



New South Wales Government
Procurement System for Construction

Procurement eBook

Procurement Practice Guides

October 2008

Procurement Practice Guides

Contents

Avoiding delay.....	1
Building project elements.....	2
Completing GC21 Contract Information.....	3
Construction insurance.....	4
Contract dispute resolution.....	5
Contract management.....	6
Contract options.....	7
Contracts used in construction projects.....	8
Creating a Mini Minor Works tender document.....	9
Estimating contract times.....	10
GC21 clause commentary.....	11
GC21 meetings and workshops.....	12
Government contract disclosure.....	13
Handling prolongation claims.....	14
Managing consultancy services engagements.....	15
Managing extensions of time.....	16
Managing payment claims.....	17
Managing Project Management services engagements.....	18
Managing variations.....	19
Mini Minor Works clause commentary.....	20
Minor Works clause commentary.....	21
Performance management.....	22
Preparing Consultancy services tender documents.....	23
Preparing Project Management services tender documents.....	24
Principal in a construction contract.....	25
Procurement by direct negotiation.....	26
Procurement method selection.....	27
Selective tendering.....	28
Tender planning for consultancy services engagements.....	29
Tender planning for project management services engagements.....	30
Tendering construction works.....	31
Tendering process for consultancy services engagements.....	32
Tendering process for project management services engagements.....	33
Using the procurement system insurance online system.....	34

Avoiding delay

Applicable to:

Contract management

Synopsis

There is a risk that actions of the Principal may delay the completion of a construction contract and entitle a contractor to compensation payments.

The purpose of this Procurement Practice Guide is to assist agencies, project managers and those carrying out contract administration functions on their behalf to avoid causing unnecessary delays to completion of contracts.

Content

- 1 Introduction
- 2 Specification and Documentation
- 3 Staffing and Management
- 4 Instructions or actions that may cause delay
- 5 Delay in exercising the Principal's powers under the Contract
- 6 Delay or default in fulfilling the Principal's obligations under the Contract

The Procurement Practice Guide also includes advice on:

- How delay can occur
- Avoiding or minimising delay
- Dealing with delay or default by the Principal

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/avoiding_delay.pdf

Building project elements

Applicable to:

Standard form documents

Synopsis

Building Project Elements are used for the elemental breakdown of construction projects for cost estimating purposes.

Content

- 1 List of Elements
- 2 List of Elements and Definitions
- 3 Definitions of Elements

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/building_project_elements.pdf

Completing GC21 Contract Information

Applicable to:

Service provider selection

Synopsis

After the completion of Tender assessment process the following GC21 Contract Information items must be completed prior to the issue of the Letter of Award

- 8 Contractor
- 9 Contractor's Authorised Person
- 10 Senior Executive
- 11 Notices to Contractor
- 12 Date of Contract
- 17 Reference Contract Documents; and
- 43 Contract Price at the Date of Contract.

Content

- 1 Actions after completion of Tender assessment
- 2 Completion of Contract Information1
- 3 Issue of completed Contract Information

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/completing_gc21_contract_information.pdf

Construction insurance

Applicable to:

Contract management

Synopsis

The purpose of this Procurement Practice Guide is to assist agencies, project managers, and contract administrators to:

- make appropriate choices and risk allocations in contracts;
- check compliance with contractual insurance requirements;
- respond to defaults and defects in insurance arrangements; and
- make use of the Procurement System Contract Works and Public Liability Insurance Policy.

Content

- 1 Introduction
- 2 Specification of insurance requirements in contracts
- 3 Checking Insurance
- 4 Use of Procurement System Insurance Policies

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/construction_insurance.pdf

Contract dispute resolution

Applicable to:

Dispute resolution

Synopsis

A dispute can substantially increase project cost and duration and consume an enormous amount of project resources and time.

The dispute resolution process outlined in this Procurement Practice Guide is aimed at achieving resolution as quickly and simply as possible, but it recognises that in some cases a resolution may not be achieved easily and additional dispute resolution resources may be required.

Content

- 1 Overview
- 2 Understanding disputes
- 3 Position papers
- 4 The dispute resolution process
- 5 Definitions

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/contract_dispute_resolution.pdf

Contract management

Applicable to:

Contract management

Synopsis

Contract management by an agency (including any project management organisations engaged by an agency) must ensure that:

- the Principal's interests are protected and its obligations are met;
- the contractual obligations of the service provider are met;
- contract milestones are duly discharged;
- key deliverables are received;
- contract related processes are completed;
- any variations, claims, issues, disputes, and any additional funding requirements are managed.

