Toc459990782)

[5. Evaluation Process 13](#_Toc459990783)

[6. Evaluation Criteria 14](#_Toc459990784)

[7. Evaluation Panel 14](#_Toc459990785)

[8. Approval 14](#_Toc459990786)

[TENDERING PROCEDURES 15](#_Toc459990787)

[1. Tender Documentation 15](#_Toc459990788)

[2. Issuing of Documents 16](#_Toc459990789)

[3. Tender Briefing 16](#_Toc459990790)

[4. Response Schedules 16](#_Toc459990791)

[5. Confidentiality and Security of Tender Documents 16](#_Toc459990792)

[6. Advertising Tenders 16](#_Toc459990793)

[7. Requests for Clarification 17](#_Toc459990794)

[8. Submission of Tenders 17](#_Toc459990795)

[9. Evaluation Process 17](#_Toc459990796)

[10. Evaluation Criteria 18](#_Toc459990797)

[11. Tender Evaluation Panel 18](#_Toc459990798)

[12. Short-listing 19](#_Toc459990799)

[13. Negotiations with Short-listed Tenderers 19](#_Toc459990800)

[14. Recommendation and Approval of Preferred Supplier 19](#_Toc459990801)

[15. Negotiations with Preferred Tenderer 19](#_Toc459990802)

[16. Contract Execution 20](#_Toc459990803)

[17. Unsuccessful Tenderers 20](#_Toc459990804)

[18. Tender Complaints Procedure 20](#_Toc459990805)

[PROCEDURES IN RELATION TO CONTRACTS 20](#_Toc459990806)

[1. Written Contracts 20](#_Toc459990807)

[2. Risk Management 21](#_Toc459990808)

[3. Contract Management 21](#_Toc459990809)

[APPENDIX 1: Environmental Procurement Policy 22](#_Toc459990810)

[APPENDIX 2: Recordkeeping Requirements for tender Documentation 23](#_Toc459990811)

[APPENDIX 3: Recordkeeping Requirements for Contract Documentation 24](#_Toc459990812)

[APPENDIX 4: Engagement under the Legal Services Panel 26](#_Toc459990813)

[APPENDIX 5: Alternative Procurement Option for Construction and Construction Related Consultancy Contractors 27](#_Toc459990814)

[APPENDIX 6: Related Documents Internal Corporate Procurement Process (D/11/1968) 28](#_Toc459990815)

[APPENDIX 7: Tender Conduct Plan (D/13/5272) 29](#_Toc459990816)

# VPA PROCUREMENT POLICY

## 1. Purpose

Under the *Financial Management Act 1994*, the Victorian Government Purchasing Board (VGPB) is responsible for setting the policies and standards for the supply, management and disposal of goods and services by Victorian government departments and agencies.

Although the Victorian Planning Authority (VPA) is outside the scope of the VGPB, it is VPA policy to ensure that the standards of probity and contracting are at least as high as those required under VGPB guidelines. Therefore, the VPA must comply with whole of government policies and take into account VGPB policies when procuring goods and services.

The VPA Procurement Policy will be made available on the VPA website, so that potential suppliers have access to information about how the VPA undertakes procurement.

## 2. Purchasing principles

The purchasing of goods and services must be based upon the following principles:

* value for money
* open and fair competition
* accountability
* risk management
* probity and transparency
* scalability
* minimising negative environmental impacts from purchases
* ethical purchasing

Purchases must only relate to the business of the VPA and must not be of a personal nature. VPA staff are responsible for ensuring that they declare and manage any conflicts of interest that may arise during procurement, such as personal associations with suppliers. Conflicts of interest are usually managed by removing the conflicted party from the procurement process.

All staff involved in the procurement process must maintain an up-to-date knowledge of this Policy and ensure that all purchases comply with the Policy.

## 3. Types of procurement

Goods and services may be procured by a variety of means. The type of process to be undertaken will depend on the value of a purchase as follows:

## I. Existing purchasing arrangements

Existing VPA or whole of government arrangements currently in place may be utilised (eg Legal Services Panel).

## II. Selective process

This process is open to a select number of suppliers and is not publicly advertised. It may include the following forms:

* *Request for quotation* - an invitation to selected suppliers to make an offer to supply goods or services generally used for low value purchases
* *Request for proposal* - an invitation to selected suppliers to put forward a proposal generally used when the goods or services are defined but the methodology is not
* *Request for information* - used to gather further information to determine the availability of goods or services
* *Direct offer* - an offer made directly to one supplier based on a response to a request for quotation or proposal.

## III. Open process

The tender is publicly advertised and may include the following forms:

* *Expression of interest* - an invitation to express interest in providing goods or services. Responses are evaluated and short-listed and providers may be asked to respond to a request for tender. Used to get an indication of the strength of a potential market and to identify potential suppliers.
* *Request for tender* - a publicly advertised method of seeking offers from suppliers based on a written specification of the required goods or services.

It is essential that any open tendering process:

* is not biased towards particular suppliers
* allows sufficient time for interested parties to develop and submit tenders
* is open to public scrutiny
* adheres to stated timelines
* includes reasonable submission dates and times.

## IV. Panels

A panel is made up of a number of suppliers, usually selected through a single procurement process, who each have a contract or deed of standing offer with an agency to supply property or services. Once the panel is established, purchases of property and services can be made directly from panel members without the need for further procurement processes.

The VPA has a preference for generally procuring from appointed panel members.

The panel arrangement between each supplier and the agency must outline:

* the type of property or service the supplier will provide to the agency
* the set/indicative price to be charged by the supplier for the property or service
* the manner in which the agency will procure the property or service from the supplier

Panels provide a streamlined approach to purchasing in the following ways:

* Panel suppliers can be engaged with relative ease
* Contract terms have been agreed to in advance and contract can be established via a purchase order pro forma
* Purchasing processes are simplified
* For details of the purchasing process refer to the individual panel rules of use
* Reduced purchasing costs
* Panel suppliers have agreed in advance to maximum rates and fixed maximum rates will be on offer for a set period.
* Increased level of quality assurance
* Companies selected for the panel have demonstrated high levels of achievement and expertise in their key service category areas.
* Greater efficiency
* Panels contain companies experienced in working with government so that it is easier to brief them and finalise terms of engagement.

