

NOTE FOR PUBLIC WORKS SUBCOMMITTEE OF FINANCE COMMITTEE

Simplified tendering procedures for capital works

INTRODUCTION

At the special meeting of the Public Works Subcommittee held on 14 November 2001, Members requested the Administration to elaborate on how the simplified tendering arrangements set out in paragraph 2(f) of PWSCI(2001-02)37 works and whether a system of checks and balance exists.

THE ADMINISTRATION'S RESPONSE

2. Works tenders above \$3 million in value are normally subject to competitive bidding. Procuring departments need to adhere to procurement procedures set out in the Stores and Procurement Regulations, supplemented by various Finance Bureau Circular Memoranda and Works Bureau Technical Circulars.

3. We have taken a critical look at ways to expedite the delivery of the capital works programme and in particular to shorten the tendering process. The following sets out the key changes introduced since 30 October 2001.

4. On **tender notice**, we have dropped the requirement for departments to arrange gazettal of tender invitations where such invitations are published on the Internet and the value for a tender is under \$50 million¹. We have agreed that for works contracts under \$50 million, departments may allow less than the usual three weeks for tenderers to **submit returns**. We have reminded

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¹ For procurement of construction services at or above 5,000,000 Special Drawing Rights (equivalent to about \$50 million), the World Trade Organisation Agreement on Government Procurement (WTO GPA) applies. Specific procedural requirements are included in WTO GPA for procurement of these services.

departments that it remains essential for them to clearly define the scope of their works contracts, and that if they intend to use a **marking scheme** for tender evaluation, they should still seek the prior approval of the relevant tender board.

5. On **tender evaluation**, we advised departments that they should aim to complete tender evaluation within two to three weeks (instead of four to six weeks) for works contracts under \$50 million.

6. On the **consideration of tender reports**, we have authorised Controlling Officers to approve the award of all works contracts under \$15 million each. For works contracts at or above \$15 million but under \$50 million each, Controlling Officers are also authorised to approve the tender reports provided the contracts are awarded to the lowest conforming bidder or the highest combined quality-price scorer in accordance with the marking scheme approved by a tender board and evaluation criteria set out in the tender invitation document. If a contract is not awarded to the lowest conforming bidder or the highest combined scorer, the Controlling Officer must still seek the prior approval of the Public Works Tender Board (for tenders not exceeding \$30 million) or the Central Tender Board (for higher-value tenders) before awarding the contract.

7. Controlling Officers are fully accountable for their decisions on award of tenders under the new arrangement. They have been advised to give full regard to the principles of **fair play, transparency and accountability** in the Government's procurement system. If, notwithstanding the new delegations, Controlling Officers deem fit to seek the advice of the relevant tender board on tender issues relating to the works contracts under \$50 million each, they may do so.

8. We consider that the package of measures will reduce the tendering period for works contracts under \$15 million from nine – 11 weeks to four – six weeks. The time savings for higher-value works contracts will vary, depending on the complexity of the cases and the time taken to evaluate the tenders.

9. The new arrangements are designed to streamline tendering procedures for works contracts with a value under \$50 million, while ensuring that fairness, transparency and due process in public procurement are maintained. For example, under the new arrangements, tenders are still to be deposited in tender boxes set up for the tender boards. All tenders are to be opened and authenticated by an independent tender-opening team. Controlling Officers are still required to follow other established procedures in the procurement process

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relating, for example, to drawing up of tender specifications, tender clarifications and evaluation, tender negotiation, etc. For works tenders to be evaluated by a marking scheme, the marking scheme is subject to the prior approval of a tender board. The assessment panel must be chaired by a directorate officer and comprise not less than three persons. For those tenders subject to separate technical and price assessment, the assessment panel must complete the technical assessment first before opening the price envelopes. For works tenders not subject to evaluation by a marking scheme, the highest and lowest tender prices for each tender exercise are published on the Works Bureau homepage after tender opening so that tenderers are fully aware of the price range and how their bids feature within the range. All officers involved in the tender process are required to declare any potential conflict of interest in accordance with stipulated requirements.

10. We will review the implementation of the new arrangements in the light of experience.

Finance Bureau
December 2001