Content

- 1 General management
- 2 Contract records
- 3 Notices
- 4 Contract Meetings
- 5 Contract management responsibilities
- 6 Statutory Requirements and Codes of Practice
- 7 NSW Government Guidelines
- 8 Performance management
- 9 Disputes

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/contract_management.pdf

Contract options

Applicable to:

Procurement method selection

Synopsis

The construction phase of a project is generally delivered by engaging a single contractor to undertake the majority of the work. However, under some circumstances, there can be advantages gained by adopting a procurement method that involves “multiple contracts”.

This Procurement Practice Guide includes guidance on when its use would be appropriate and associated benefits and risks.

Content

- 1 Introduction
- 2 Single Contract
- 3 Multiple contracts
- 4 Construction management
- 5 Novation

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/contract_options.pdf

Contracts used for construction projects

Applicable to:

Procurement method selection

Synopsis

This Procurement Practice Guide briefly describes the types of contracts that are commonly used to deliver construction projects. It includes guidance on when its use would be appropriate and associated benefits and risks.

Content

- 1 Introduction
- 2 Documented Design (Construct Only)
- 3 Design Development and Construct (DD&C)
- 4 Design, Novate and Construct
- 5 Design and Construct
- 6 Design Construct and Maintain
- 7 Guaranteed Maximum Price
- 8 Managing contractor
- 9 Alliance
- 10 Privately Financed Project

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/contract_systems.pdf

Creating a Mini Minor Works Tender document

Applicable to:

Standard form documents – Mini Minor Works

Synopsis

This Procurement Practice Guide briefly describes the procedures that must be applied to ensure that the final Mini Minor Works tender document is complete and accurate.

It includes guidance on document properties such as guide notes, macros and document formatting.

Content

- 1 Using the standard form
- 2 Printing and checking the content of a completed tender document
- 3 Invitation to tender
- 4 Addenda to the tender document

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/creating_a_mmw_tender_document.pdf

Estimating contract times

Applicable to:

Procurement method selection

Synopsis

This Procurement Practice Guide is intended to assist in determining appropriate contract times for construction contracts. It examines the many factors that may impact on the time required to complete a contract.

The use of historic data and expert analysis can ensure the nominated contract periods are achievable and not likely to result in undue cost premiums.

Content

- 1 Introduction
- 2 Factors affecting construction times
- 3 Additional factors affecting contract times
- 4 Time/Cost Graph (developed design contracts)
- 5 Predicting construction times

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/estimating_contract_times.pdf

GC21 clause commentary

Applicable to:

Contract management – GC21

Synopsis

This Procurement Practice Guide provides an explanation and understanding of each clause in the GC21 General Conditions of Contract.

Content

This Procurement Practice Guide follows the content of the GC21 General Conditions of Contract:

- Roles and relationships
- The contract
- Statutory Requirements and Guidelines
- Management duties
- Subcontractors, Suppliers and Consultants
- Starting
- The Site
- Design 37
- Construction
- Changes to work
- Changes to time
- Payment
- Completion
- Claim and Issue resolution
- Termination

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/gc21_clause_commentary.pdf

GC21 meetings and workshops

Applicable to:

Contract management – GC21

Synopsis

This Procurement Practice Guide details the preparation, content, implementation and reporting requirements for Start-up workshops, close-out workshops and evaluation and monitoring meetings to be held under contracts based on the GC21 General Conditions of Contract.

Content

- 1 Introduction
- 2 Preparation
- 3 Start-Up Workshop
- 4 Valuation and Monitoring Meetings
- 5 Close-Out Workshop
- 6 Reporting

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/gc21_meetings_and_workshops.pdf

Government contract disclosure

Applicable to:

Service provider selection

Synopsis

An explanation of the requirements for public disclosure of information arising from NSW Government tenders and contracts to support the Freedom of Information Act 1989 (NSW).

Content

This Procurement Practice Guide includes instructions for completing the Government contract disclosure form and information on:

- 1 Contract details
- 2 Successful tenderer details
- 3 Multiple successful tenderer details
- 4 Contracts managed by a private sector project manager
- 5 Additional information
- 6 Publication of the contract
- 7 Submission of disclosure information

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/government_contract_disclosure.pdf

Handling prolongation claims

Applicable to:

Contract management

Synopsis

This Procurement Practice Guide provides guidance to assist agencies and their representatives to respond appropriately to claims from construction contractors for additional costs for prolongation or disruption.