At present the VPA uses the services of the following panels:

* VPA Panel
* Legal Services Panel
* Construction Supplier Register (CSR)-Construction and Construction related consultancy <http://www.transport.vic.gov.au/csr>
* eServices Register –ICT professional services
* Desktop and Notebook Equipment Panel
* Valuation services panel (Valuer-General Victoria)
* Professional Advisory Services Panel – financial and economic advice
* Marketing Services Register

**VPA PANEL**

The VPA maintains a Procurement Panel which covers the following areas of expertise:

1. Strategic land use planning;
2. Statutory land use planning;
3. Transport
4. Design;
5. Urban economics;
6. Environmental planning;
7. Heritage planning;
8. Community infrastructure;
9. Engineering and infrastructure costing; and
10. GIS, graphic design and marketing communications.

The Panel Members are appointed for an initial period of three years through a publicly advertised nomination process. The Panel Members are appointed after an assessment process.

The use of the VPA Panel should be reviewed annually to ensure it is meeting the VPA’s procurement needs. The Panel may be periodically refreshed if it is found that the Panel seems to have gaps in the areas of expertise required by the VPA. Any additional Members will be appointed subject to a selection and assessment process.

**CONSTRUCTION SUPPLIER REGISTER**

All construction contracts must be conducted under *Ministerial Directions 1 and 2 of the Project Development and Construction Act 1994*. Refer to DTF’s public construction website ([www.dtf.vic.gov.au/Infrastructure-Delivery/Public-construction-policy-and-resources](http://www.dtf.vic.gov.au/Infrastructure-Delivery/Public-construction-policy-and-resources)) and Appendix 5 for further information.

## 4. Inquiry and Complaints process

In the event that a party has queries or concerns in relation to the operation of the VPA’s Procurement Policy and processes, it is recommended in the first instance that these matters be raised with the officer of the VPA responsible for that specific procurement matter.

The VPA ensures that an independent internal person will review any matter in relation to which a concern is raised. Therefore, if matters raised have not been satisfactorily responded to, then this matter may be raised with the VPA’s Director Corporate and Statutory Services, Ed Small who is able to be contacted by e-mail [ed.small@vpa.vic.gov.au](mailto:ed.small@mpa.vic.gov.au) or by telephone 9651-9600. If the Director Corporate and Statutory Services is the VPA officer who is dealing with the matter in relation to which the query has arisen, then the VPA’s Chief Executive Officer is able to be contacted to review the query.

## 5. Disclosure of contracts

Victorian Government commercial confidentiality and privacy principles will be applied by the VPA to any information or documentation it receives from persons making an application for a contractual arrangement.

However, the VPA has Government reporting obligations which include that all contracts and standing offers for goods and services with an estimated value of $100,000 (including GST) or more, must be published in the Authority’s Annual Report in line with VGPB contract disclosure policy. Further all consultancy engagements valued in excess of $10,000 (excluding GST) must be published on the VPA’s website annually or in the Annual Report in line with Financial Reporting Disclosures.

For the purposes of this reporting:

A consultant is a particular type of contractor that is engaged primarily to perform a discrete task for an entity that facilitates decision making through:

* Provision of expert analysis and advice; and/or
* Development of a written report or other intellectual output.

A contractor is an individual or organisation that is formally engaged to provide works or services for or on behalf of an entity. This definition does not include casual, fixed-term or temporary employees employed by the entity.

The main factor that distinguishes a consultant from other types of contractors is the predominantly advisory nature of the work.

# VPA PROCUREMENT PROCEDURES

## 1. Approval in principle to proceed

In many cases prior to undertaking a procurement process initial approval from a member of the Executive may be required, and it is appropriate to enquire of your Director or of the Purchasing Support team what the nature of that approval might be.

A formal or informal business case might be requested for larger transactions, and business cases themselves may take many forms and for further information the reader is referred to the Victorian Public Record Office publication entitled Guideline *4 Writing a Business Case*. (Sample Business Case D/07/1735)

The definition of a business case is given as:

“A document that forms the basis of advice for executive decision making.”

The purpose of the document is to persuade the decision maker that they should endorse a particular proposal. A business case may range from an e-mail exchange with a Director to a comprehensive analysis of the potential options and opportunities. The requirement of any individual situation will be determined on a case by case basis.

## 2. Approach to Procurement

The following table outlines the procurement process to be followed for different types of purchases. The purchasing thresholds are based on the estimated total cost of acquisition (GST inclusive) and must include all associated costs. A procurement process must not be split into parts or separate transactions simply to achieve a lower threshold.

Purchases made through vpa panel (must be used where applies - unless exemption granted)

|  |  |  |
| --- | --- | --- |
| **Type & value of procurement**  **GST Inclusive** | **minimum Requirement\*** | **documents** |
| procurement valued <$24,999 | Minimum 1 written quote  Seeking more than 1 quote is recommended and preferred | Approval to proceed with procurement (as determined)  Written Quote |
| procurement valued between $25,000 - $149,999 | 3 RFQs | Approval to proceed with procurement (as determined)  Request for Quote Parts A and B  Evaluation of Quotations Report |
| procurement valued >$150,000 | Open Tender | Tender Conduct Plan  Request for Tender  Part A Conditions of Tendering  Part B Specification  Part C Proposed Contract  Part D Tenderer’s Response  Part E Ethical Employment  Part F\*VIPP Statement  Evaluation of Quotations Report  \*[Only if >$3M in Metropolitan Melbourne or $1M Regional Victoria] |

\*VPA Management may introduce more stringent requirements

Purchases made outside panel process

(purchases not covered by panel or where exemption has been granted)

|  |  |  |
| --- | --- | --- |
| **Type & value of procurement**  **GST Inclusive** | **minimum requirement\*** | **documents** |
| procurement valued <$9,999 | Minimum 1 written quote  Seeking more than 1 quote is recommended and preferred | Approval to proceed with procurement (as determined)  Written Quote |
| procurement valued between $10,000 - $99,999 | 3 RFQs | Approval to proceed with procurement (as determined)  Request for Quote Parts A and B  Evaluation of Quotations Report |
| procurement valued >$100,000 | Open Tender | Tender Conduct Plan  Request for Tender  Part A Conditions of Tendering  Part B Specification  Part C Proposed Contract  Part D Tenderer’s Response  Part E Ethical Employment  Part F\*VIPP Statement  Evaluation of Quotations Report  \*[Only if >$3M in Metropolitan Melbourne or $1M Regional Victoria] |

