

PROCUREMENT GUIDELINES FOR DEVELOPER DELIVERED INFRASTRUCTURE



VERSION: 1.0



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1 INTRODUCTION

1.1 Objective

The objective of these guidelines is to provide developers (the Developer) that have been approved for repayment of developer costs under Hunter Water's Funding and Delivery of Growth Infrastructure Standard (the Standard) with a principle based guide to follow when undertaking procurements that relate to the approved Developer Delivered Infrastructure (DDI).

Compliance with the directions set out in this Guide is considered a minimum requirement for repayment of costs in accordance with the Standard.

2 REVIEW OF PROCUREMENT APPROACH

2.1 Application process

As outlined in the Standard, eligibility for repayment of costs relating to category 2 DDI is subject to approval being granted by Hunter Water Corporation (Hunter Water). The approval process involves an assessment of the information relating to the procurement approach to be adopted, which will be submitted by the Developer with its application form.

The information required to be supplied by the Developer regarding the procurement approach includes:

- The scope of works
- Timing and location
- Detailed costs estimate
- Capacity, capability and qualifications of the Developer's personnel who will be undertaking the procurement activities
- An outline of the procurement strategy to be adopted by the Developer in sourcing any assets where repayment from Hunter Water is sought.

2.2 Application outcomes

On completion of the assessment of the Developer's procurement approach, Hunter Water will advise the Developer whether the Developer has passed, provisionally passed or failed the assessment. A provisional pass is awarded in cases where Hunter Water places conditions on approval, such as the use of Hunter Water templates at certain stages of the procurement cycle, or engagement of third party advisors who will assist the Developer with procurement process management.



2.3 Appeal process

To ensure fairness, and comply with probity principles Hunter Water may review its decisions. The Developer may elect to ask for a review of a decision made, or the imposition of a condition, by Hunter Water under these Guidelines by submitting the request in writing to:

Chairperson of the Procurement Committee

PO Box 5171 HRMC NSW 2310

Email: procurement@hunterwater.com.au

The request will state that a review is sought in accordance with these Guidelines, and include the following information:

- Details of the decision or condition which the Developer would like to be reviewed;
- The reason/s why the Developer considers that the decision is erroneous or the condition should not be imposed; and
- Any other information the Developer thinks is relevant to the review of the decision or imposition of the condition by the Procurement Committee.

The Developer will comply with any request for further information from the Chairperson of the Procurement Committee (or the Chairperson's nominated representative).

3 PROCUREMENT PRINCIPLES

3.1 Hunter Water Procurement Principles

Hunter Water's procurement obligations aim to ensure consistent procurement practices across the organisation, for all expenditure incurred in its operational spend. Its overarching purpose is to deliver excellence in procurement outcomes for Hunter Water's customers and stakeholders.

In achieving these objectives, Hunter Water is committed to:

- Engaging suppliers who are ethical, and maintain the highest standard of health and safety;
- Ensuring that competitive local business and industry is given a full, fair and reasonable opportunity to participate in the supply chain for DDI; and
- To only deal with suppliers who are appropriately qualified, deliver value for money and aim to promote sustainable practices.

3.2 Alignment with NSW Government Procurement Principles

As described in various NSW government procurement policy documents listed in **Attachment A**, the policies set out a framework to achieve value for money, whilst being fair, ethical and transparent; and engaging with multiple sectors of the NSW economy.

The following principles are considered essential features of any procurement activity:

- Obtaining value for money



- Promoting competition
- Preventing corruption, through principles of fairness and probity
- Support of policy objectives, by complying with policy guidance on aboriginal participation, sustainability, environmental management and quality assurance.

3.3 Developer Procurement Gateways

In accordance with these principles, Hunter Water expects a high standard of procurement practice from Developers. This is to ensure the expenditures related to DDI align with Hunter Water's standards, and are consistent with both the NSW government procurement framework and the NSW Code of Practice for Procurement.

As set out in section 4, throughout the Developer's procurement processes, Hunter Water will undertake due diligence activities to ensure the appropriate standards are maintained.

4 DEVELOPER PROCUREMENT PROCESS

All Developers that have been approved for repayment of Developer costs for DDI must undertake their procurement activity in accordance with the procurement practices and activities outlined in this Guideline. A summary of the relevant process steps is set out in the flow chart at **Attachment B**.