Content

- 1 Introduction
- 2 Prolongation claims
- 3 Evaluating prolongation costs
- 4 Disruption claims
- 5 Evaluating disruption costs

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/handling_prolongation_claims.pdf

Managing consultancy services engagements

Applicable to:

Contract management – Consultancy services

Synopsis

Advice is provided on the activities relating to contract award and management of consultancy services engagements including meetings, the Principal's obligations, insurances, services delivery plan, progress, audits, variations, sensitive information, intellectual property, services review, payment, performance management, disputes and finalisation

Content

- 1 Award activities
- 2 Management activities

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/managing_cs_engagements.pdf

Managing extensions of time

Applicable to:

Contract management

Synopsis

There are risks that failure to accurately assess delays to completion of a construction contract will result in:

- unnecessary extensions to the completion time;
- excessive delay-related costs; or
- disputes about a contractor's entitlements to extensions of time or delay costs.

The purpose of this Procurement Practice Guide is to assist agencies and their representatives to assess claimed delays to completion of construction contracts and grant appropriate extensions of time.

Content

- 1 Introduction
- 2 Claims for extensions of time
- 3 Establishing an entitlement
- 4 Considerations for detailed evaluation
- 5 The role of a construction program

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/managing_extensions_of_time.pdf

Managing payment claims

Applicable to:

Contract management

Synopsis

The Principal has obligations to make progress payments are governed by the terms of the contract between the Principal and the contractor or service provider and by the Building and Construction Industry Security of Payment Act, 1999 (NSW)

Content

This Procurement Practice Guide includes guidance on:

- The Principal's obligations
- Requirements of the Act
- Payment process
- Statutory declaration

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/managing_payment_claims.pdf

Managing project management services engagements

Applicable to:

Contract management – Project Management services

Synopsis

Advice is provided on the activities relating to contract award and management of project management services engagements including meetings, the Principal's obligations, insurances, services delivery plan, progress, audits, variations, sensitive information, intellectual property, services review, payment, performance management, disputes and finalisation

Content

- 1 Award activities
- 2 Management activities

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/managing_pms_engagements.pdf

Managing variations

Applicable to:

Contract management

Synopsis

In general terms, a variation is a change to the work required under the Contract. For a construction contract, a variation is usually defined as a change to the Works.

The general conditions in each standard form of contract define what constitutes a variation in that particular standard form. Each standard form contract also includes other provisions relating to variations and their management, which should be read in conjunction with these general principles.

Content

This Procurement Practice Guide includes guidance on:

- Types of variations
- Authorisation of variations by the client agency
- Instructing variations
- Valuing variations

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/managing_variations.pdf

Mini Minor Works clause commentary

Applicable to:

Contract management – Mini Minor Works

Synopsis

This Procurement Practice Guide provides an explanation and understanding of each clause in the Mini Minor Works standard form.

Content

Guidance on the Mini Minor Works standard form including:

- 1 Tender Form
- 2 Tender Conditions
- 3 Conditions of Contract
- 4 Details of the Works
- 5 Contract Schedules

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/mmw_clause_commentary.pdf

Minor Works clause commentary

Applicable to:

Contract management – Minor Works

Synopsis

This Procurement Practice Guide provides an explanation and understanding of each clause in the Minor Works standard form.

Content

- 1 Definitions
- 2 Contract
- 3 Design and construction
- 4 Care of the Works and other property
- 5 Insurance
- 6 Site and possession
- 7 Site conditions
- 8 Non-conforming work
- 9 Variations
- 10 Suspension
- 11 Completion of the Works
- 12 Delay in Completion
- 13 Payment and retention
- 14 Defects liability period
- 15 Default and insolvency
- 16 Disputes
- 17 Termination for the Principal's convenience

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/mw_clause_commentary.pdf

Performance management

Applicable to:

Performance management

Synopsis

An explanation of the performance management requirements applying to:

- contractors carrying out construction contracts valued at \$0.5M or more;
- consultants carrying out consultant engagements valued at \$30,000 or more;
- contractors and consultants whenever a critical aspect of performance is unsatisfactory; and
- key stakeholders of construction contracts valued at \$1.0M or more.