\*VPA Management may introduce more stringent requirements

Purchases made through external panel

|  |  |  |
| --- | --- | --- |
| **Type & value of procurement**  **GST Inclusive** | **minimum requirement** | **documents** |
| procurement valued <$24,999 | Minimum 1 written quote  Seeking more than 1 quote is recommended and preferred | Approval to proceed with procurement (as determined)  Written Quote |
| procurement valued between $25,000 - $149,999 | 3 RFQs | Approval to proceed with procurement (as determined)  Request for Quote Parts A and B  Evaluation of Quotations Report |
| procurement valued between $150,000 - $499,999 | Limited Tender or RFQ from at least 5 Panel Members | Approval to proceed with procurement (as determined)  **For CSR**  Tender Conduct Plan (Basis for the selection of 5 suppliers is included in the template)  Request for Tender  Part A Conditions of Tendering  Part B Specification  Part C Proposed Contract  Part D Tenderer’s Response  Part E Ethical Employment  **For Other Panels**  Basis for the selection of 5 suppliers  Request for Quote Parts A and B  Evaluation of Quotations Report |
| procurement valued >$500,000 | Open Tender | Tender Conduct Plan  Request for Tender  Part A Conditions of Tendering  Part B Specification  Part C Proposed Contract  Part D Tenderer’s Response  Part E Ethical Employment  Part F\*VIPP Statement  Evaluation of Quotations Report  \*[Only if >$3M in Metropolitan Melbourne or $1M Regional Victoria] |

Purchases made through Legal Services panel\*

(Based on the Legal Panel procurement requirements)

|  |  |  |
| --- | --- | --- |
| **Type & value of procurement**  **GST Inclusive** | **minimum requirement** | **documents** |
| procurement valued <$49,999 | Minimum 1 written quote  Seeking more than 1 quote is recommended and preferred | Approval to proceed with procurement (as determined)  Written Quote |
| procurement valued between $50,000 - $199,999 | 3 written quotes | Approval to proceed with procurement (as determined)  Request for Quote Parts A and B  Evaluation of Quotations Report |
| procurement valued >$200,000 | Selective Tender from all Panel members for the relevant Area of Law | Tender Conduct Plan  Request for Tender  Part A Conditions of Tendering  Part B Specification  Part C Proposed Contract  Part D Tenderer’s Response  Part E Ethical Employment  Part F\*VIPP Statement  Evaluation of Quotations Report  \*[Only if >$3M in Metropolitan Melbourne or $1M Regional Victoria] |

\*All purchases of Legal Services must be approved by Director, Corporate & Statutory Services

## 3. Exemptions

Exemptions may be sought from:

* Seeking the required number of quotes;
* Tendering; or
* Using a panel (note that if the services required are outside the scope of the panels used by the VPA, then no exemption is needed).

Exemptions from tendering or seeking the required number of quotes may be granted in situations where:

* no tenders are submitted that conform to the essential requirements of the tender documentation, or no suppliers satisfy a tender condition;
* goods or services can only be supplied by a particular supplier and no reasonable alternative exists due to the absence of competition for technical reasons;
* additional goods and services are to be purchased and a change in supplier would necessitate the procurement of goods or services that do not meet the requirements for interoperability or interchange ability. This may include replacement parts or continuing services for existing equipment, software, services or installations;
* there is an intention to purchase a prototype of a good or service required for a limited trial, research, experiment, study or original development;
* intellectual property or exclusivity rights need to be protected; or
* an emergency or critical incident has occurred, and there is no time to obtain additional quotes.

Exemptions from using a panel may be granted in situations where:

* there are not sufficient suppliers on the relevant panel with the specialist expertise that is required; or
* relevant panel suppliers have a conflict of interest or are unavailable; or
* the supplier needs to be based in a regional centre, and suppliers on the panel do not have sufficient regional presence.

Requests for exemption must clearly explain why the exemption is required, and how one of the situations above applies.

Exemptions for purchases >$25,000 must be approved by the Chief Executive Officer (CEO) of the VPA. Exemptions for purchases between $10,000 and $25,000 must be approved by Director, Corporate & Statutory Services. It is unlikely that the exemption will be granted for a purchase in excess of $100,000.

There will be no exemptions granted for setting aside the procurement requirement for over $150,000 without prior approval by the VPA Board.

Quarterly reports on exemptions from the purchasing procedure will be made to the Board, including reporting specific exemptions where the amount is in excess of $50,000.

## 4. Approval of Purchases

All purchases must be approved by the appropriate financial delegate as per the Financial Delegations Policy. The financial delegate is responsible for ensuring that:

* procurement has been undertaken in accordance with this Policy;
* all expenditure is in accordance with their financial delegations; and
* sufficient funds exist for the purchase in accordance with the approved budget.

## 5. Engagement of Barristers

Barristers must be engaged under the same rules as used for the Legal Services Panel; i.e.:

* One written quote is required for engagements up to $49,999 (including GST);
* Three written quotes are required for engagements over $50,000 (including GST).

The following factors need to be taken into account when selecting a barrister:

* Value for money;
* Appropriate experience in the relevant area of the law;
* Equity of opportunity; and
* Consistency of advice.

All engagements of barristers must be approved by the Director, Corporate & Statutory Services.

## 6. Critical Incidents

Where an emergency or critical incident has occurred (including when the Business Continuity Plan has been activated), then there may be a need to purchase goods or services at short notice. In such cases, the usual procurement process may need to be modified to ensure a timely response to the incident.

All purchases must be approved by an officer with the appropriate financial delegation. The Business Continuity Plan allows other identified officers to act as the CEO during an emergency if the CEO is unavailable. As well as approving expenditure, this officer is also able to approve an exemption as Acting CEO.

As IT systems may be unavailable during a critical incident, some aspects of the procurement process may need to be modified. At a minimum, all purchases must be recorded in writing by the officer with the appropriate authority, and any exemptions from the process must also be approved in writing.

## 7. Breaches

Material breaches of this Policy must be reported to the VPA Board.

If a contract is to continue despite a breach, the CEO (or delegate) must prepare a compliance report to declare the breach and request the Board’s approval to continue.

If the contract has expired, the CEO (or delegate) must prepare a report for the Board outlining:

* factors leading to the breach;
* actions taken to rectify the breach; and
* processes implemented to prevent recurrence of the breach.

Where a breach has occurred, the CEO may consider a change in financial delegations or other action to prevent recurrence.

## 8. Procurement Reporting

Quarterly the VPA Board will be presented with a report summarising various aspects of procurement which have occurred over the previous quarter, including use of the VPA Panel.