Where requested by a Developer, samples of tools and templates used by Hunter Water may be provided on request for further guidance on how to approach procurement, including those summarised in **Attachment C**.

It must be noted that except for the mandated use of the Developer Procurement Checklist described in section 4.4, and any conditions placed on the Developer following assessment of the application, the use of the Hunter Water procurement documents is entirely a matter for consideration by the Developer. In all cases, Hunter Water gives no warranty as to their fitness for the Developer's purposes.

4.1 Strategic Planning

In order to develop a sound approach to market, the following steps are recommended:

- Create a strategic plan for the procurement activity, setting out the scope, timing and nature of goods, services or works to be supplied.
- Tailor the plan to the complexity, risk and dollar value of the goods, works or services needed.
- Define the project governance, accountability and approach and ensure relevant stakeholders such as an evaluation panel will agree to a code of conduct.
- Consider what documents will be required, for example a written scope of works, contract terms, and an evaluation plan on which to base the assessment of offers. The evaluation plan should be developed prior to engaging the market, and specify the evaluation criteria and methodology for determining which supplier will deliver value for money in compliance with the abovementioned principles.
- Undertake an exercise to determine a cost/ price benchmarking estimate, on which to compare pricing from suppliers once quotes have been received.



- Research the supplier market, and if there is more than one supplier available, consider whether competition will help improve value for money.
- Consult with Hunter Water, to obtain 'in principle' approval to proceed in accordance with the plan or undertake further preparatory work.

4.2 Undertaking the Tender Process

Where possible, to enhance competition it is preferred that quotes are sought on a competitive basis, from more than one supplier. As outlined in the strategic plan, engaging the market will involve developing a scope and providing it to suppliers, together with information to guide them on how their offers will be assessed.

The evaluation plan and code of conduct must be agreed by the evaluation panel before the quotes are obtained, to ensure the relevant probity principles are complied with. Evaluation panel members must commit to the probity principles highlighted by the Independent Commission Against Corruption in undertaking their role, including:

- Acting with fairness to all tendering, and ensuring that wherever possible, tenderers are treated in the same way
- Being transparent about the process, and accountable for outcomes
- Upholding confidentiality
- Declaring and managing conflicts of interest
- Ensuring value for money is obtained

Once the scope of work is defined, and the tender document includes details of all qualitative and pricing details the tenderers are to submit, it can be released via a secure transmission to the selected tenderers unless an open market approach is adopted, with a clear time and date by which all responses must be received.

During the tender period, clarifications on scope may be provided to all tenderers if required, with a written record kept of any changes resulting from questions raised by tenderers and any subsequent exchange of information.

After the close of tenders and receipt of responses in a secure location, the evaluation panel will evaluate tenders that were received on time. Such evaluation will be in accordance with the predetermined evaluation methodology that will compare tender responses with the scope tender documents.

The chairperson of the evaluation panel will document the results of the responses received, the evaluation process and the rationale for recommending whether a contract is to be awarded in a tender evaluation report. Before awarding the contract, the Developer must consult with Hunter Water to obtain 'in principle' approval to proceed.

Provided Hunter Water approves the award of a contract, a written contract will be executed in accordance with relevant legal requirements. Hunter Water reserves the right to request the Developer to review any tendered outcome, to ensure compliance with the relevant standards outlined above. Should subsequent review fail to resolve any issues, Hunter Water may direct the Developer to undertake an additional sourcing activity, if the project is to remain eligible for repayment.



4.3 Managing the Contract

The final step in making sure value for money will be obtained is to ensure all deliverables are provided to an acceptable quality, within the specified time, for the agreed price. Aspects of contract management relevant to the developer's procurement will generally entail:

- Development of a robust contract management plan, summarising all contractor obligations and administrative processes that will apply throughout the term of the contract
- Supplier performance management and establishing measurable key performance indicators (KPIs)
- Project management
- Variation approval process (limited to variations directed by Hunter Water)
- Site inspections (by Hunter Water) in accordance with any instructions as advised by Hunter Water.

4.4 Contract Variations

Hunter Water acknowledges that despite a thorough approach to the scope and timing of contract deliverables, there may be occasions where variations to the scope of a contract are unavoidable and hence the DDIA Agreement includes provisions with respect to variations.

Should a Developer wish to vary a contract that has been approved for repayment, the Developer must consult with Hunter Water, to obtain 'in principle' approval to proceed before the variation is agreed.