Content

- 1 Introduction
- 2 Performance reporting systems
- 3 Contractor & Consultant Performance Reporting System
- 4 Stakeholder Performance Review & Reporting System
- 5 Data management
- 6 Legal aspects of performance reporting
- 7 The Performance / Prequalification relationship
- 8 Contractor & consultant Review List
- 9 Department of Commerce Panel of Assessors

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/performance_management.pdf

Preparing consultancy services tender documents

Applicable to:

Contract management – Consultancy services

Synopsis

This Procurement Practice Guide provides guidance on how to prepare Tender documents for the engagement of consultancy services. (Fee up to \$30,000 and Fee over \$30,000).

It provides advice on the completion of:

- Conditions of Tendering
- Tender Schedules
- Outline Services Delivery Plan
- Conditions of Agreement
- Agreement Information
- The Services

Content

- 1 Tender document (Fee up to \$30,000)
- 2 Tender document (Fee over \$30,000)
- 3 Approval

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/preparing_cs_tender_documents.pdf

Preparing project management services tender documents

Applicable to:

Contract management – Project management services

Synopsis

This Procurement Practice Guide provides guidance on how to prepare Tender documents for the engagement of project management services.

It provides advice on the completion of:

- Conditions of Tendering
- Tender Schedules
- Outline Services Delivery Plan
- Conditions of Agreement
- Agreement Information
- The Services

Content

- 1 Tender document.
- 2 Approval

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/preparing_pms_tender_documents.pdf

Principal in a construction contract

Applicable to:

Procurement method selection

Synopsis

This Procurement Practice Guide assists the NSW Government agencies that propose to enter into contracts for construction work or associated services, but are not accredited under the Agency Accreditation Scheme.

It provides guidance in relation to:

- Identifying and naming the Principal in a contract,
- The Principal's obligations and other requirements;
- Delegation of the Principal's powers; and
- Possible schemes for delegation.

Content

- 1 Introduction
- 2 Identifying and naming the Principal
- 3 The Principal's obligations and other requirements
- 4 Delegation of the Principal's powers
- 5 Possible schemes of delegation
- 6 Support available from the Department of Commerce

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/principal_in_a_construction_contract.pdf

Procurement by direct negotiation

Applicable to:

Service provider selection

Synopsis

Direct negotiations are a procurement process in which an agency may contact a single contractor of its choice to submit a quote or tender without having first gone through a genuine competitive process. A variation to an existing contract is a form of direct negotiation.

This Procurement Practice Guide explains the procurement by direct negotiation process and provides:

- indicative examples of when procurement by direct negotiation may be appropriate;
- a summary to promote probity in the direct negotiation process;
- reference information on Probity Advisors and Probity Auditors.

Content

- 1 Introduction
- 2 Overview
- 3 Authority to Negotiate
- 4 The Direct Negotiation Process
- 5 Probity Advisors and Probity Auditors
- 6 Negotiating
- 7 Sample Criteria for Direct Negotiation

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/procurement_by_direct_negotiation.pdf

Procurement method selection

Applicable to:

Procurement method selection

Synopsis

Under the NSW Government Procurement Policy, the procurement process is divided into ten steps. The initial steps involve identifying a service need and considering the options available to meet that need. Step 5 – Procurement Strategy requires the agency to determine and document how the project will be delivered

This Procurement Practice Guide has been prepared to assist NSW Government agencies to select appropriate procurement methods for construction projects and includes guidance on:

- how the project will be managed;
- what contracts will be involved; and
- how risk will be allocated in those contracts.

Content

- 1 Management structure
- 2 Project characteristics and risks
- 3 Risk identification and allocation
- 4 Contracting options
- 5 Determining an appropriate contracting option
- 6 Subcontract options

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/procurement_method_selection.pdf

Selective tendering

Applicable to:

Service provider selection

Synopsis

This Procurement Practice Guide provides guidance on the selective tendering process including:

- the selection of tenderers by members of a Tenderer Selection Committee; and
- Government Agencies and their Project Managers for the selection of tenderer panels under a tenderer prequalification system; and
- tenders for consultant engagements over \$50,000.