# RfQ PROCEDURES

## 1. RfQ Documentation

Requests for Quotation are legal documents and should be drafted carefully.

They need to:

* clearly outline project requirements and conditions
* enable the proposals to be evaluated against relevant criteria
* provide sufficient background to enable suppliers to submit an informed proposal
* provide for some flexibility

The RfQ should be drafted in consultation with relevant technical specialists or subject matter experts. The project manager and their Director are responsible for ensuring that the RfQ adequately captures the requirements for the project.

## 2. Sending RfQs to Suppliers

When purchasing from a panel, the relevant Category Advisor should be consulted to determine which panel suppliers to send the RfQ to. This should be based on the following principles:

* send the RfQ to those suppliers who are best qualified (by experience or expertise) to respond;
* avoid known conflicts of interest;
* give all panel members a chance to provide a quotation at some point;
* avoid suppliers who are consistently overpriced; and
* consider past performance in selecting suppliers to provide a quote.

When undertaking projects in regional centres, it is recommended to consult with the local council in selecting suppliers. Councils will generally have a good understanding of the capabilities of local suppliers.

When seeking multiple quotes, there will be occasions when a supplier fails to provide a quote, or declines to quote due to conflicts of interest or insufficient resources. Whenever possible, another quote should be sought from an alternative supplier. If this cannot be done due to time constraints or the lack of alternative suppliers, then it is permissible to proceed with the evaluation of the quotes received (e.g. if three quotes are sought but only two are received, it is permissible to just evaluate the two quotes. However, if it is possible to seek a third quote, then this should be done).

All suppliers should be given the same amount of time to respond to an RfQ.

## 3. Requests for Clarification

All suppliers should be provided with the same information about the RfQ. If suppliers have questions about the RfQ, project managers should consider whether the answers they provide should be shared with other suppliers.

It is not usually necessary to meet with suppliers to discuss an RfQ. If this is to be considered, then the same opportunity to meet should be provided to all suppliers involved in the RfQ.

## 4. Confidentiality and Security of Quotations

All quotations received from suppliers must be treated as confidential. Only authorised staff with a ‘need to know’ should have access to commercially sensitive information. Hard copies should be disposed of securely when no longer required.

## 5. Evaluation Process

The evaluation of quotations must be conducted in a sound and ethical way with the following considerations:

* neither the lowest priced quote nor any quote need to be accepted
* if the intent of the tenderer or the content of the quote is unclear, or the quote contains obvious errors, then written clarification should be sought from the tenderer
* any questions about the principles of fairness and impartiality should be referred to the appropriate Director.

The use of matrix analysis is the preferred method of summarising and comparing quotes and to support evaluation reports. Evaluation criteria may be weighted and scored so that the quote receiving the highest score is to be the most attractive offer. A template for the evaluation matrix is located in TRIM, reference: D/14/4886.

## 6. Evaluation Criteria

Value for money is the essential test against which any procurement output is to be justified. It is also essential that the assessment of offers is robust, systematic and unbiased to ensure the application of proper processes and the achievement of the procurement objectives.

**Value for money**

Achieving user and system requirements, quality standards and service benchmarks is considered more important than obtaining the lowest purchase/tender price. Value for money is the basis for comparing alternatives so that the optimal offer can be selected.   
  
**Adopting a systematic evaluation regime**

All offers must be evaluated in a consistent manner against the evaluation criteria adopted for the RfQ. The use of a weighted matrix analysis is a recommended method for analysing and comparing quotes in a detailed and consistent manner.   
  
**Cost comparison**

Total project costs not just tender price should be assessed in a detailed systematic manner. This assessment must be undertaken separately from other evaluation criteria.

## 7. Evaluation Panel

The evaluation panel should consist of the project manager and at least one other person with a good understanding of the services being purchased. Panel members must not have a conflict of interest in relation to the procurement.

The role of the panel is to evaluate submissions against the evaluation criteria contained in the RfQ with the objective of seeking the best solution and the optimum commercial arrangements, not just the lowest price.

Panel members should be aware that a quote does not have to be accepted, the lowest quote does not have to be accepted, and if the content of the quote is unclear written clarification should be sought

## 8. Approval

The evaluation matrix is completed by the project manager, and should include reasons for recommending the preferred supplier. The matrix must be endorsed by the relevant Director, and the Director Corporate Services, before being approved by the CEO.

Once approved, a Purchase Order is raised and a letter is sent to the supplier notifying them that they are successful. This letter should include key contract details such as start and end dates, amount of contract, and any specific requirements.

Unsuccessful suppliers should also be notified in writing. Feedback can be provided to unsuccessful suppliers, but this must not include any inappropriate or confidential information.

Any complaints about the RfQ process should be made in writing, and dealt with as per the tender complaints process below.

# TENDERING PROCEDURES

## 1. Tender Documentation

Tender documents are legal documents and should be drafted carefully.

They need to:

* clearly outline requirements and conditions
* support the evaluation and recording of the outcome of major contracts in relation to project objectives
* clearly state if any minor errors or changes from the bidding rules will be tolerated
* provide for some flexibility

There are three primary documents when tendering is to occur:

1. Approved formal or informal business case
2. Approved Tender Conduct Plan
3. Completed Request for Tender.

Request for Tender Part A: Cover and Conditions of Tender

This includes cover sheet summary information and the conditions and rules for the tendering process. Conditions should include the following information

* evaluation criteria
* intention to shortlist and the basis for the short-listing
* that the tender process in no way constitutes a contract or intention to enter a contract
* that absolute confidentiality cannot be assured due to Freedom of Information Act and possible actions by the Auditor-General

Request for Tender Part B: Specification

This is the information specific to the project including purpose, background, key principles, timing, outcomes, participant roles, governance, work program, milestones and fees. A tender specification should be unbiased, clearly define requirements and outputs and encourage innovative and cost-effective solutions.

Request for Tender Part C: Draft Contract

This is a copy of the proposed contract. It should include a formal process of reporting and reviewing the contractor’s performance.

Request for Tender Part D: Tenderer’s Response

This details what should be included in the tenderer’s response and how it should be arranged.

Request for Tender Part E: Ethical Employment Statement

This is the requirement for businesses that supply or propose to supply goods and services to demonstrate that the entity meets its obligations, in relation to the Victorian Government Ethical Purchasing Policy, to its employees under the *Applicable Industrial Instruments and Legislation*at the time a contract is awarded and continues to meet such obligations during the term of that contract.