Repayment of variations to the contract will only be approved by Hunter Water in exceptional circumstances and in all events, must be approved in writing.

4.5 Project Completion

On completion of the relevant stages of the work in the DDI, as described in the Funding and Delivery Standard and the DDI Agreement, Hunter Water will repay the agreed Developer costs, provided the Developer has sufficiently demonstrated compliance with this Guideline.

In order to demonstrate compliance, the Developer is to submit a Project Completion Report, detailing:

- Achievement of all contract requirements, and deliverables
- Outcomes of KPI monitoring of contract suppliers
- Relevant certification of completion pursuant to the DDIA Agreement
- Developer reimbursable costs relevant to the project
- Confirmation that the project was completed for the tendered rate, or otherwise
- Savings were achieved during construction, and the correlating reduction in the amount to be repaid.



5 COMPLIANCE MONITORING

Throughout the procurement process, Hunter Water requires the Developer to consult with the Hunter Water representative to ensure that all stages of the sourcing activity are undertaken in accordance with the relevant principles and procedures, and that adequate records are kept.

5.1 Hunter Water's Roles and Responsibilities

In overseeing the Developer's procurement, Hunter Water will:

- Keep the Developer informed of any changes to the Guidelines
- Provide clarification in relation to the Guidelines, where requested, noting Developer's must maintain an adequate level of procurement competency independent of Hunter Water's assistance
- Review the Developer's procurement related documents throughout the project, including Strategic Plan, tender evaluation outcomes, Contract Management Plan and Project Completion Report.

5.2 Developer Roles and Responsibilities

In undertaking the procurement, the Developer agrees to:

- Comply with these Guidelines
- Comply with the DDI Agreement
- Comply with all written directions issued to the Developer in relation to the Guidelines
- Nominate a single point of contact to act as the procurement liaison and provide all records for review by Hunter Water
- Ensure sufficient competent resources are engaged in the procurement process
- Ensure all persons engaged to manage the procurement process have the necessary qualifications, skills and experience which are appropriate for a procurement activity of the size and complexity of the DDI works.

5.3 Hunter Water Developer Procurement Checklist

The Developer is to use the Developer Procurement Checklist in order to ensure an 'at a glance' summary of the process and stage of each DDI is readily available for the review of Hunter Water. The form of the checklist is to be as provided by Hunter Water on approval of the Developer's application.

5.4 Issue Escalation and Resolution

Developers are to note that any issues in relation to the application of this Guide will be managed via the requirements set out in the DDI Agreement.



6 DOCUMENT CONTROL

TRIM reference: HW2017-1263/6.001

Table 1: Document governance

Document owner	Mandatory reviewers	Document approver
Group Manager Development Services	Group Manager Development Services, Team Leader Development Planning and Relations	Executive Manager Customer Strategy and Retail

Table 2: Document version history

Version	Name of author	Summary of changes	Approval date	Approved by	Periodic review
1.0	Chris Barker	Original release	19 Jan 2018	Executive Manager Customer Strategy and Retail	Review at end of first year, and then every 2 years



ATTACHMENT A: RELEVANT NSW GOVERNMENT POLICY

Overarching NSW government policy requirements

The following policy guidance is available at www.procurepoint.nsw.gov.au:

- Statement on Value for Money
- Statement on Promotion of Competition
- Corruption prevention, fairness and probity
- NSW Procurement Board Construction Directions

NSW Government Construction Policy Requirements:

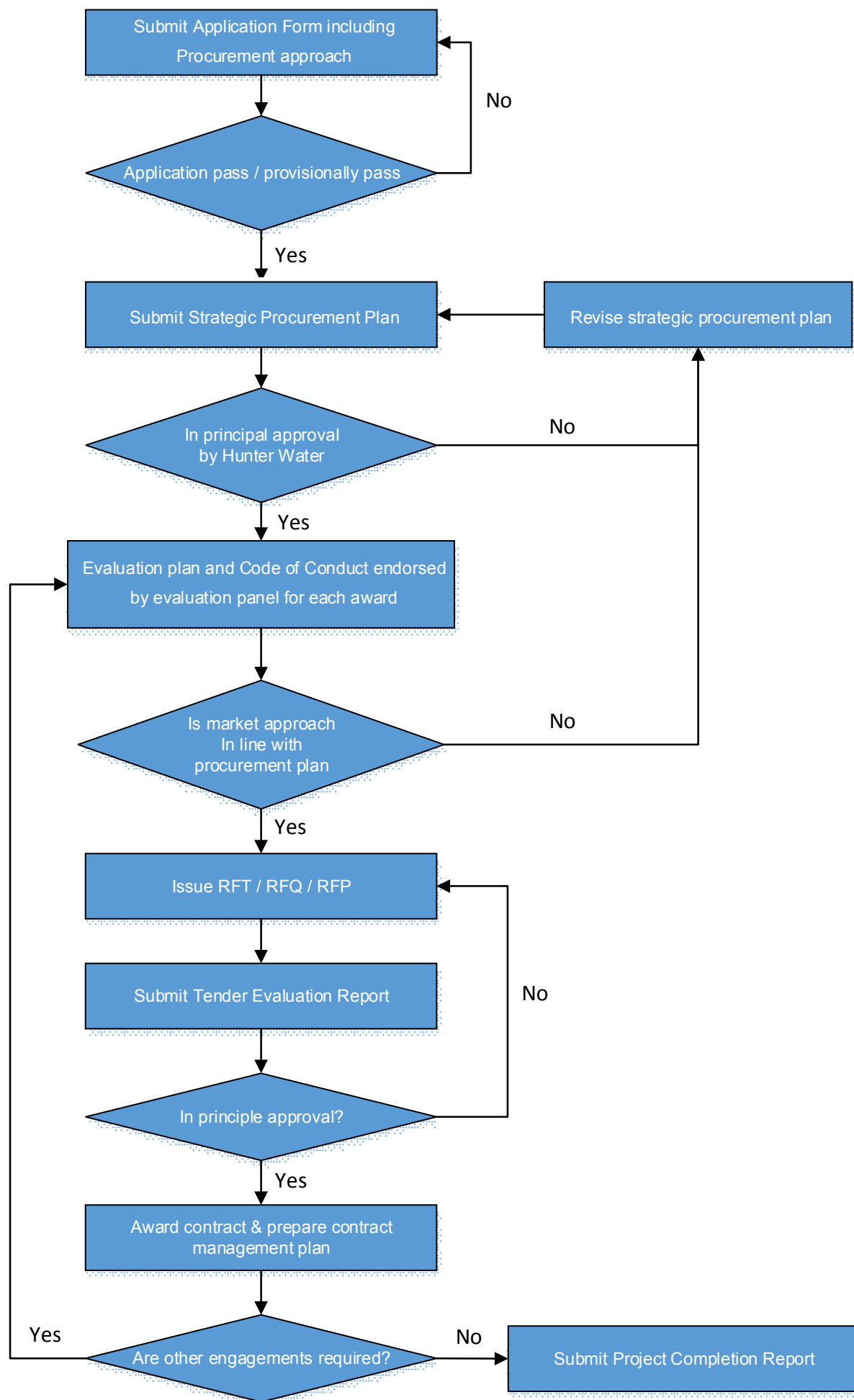
- NSW Government Code of Practice for Procurement
- Work Health and Safety Management Systems and Auditing Guidelines (Edition 5)
- Quality Management Systems Guidelines for Construction
- Environmental Management Systems Guidelines (Edition 3)
- Sustainable procurement <https://www.procurepoint.nsw.gov.au/policy-and-reform/nsw-government-procurement-information/sustainable-procurement>
- Training Management Guidelines
- Policy on Aboriginal Participation in Construction
- NSW Implementation Guidelines to the NSW Code of Practice for Procurement:
- Building and Construction (NSW Guidelines) www.industrialrelations.nsw.gov.au

ICAC Guidelines on Procurement

<http://www.icac.nsw.gov.au/preventing-corruption/knowning-your-risks/procurement/4305>



ATTACHMENT B: PROCESS FLOWCHART





ATTACHMENT C: HUNTER WATER PROCUREMENT TEMPLATES

Developers may also contact Hunter Water's nominated representative for further guidance on procurement process.

- 1 Procurement strategy (or a plan for simple procurement)
- 2 Code of Conduct: gifts, conflicts, confidentiality
- 3 Evaluation plan
- 4 Evaluation tool (e.g. excel based scoring/ weighting/ price model)
- 5 Evaluation report
- 6 Contract award checklist
- 7 Contract management plan