Content

- 1 Purpose
- 2 Meanings
- 3 Related Procedures
- 4 Composition of Selection Committees
- 5 Code of Conduct
- 6 Selection Committee Functions
- 7 Procedures for selection and establishment of a Tenderer Panel when using the NSW Government Procurement System for Construction
- 8 Procedures for selection and establishment of a Tenderer Panel when using a Local Tenderer Selection Committee
- 9 Arranging a Request for Tenders
- 10 Local Consultants
- 11 In-House Resources

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/selective_tendering.pdf

Tender planning for consultancy services engagements

Applicable to:

Service provider selection – Consultancy services

Synopsis

This Procurement Practice Guide provides guidance on the tender planning process for consultancy services engagements including:

- identification of the consultancy services required including the type, timing, originality and technical expertise required
- the nature and stage of the project,
- the project procurement method, and
- the proposed organisation structure.

Content

- Service identification
- Temporary staff
- Estimated cost
- RFT number
- Tender method
- Tender evaluation team
- Selecting appropriate evaluation criteria
- Criteria weightings
- Tender evaluation plan

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/tender_planning_for_cs_engagements.pdf

Tender planning for project management services engagements

Applicable to:

Service provider selection – project management services

Synopsis

This Procurement Practice Guide provides guidance on the tender planning process for project management services engagements including identifying:

- the phases of the project to be managed, and
- the general and specific management services required.

It also includes advice on the engagement and management of service providers and the management of:

- Project program;
- Project budget;
- Project scope;
- Commissioning and handover.

Content

- *Service identification*
- *Estimated cost*
- *RFT number*
- *Tender method*
- *Tender evaluation team*
- *Selecting appropriate evaluation criteria*
- *Criteria weightings*
- *Tender evaluation plan*

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/tender_planning_for_pms_engagements.pdf

Tendering construction works

Applicable to:

Service provider selection

Synopsis

This Procurement Practice Guide provides guidance to assist potential service providers to understand the role of a Government client and the different types of tender processes.

It provides an at-a-glance description of some of the activities that occur from the decision to request tenders through to the award of a contract or engagement. It does not form part of any legal obligation.

Content

- 1 Aim
- 2 Principal Reference Documents
- 3 Policy and types of tender
- 4 Prequalification as a Contractor or Consultant
- 5 Calling the Tender
- 6 Preparing a tender response
- 7 Receiving Tenders
- 8 Assessing Tenders
- 9 Awarding of a Contract or Engagement
- 10 Debriefing unsuccessful Tenderers
- 11 Performance Reporting
- 12 Further information

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/tendering_construction_works.pdf

Tendering process for consultancy services engagements

Applicable to:

Service provider selection – Consultancy services

Synopsis

The NSW Government Code of Practice for Procurement requires that equal opportunity be provided to all tenderers. Fairness, probity and transparency must be maintained to ensure the quality and consistency of the tendering process and achieve the best outcome.

This Procurement Practice Guide provides guidance on the tendering process for consultancy services engagements.

Content

- 1 Preliminary
- 2 Tenderer selection
- 3 Calling tenders
- 4 Receipt and opening of tenders
- 5 Tender evaluation

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/tendering_process_for_cs_engagements.pdf

Tendering process for project management services engagements

Applicable to:

Service provider selection – Project management services

Synopsis

The NSW Government Code of Practice for Procurement requires that equal opportunity be provided to all tenderers. Fairness, probity and transparency must be maintained to ensure the quality and consistency of the tendering process and achieve the best outcome.

This Procurement Practice Guide provides guidance on the tendering process for project management services engagements.

Content

- 1 Preliminary
- 2 Tenderer selection
- 3 Calling tenders
- 4 Receipt and opening of tenders
- 5 Tender evaluation

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/tendering_process_for_pms_engagements.pdf

Using the procurement system insurance online system

Applicable to:

Contract management

Synopsis

The Procurement System Insurance online system is maintained by the insurance broker to enable declaration of contracts to be covered by the Procurement System Contract Works and Public Liability Insurance Policy and to provide information and other administrative support for insurance matters.

This Procurement Practice Guide provides guidance on how to access and use the procurement system insurance online system including:

- insurance broker contact particulars;
- system outline and responsibilities;
- procedures for declaring contracts and requesting quotations; and
- procedures for accessing the online system.

Content

- 1 Introduction
- 2 Declaring Contracts and Requesting Quotations
- 3 Gaining and Controlling Access

URL

www.managingprocurement.commerce.nsw.gov.au/ppg/procurement_system_insurance_online_system.pdf