Request for Tender Part F: Victorian Industry Participation Statement (VIPP)

The Victorian Industry Participation Policy is an initiative intended to foster development by encouraging bidders to genuinely and systematically consider local (Australian and New Zealand) small to medium suppliers. An online VIPP plan must be completed when the following three criteria have been met:

1. the procurement activity is wholly or partially funded by the State Government

2. the procurement activity meets or exceeds either:

* $1 million in regional Victoria
* $3 million in metropolitan Melbourne or for state-wide activities.

3. the procurement activity contains contestable goods or services.

Where an activity contains no or limited contestable items, but meets the first two criteria, a VIPP Plan may not be required. However, the principles of VIPP continue to apply, and the shortlisted bidders must provide an estimate of the expected ANZ local content within the proposed procurement activity.

## 2. Issuing of Documents

A specific staff member must be nominated as the contact officer responsible for issuing tender documents after the date of the advertisement. Tender documents should not be released to external parties prior to the date of advertising.

## 3. Tender Briefing

A briefing for prospective tenderers may be held to provide clarification or further detail about the tender requirements, particularly if they are complex. A record of all attendees and the proceedings must be maintained.

## 4. Response Schedules

Response Schedules should specify the information to be provided.

## 5. Confidentiality and Security of Tender Documents

When dealing with commercially sensitive information:

* all stages of the tender process should be thoroughly documented
* only authorised staff with a direct ‘need to know’ should have access to documents and such staff should sign confidentiality and conflict of interest agreement
* Documents should be stored securely with limited numbers produced and numbered.

## 6. Advertising Tenders

All public tender opportunities must be advertised on the Victorian Government Tenders website([http://www.tenders.vic.gov.au](http://www.tenders.vic.gov.au/)).

Tenders may also be advertised:

* in the composite tender advertisement displayed in the ‘State Government Tenders’ section of The Herald Sun each Wednesday.
* in other newspapers such as the Australian Financial Review, The Australian or Saturday’s edition of The Age
* on the VPA website with a link to the Victorian Government Tenders website.

Advertisements must include:

* a reference to the [Victorian Government Tenders website](http://www.tenders.vic.gov.au/)
* a summary of the tender
* their closing date (at least 9 working days from date of advertisement)
* the name of a specific VPA contact officer.

Tender advertisements must be placed through Zenith Optimedia two working days before publication as per the whole-of-government media buying contract.

A tender may need to be re-advertised when:

* insufficient tenders have been received
* the tendered prices are too high
* the specification is changed
* the purchase has been deferred
* the recommended tenderer elects not to proceed and other bids are not acceptable
* the tender period has expired.

The second advertisement must state that it is a re-advertisement of the original

tender.

All original tenderers should be requested to submit a new tender or a letter validating the original tender.

## 7. Requests for Clarification

Requests for clarification of tender documentation must be made in writing, preferably by email, to the nominated VPA officer within the tender response period.

If the request includes information that is confidential or specific to a company, the response should be sent only to the tenderer requesting clarification, otherwise it should be sent to all tenderers.

Close attention should be paid to providing the same information to all potential bidders. Records of communication must be kept.

## 8. Submission of Tenders

Tenders may be submitted by mail, electronically or in person as stated in the request for tender. Hand-delivered tenders must be placed in the VPA Tender Box or handed to VPA reception if too large. The date and time of receipt must be recorded on any tenders accepted by a VPA staff member.

Tenders received by post must be placed unopened in the Tender Box by VPA staff and those received by email should not be opened until the closing date for the tender. Where tenders are accidentally opened, the circumstances, time and date should be recorded on the tender which should then be placed in the Tender Box.

At the tender closing time, the nominated officer and at least one other VPA officer should open the tender box, date stamp, number and initial each tender and record the name of tendering company and the tendered value on the Record of Tenders form.

Late tenders are not accepted and should be returned, unopened where possible, to the tenderer. If there is clear evidence that the late submission of a tender resulted from mishandling by the VPA, a late tender can be accepted.

Any change to a tender or a letter of withdrawal must be recorded on the Record of Tenders.

Tenderers must be notified of the receipt of their tenders within 10 working days of the closing date by email or postal mail.

## 9. Evaluation Process

The evaluation of tenders must be conducted in a sound and ethical way with the following considerations:

* neither the lowest priced tender nor any tender need to be accepted
* if the intent of the tenderer or the content of the tender is unclear, or the tender contains obvious errors, then written clarification should be sought from the tenderer
* any questions about the principles of fairness and impartiality should be referred to the appropriate Director and the Probity Auditor (if appointed).

The use of matrix analysis is the preferred method of summarising and comparing tenders and to support tender evaluation reports. Evaluation criteria may be weighted and scored so that the tender receiving the highest score is to be the most attractive offer. A template for the tender evaluation matrix is located in TRIM, reference: D/14/4886.

## 10. Evaluation Criteria

Value for money is the essential test against which any procurement output is to be justified. It is also essential that the assessment of offers is robust, systematic and unbiased to ensure the application of proper processes and the achievement of the procurement objectives.

**Value for money**

Achieving user and system requirements, quality standards and service benchmarks is considered more important than obtaining the lowest purchase/tender price. Value for money is the basis for comparing alternatives so that the optimal offer can be selected.   
  
**Adopting a systematic evaluation regime**

All offers must be evaluated in a consistent manner against the evaluation criteria adopted for the tender. The use of a weighted matrix analysis is a recommended method for analysing and comparing tenders in a detailed and consistent manner.   
  
**Cost comparison**

Total project costs not just tender price should be assessed in a detailed systematic manner. This assessment must be undertaken separately from other evaluation criteria.

**Due diligence of the short listed tenderers**

A due diligence investigation must be undertaken of the preferred or short listed tenderers for all high value and/or highly complex projects to ensure that the tenderers have the capacity and stability to comply with the requirements of the contract.

## 11. Tender Evaluation Panel

The CEO or relevant director should nominate members of the tender evaluation panel which should consist of the project manager, a staff member of the VPA not involved in the project and another VPA representative. The tender evaluation panel should include members experienced in complex public sector procurement and members with sufficient technical knowledge of the goods and services being purchased.

Each panel member is required to sign a conflict of interest statement specific to that tender process prior to their involvement in the evaluation process.

The role of the panel is to evaluate submissions against the evaluation criteria contained in the tender documentation with the objective of seeking the best solution and the optimum commercial arrangements, not just the lowest price.

Panel members should be aware that a tender does not have to be accepted, the lowest priced tender does not have to be accepted, and if the content of the tenderer is unclear written clarification should be sought

## 12. Short-listing

The panel may form a short-list of tenderers to be interviewed, if provided for in the tender documentation. The reasons for selecting the short-listed tenderers and those not short-listed must be recorded.

Those short-listed may be interviewed, required to make a presentation or to provide further clarification of their tenders.

All short-listed tenderers should be treated equally.

## 13. Negotiations with Short-listed Tenderers

Negotiations with short-listed tenderers should be considered for high value or complex purchases in order to maintain competition.

If conducting such negotiations it is essential that probity is maintained and all tenderers are able to submit their best-and-final offer.

The same general questions should be asked of all short-listed tenderers but specific questions of clarification may be asked.

All negotiations must be documented and the record should be retained. Communications should be carefully controlled so that there is no unmanaged transfer of information between bidders.

## 14. Recommendation and Approval of Preferred Supplier

A report to the CEO or the appropriate director on the evaluation process should be completed and include the reasons for the recommendation of the preferred tenderer. Reasons for eliminating other tenders should also be included in the evaluation report.

A probity audit by an external person or a review by an internal staff member should be completed and included in the report.

Once approval has been obtained, the preferred tenderer should be notified in writing of their selection.

## 15. Negotiations with Preferred Tenderer

Where negotiations have not been undertaken prior to selection of a preferred tenderer, the panel may negotiate any final aspects of the tender, and ask the tenderer to submit a best and final offer. Such negotiations can be considered as ‘fine tuning’ prior to entering into a contract. Matters that could be discussed include:

* additional value adding options
* specific contract management arrangements
* accountable personnel for various contract stages or commitments
* further intellectual property transfer opportunities, warranties or service/supply arrangements.

Once the tenderer’s final offer has been approved by senior management, the contract should be updated to reflect the final agreements between the parties.

Contracts should provide for appropriate protection of intellectual property rights of both parties, specification of licensing arrangements, trigger points for renegotiation, dispute resolution processes, termination clauses, provision for audit by independent auditors (including the Victorian Auditor General) and arrangements that encourage a commercial result and value-for-money outcomes. Legal advice should be sought throughout the contract negotiation process to ensure that the public interest is protected.

## 16. Contract Execution

Legal advice should be sought to ensure that the contract reflects the outcomes of contract negotiations.

Once the contract has been finalised, two originals should be executed by the successful tenderer and then signed and dated by the VPA.

One original should be returned to the contractor, the other forwarded to the Contract Manager for listing on the VPA’s Contracts Register.

## 17. Unsuccessful Tenderers

All unsuccessful tenderers must be notified in writing.

An unsuccessful tenderer may request a debriefing session at which only qualitative data, such as how the unsuccessful tender compared to other tenders, should be provided.

There may be serious legal consequences if inappropriate or confidential information is disclosed.

## 18. Tender Complaints Procedure

Complaints should be made in writing and contain the basis for the complaint, any relevant background information and the outcome desired by the complainant.

Complaints should be referred to the Director, Corporate & Statutory Services for investigation and resolution. If the Director, Corporate & Statutory Services was involved in the tender, then the complaint should be referred to the CEO, or another Director not involved in the tender, for investigation. This ensures that complaints are treated fairly and that the investigation is undertaken by a party independent of the original tender process.

# PROCEDURES IN RELATION TO CONTRACTS

## 1. Written Contracts

The type of purchase will determine if a written contract or quote is required.

A contract should be used for:

* the purchase of goods and services over $10,000
* all consultancies regardless of cost
* purchases under $10,000 where there is considerable complexity; a need for formal definition of purchase requirements; the risks are significant for VPA operations.

Legal advice may be needed if variations from the standard contract are required. The need for legal advice depends on the risks to the VPA associated with the purchase.

## 2. Risk Management

A Risk Management Plan must be developed for higher value or complex purchases and should include

* identification of risks associated with the project
* assessment of the likelihood and magnitude of the risks
* risk mitigation strategies
* allocation of responsibility for managing risks

The risk management plan should be updated regularly to include the effectiveness of risk mitigation activities.

## 3. Contract Management

Effective contract management is a key component in achieving project outcomes. A contract manager should be identified for each procurement project.  
  
The processes, structure and resources that will be applied to the contract management phase should be identified during the procurement planning stage. They can be grouped into three areas: service management, relationship management and contract administration. The key responsibility is to ensure that goods and services are provided according to the contract by monitoring progress and quality, verifying and validating supplier charges and evaluating contractor performance   
  
Contract conditions for contracts over $50,000 should specify the following contract management elements:

* monitoring compliance with contract conditions;
* identification of milestones and key deliverables/outcomes;
* roles and responsibilities of participants;
* systems to ensure continuity and retention of project knowledge over the life of the project;
* effective financial management and monitoring;
* monitoring of risks;
* project performance reporting requirements; and
* evaluation and recording of the outcome of major contracts in relation to project objectives.

Invoices should not be paid until the project manager is satisfied that the work has been completed. If a supplier is not performing satisfactorily, advice should be sought from Corporate Services on what action to take.

# APPENDIX 1: Environmental Procurement Policy

The VPA encourages staff to adopt this VGPB policy where possible in the procurement of goods and services. The policy provides guidance for Victorian government departments on how to embed environmental considerations into procurement decisions for goods and services consistent with the purchasing principles outlined in the Victorian Government Purchasing Board Procurement Policies, namely value for money, open and fair competition, accountability, risk management, probity and transparency.

Sustainable environmental purchasing is based on a set of policy principles.

1. Environmental Procurement is a Consideration  
*Principle 1: Departments are to purchase goods and services that have reduced impacts on the environment compared with competing products and services that achieve the same function and value for money outcomes.*

2. Department Responsibilities  
*Principle 2: Departments are responsible for addressing environmental procurement considerations and reporting on implementation.*  
  
3. Assessing Risk and Influence in Defining Environmental Procurement Priorities  
*Principle 3: Departments should define their environmental procurement priorities based on an assessment of environmental risk and their ability to influence environmental outcomes.*

4. Value for Money  
*Principle 4: Departments are to purchase based on the principle of Value for Money and should therefore consider the total cost of ownership in meeting the department’s business needs and procurement budgets.*  
  
5. Environmental Specifications  
*Principle 5: Departments should consider where appropriate the inclusion of minimum environmental requirements in specifications.*   
Government can mandate minimum environmental requirements to be included in procurement of specific goods or services.   
  
6. Environmental Evaluation Criteria  
*Principle 6: Departments should consider the inclusion of environmental criteria in the selection of suppliers where appropriate.*   
  
7. Continuous Improvement  
*Principle 7: Department relationships with suppliers should include the principle of continuous environmental improvement.*  
  
8. Training and Education  
*Principle 8: Staff with purchasing authority are to be offered training in environmental aspects*

# APPENDIX 2: Recordkeeping Requirements for tender Documentation

Under PROS 07/01 tender records are required to be kept for the following periods.

3.4.0 TENDERING

The activities involved in receiving and assessing tenders for the supply, sale or purchase of goods and services. Tendering refers to the process of inviting parties to submit an offer by advertisement, followed by evaluation of offers and selecting a successful bidder.

3.4.1 Records documenting the development and issue of tender documentation. Includes statement of requirements, request for proposals, requests for expressions of interest request for tender (RFT), draft contracts, specifications and quotations records documenting the development of the evaluation and selection criteria for the tender.

*Destroy 7 years after tender process is completed.*

3.4.2 Routine enquiries and arrangements for the advertising of tenders.

*Destroy 2 years after action completed.*

3.4.3 Copies of tender specificationsproduced by the agency for distribution. *Destroy when administrative use has concluded.*

3.4.4 Evaluation of tenders received against selection criteria. Includes evaluation reports, recommendations, final reports, and public notices.

*Destroy 7 years after tender process completed.*

3.4.5 Records documenting post-offer negotiations and due diligence checks. Includes successful tender submission records.

*Destroy 7 years after tender process completed.*

3.4.6 Records of unsuccessful tenders or a tender process where there is no suitable bidder, or where the tender process has been discontinued. Includes submissions; notifications of outcomes.

*Destroy 2 years after tender process completed or decision made not to continue with the tender.*

# APPENDIX 3: Recordkeeping Requirements for Contract Documentation

Under PROS (Public Record Office Standard) 07/01 contract records are required to be kept for the following periods.

3.0.0 CONTRACTING-OUT

The activities involved in arranging, procuring and managing the performance of work or the provision of services by an external contractor or consultant. Also referred to as outsourcing. Includes the administrative arrangements regarding the engagement of consultants and contractors.

NOTE: For the records that result from the actual work or services provided by an external contractor or consultant, refer to the function and activity to which they specifically relate.

3.1.0 Consultants

The activities associated with managing the use of consultants for services by an agency. A consultancy refers to an arrangement where an individual or organisation is engaged:

* to provide expert analysis and advice that facilitates decision-making
* to perform a specific, one-off task or set of tasks
* to perform a task involving skills or perform a task involving skills or perspectives that
* would not normally be expected to reside with the agency.

3.1.1 Records relating to the engagement and use of consultants. Includes copies of the specification, quotations, copies of contract and summaries of consultant evaluations.

*Destroy 7 years after**contract expires.*

3.2.0 Contractors

A contractor is an individual or organisation that is formally engaged to provide works or services for or on behalf of an entity. This definition does not include casual, fixed-term or temporary employees employed by the entity.

The main factor that distinguishes a consultant from other types of contractors is the predominantly advisory nature of the work.

3.2.1Records relating to the engagement and use of contractors, suppliers and service providers. Includes registers of contractors and suppliers.

*Destroy 7 years after**terms of the contract**expires.*

.

3.3.0 Contracts

The processes associated with the establishment, maintenance, review and negotiation of agreements and contracts.

3.3.1Summary records for all contracts managed by an agency. Includes contract registers and systems.

***Permanent*** *Retain as State**Archives.*

3.3.2 Records that document the formulation and execution of contracts for significant government commitments, such as large-scale government infrastructure projects and public private partnerships (PPPs).

***Permanent*** *Retain as State**Archives.*

3.3.3 Records of contracts for smaller-scale activities which are under seal (specialty contracts). Includes records associated with the negotiation process, excluding tender records.

*Destroy 15 years after**contract has expired.*

3.3.4 Records of contracts for smaller-scale activities which are not under seal (simple contracts). Includes records associated with the negotiation process, excluding tender records.

*Destroy 7 years after**contract has expired.*

3.3.5 Records documenting the preliminary drafting process for contracts. Used for internal purposes only and not subject to formal negotiations.

*Destroy when**administrative use has**concluded.*

# APPENDIX 4: Engagement under the Legal Services Panel

The activities involved in arranging, procuring and managing the performance of work or the provision of services by an external legal services firm will take place under the specialised Legal Services Panel (LSP).

This panel has been established by the Department of Justice & Regulation and current Panel arrangements are in place to June 2019. The purpose of the LSP is to secure high quality, cost-effective legal services for the Victorian Government. One dimension of the LSP’s cost-effectiveness is the reduction in procurement administration, because the LSP removes the necessity of tendering to the open market. The negotiation of a whole of government contract has also enabled the government to secure below-market rates for legal services from the successful suppliers.

A list of current Panel firms is available on TRIM or at the VGPB website. The VPA is obliged to use either a Panel firm, or the VGSO, for all legal services covered by the Panel, unless the matter is covered by the LSP Exemption Policy (see D/16/1259).

The LSP is divided into 13 Areas of Law, with each provider accredited to one or more Area of Law. To engage a provider from the Panel, first identify the relevant Area of Law, and then select one or more firms from this Area to provide a quote. The firms must be provided with a Legal Services Order (LSO) outlining the VPA’s requirements.

All VPA legal service procurement is centralised through the Director Corporate & Statutory Services who is responsible for approving all legal engagements, prior to the procurement being recommended to the CEO in line with the standard officer delegated expenditure limits.

NB The LSP will only be used where applicable authorisation of engagements has already taken place in line with current delegated authority. This means that legal firms will only be engaged where effective prior approval has been given by the Director Corporate Services or the CEO. Therefore VPA staff are only authorised to seek quotes but have no authority to engage or contract such firms. The Director Corporate Services in consultation with the CEO is authorised to engage and contract with external legal providers.

VPA may be asked to provide feedback on the performance of an LSP provider to the Department of Justice & Regulation.

# APPENDIX 5: Alternative Procurement Option for Construction and Construction Related Consultancy Contractors

Policy

The Construction Supplier Register is a pre-qualification scheme for building and construction industry consultants and contractors administered by DTF. The register and its associated pre-qualification scheme support the implementation of *Ministerial Direction No.1: Tendering Provisions for Public Construction* and benefits government and suppliers alike through the consistent application of suitable pre-qualification criteria and reduced tendering costs. <http://www.dtf.vic.gov.au/Infrastructure-Delivery/Construction-Supplier-Register>

Procedure

Refer to 5. VPA Procurement requirements Purchase through external panel for threshold and required documents. A document outlining which prospective tenderers have been selected and an explanation of that selection is to form part of the records maintained.

When procurement is to be in excess of $150,000 if the CSR option is to be used, prepare the usual tender documents but instead of advertising the tender and putting it up on thetenders website the documentation is sent to the chosen suppliers directly.

# APPENDIX 6: Related Documents Internal Corporate Procurement Process (D/11/1968)

As you are aware we have in place Procurement processes and also approved levels of delegated financial expenditure. We are all expected to be familiar with these requirements.

However, from a corporate perspective some aspects of expenditure require additional sign off approval, to ensure consistent corporate applications and good governance.

All these require prior written approval (as a minimum, in e-mail form) which can be attached to the Purchase order:

**Approval by CEO**

* All purchases with a value greater than $10,000, CEO to approve
* Any consultancy contract greater than $50,000, CEO to approve RFQ release
* All hospitality and catering over $1,000; organised through EA to the CEO
* All catering involving alcohol; organised through the EA to the CEO
* All catering involving lunches over $100; organised through EA to the CEO
* All air travel and interstate accommodation; organised through EA to the CEO
* All recruitment; organised by HR coordinator (Recruitment Request form to be signed)
* All temporary or agency staff use; organised through HR coordinator

**Approval by Director Corporate Services**

* Any consultancy contract up to $10,000, DCS to approve
* Any consultancy contract up to $49,999, DCS to approve RFQ release
* All IT and communication related equipment (eg mobile phones, USB sticks, software etc); organised through IT
* All requests for legal advice
* All hiring of vehicles (needs to be approved by both your Director and DCS); organised through the EA to the CEO
* All individual professional memberships; organised by HR coordinator
* All attendance at training courses/conferences/seminars more than 3 events and/or over $300/financial year; organised by HR coordinator
* All stationery; organised through Reception

**Approval by your Director**

* All office furniture or specialist equipment; ordered through the EA to the CEO
* All local accommodation; organised through the EA to the CEO
* All hospitality and catering up to $999 (or if involving lunches up to $99) to be in line with Gifts, Benefits and Hospitality Policy; organised through the EA to the CEO
* All attendance at training courses/conferences/seminars less than 3 events with the total value up to $300/financial year; organised by HR coordinator
* All couriers; organised through Reception

The following also require approval in advance from your Director:

* All taxi hire
* All personal vehicle use to be reimbursed
* Overnight use of VPA pool car, organised through the EA to the CEO

**Ed Small**Director, Corporate Services

# APPENDIX 7: Tender Conduct Plan (D/13/5272)

[Procurement Project Name]

**[Date]**

This document is to be used by a project manager for seeking an approval for undertaking a tender process

Please check the required documents (Template numbers shown in blue letter).Project Description

Describe the objectives of the purchase

**Project Timelines**

| STEP | TARGET DATE |
| --- | --- |
| Release of RFT |  |
| Closing date of RFT responses |  |
| Evaluation of bids |  |
| Interview short-listed tenders |  |
| Contract execution |  |

**Advertising arrangements**

Tender advertising will include: (tick as appropriate)

|  |  |
| --- | --- |
|  | Victorian Government Tenders Website (mandatory) |
|  | The Herald Sun – in the composite government tender advertisement |
|  | Other newspapers – Australian Financial Review |
|  | Other (describe): Victorian Planning Authority website |

**Release of RFT**

|  |  |  |
| --- | --- | --- |
| Documents | | |
|  | Part A & A-1 TEM/07/20 | Condition of Tendering/Selection Criteria |
|  | Part B TEM/07/21 | Specification |
|  | Part C TEM/08/12 | Proposed Contract |
|  | Part D TEM/08/4 | Tenderer’s Response |
|  | Part E TEM/08/3 | Ethical Employment Statement |
|  | Part F TEM/08/7 | VIPP statement (if > 3 million in metropolitan Melbourne area or >1 million with regional Victoria) |

**Receipts of Tenders**

|  |  |  |
| --- | --- | --- |
| Tender opening team D/13/4943 | | |
| Role | Name | Title and organisational role/company |
|  |  |  |
|  |  |  |

**Notification of Tender Receipts**

|  |  |  |
| --- | --- | --- |
| Within 10 Working days of the closing date by email or postal mail D/07/4201 | Name |  |
| Role |  |

**Evaluation Panel**

|  |  |  |
| --- | --- | --- |
| Tender evaluation team (Add to, or delete from, this section as required.) If including non VPA employees please obtain confidentiality deed & conflict of interest form D/13/4932 | | |
| Role | Name | Title |
| Project Manager (and Chair) |  |  |
| Team member |  |  |
| Team member |  |  |

**Letter to short listed tenderers**

|  |  |  |
| --- | --- | --- |
| Either by email or postal mail D/13/5270 | Name |  |
| Role |  |

**Records**

|  |  |
| --- | --- |
| Tender process documents & contract will be held on TRIM number: | CF/ |

**Evaluation Report**

|  |  |  |
| --- | --- | --- |
| A probity audit by an external person or a review by an internal staff member  Evaluation Matrix D/14/4886 Evaluation Report Sample D/13/6255 or D/13/5110 | | |
| Name | | Title |
|  |  |  |

**Notification of successful tenderer & Contract Execution**

|  |  |  |
| --- | --- | --- |
| The successful tenderer will be notified in writing D/13/6251  Two original contract should be finalised and sent to the tenderer. VPA then signs and dates two copies.  One original should be returned to the contractor. | Name |  |
| Role |  |

**Notification of unsuccessful tenderers**

|  |  |  |
| --- | --- | --- |
| After final approval, remaining unsuccessful tenderers will be notified in writing by: D/13/5267 | Name |  |
| Role |  |

**Procurement conduct plan approvals**

|  |  |  |
| --- | --- | --- |
| This plan is approved by: | Signature |  |
|  | Name | Stuart Moseley |
|  | Role | Chief Executive Officer |
|  | Date |  |