Competitive tendering guidelines

Contents

Introduction

Purpose

This guideline is intended to assist Government owned businesses, Local, Territory and State Government Agencies and Authorities, to prepare competitive tenders and estimate their Competitively Neutral Tender Price (Notional Price). In addition, the guideline will enable Agencies to assess tenders for Territory Government contracts against the criteria for a competitively neutral tender.

Northern Territory Government entities should note that prior approval from the Procurement Review Board is required to tender for Territory Government funded projects and requirements (ie goods, services or construction works).

Commonwealth government agencies when tendering for Territory Government funded projects are also to apply the relevant Commonwealth Competitive Neutrality guidelines.

Competitive Neutrality

Government organisations are required to apply competitive neutrality pricing principles to tenders in accordance with the Territory Government's Procurement Framework and the Competition Principles Agreement (CPA) which aims to apply consistent nationwide policy on the application of competition principles to government business.

These principles aim to create a "level playing field" by removing the advantages and disadvantages of public ownership so that no net competitive advantage is held by government businesses by virtue of their public sector ownership[1]

However, competitive neutrality policy does not require that all businesses compete on an equal footing: differences in size, assets, skills, experience and culture underpin each business' unique set of competitive advantages and disadvantages. Differences of this kind are characteristic of a competitive market economy and not a consequence of public as distinct from private ownership.

These guidelines should be read in conjunction with the "*Northern Territory Government Policy Statement on Competitive Neutrality*" which deals with the application of competitive neutrality to Northern Territory Government Business Divisions.

Preparing a Tender

Government organisations are required to provide two Tender Prices in response to a Request to Tender:

- The **Actual Tender Price** is the amount which, if successful, the organisation will be paid. This is to be calculated on a full cost basis, including both direct costs to provide the requirement and an appropriate allocation of the government organisation's total administrative and management costs.

[1] This is reinforced by Clause 3(1) of the CPA, which states that *"The objective of Competitive Neutrality policy is the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities: Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership.*

- The **Competitively Neutral Tender Price (Notional Price)**. This represents the Actual Tender Price adjusted to offset any net competitive advantage or disadvantage that the government organisation receives over comparable private sector organisations in providing the relevant services (to the extent that these have not been incorporated into the Actual Tender Price).

It is the *Competitively Neutral Tender Price* that will be used in the assessment and evaluation of respective tenders.

A summary of inclusions in the actual tender price and adjustments for the competitively neutral tender price is at Appendix A.

What is a Competitively Neutral Tender Price?

A competitively neutral tender price is one that seeks to remove any competitive advantages that arise through the ownership differences between public sector and private sector organisations. All government organisations should submit a competitively neutral tender price.

Organisations need to determine the Competitively Neutral Tender Price as follows:

- Calculate the full cost of providing the requirement, including both direct costs to provide the requirement and an appropriate allocation of the government organisation's total administrative and management costs.
- Adjust the full cost for expenses that an equivalent private sector organisation has to pay which the government organisation is not liable for or receives free of charge or at a reduced cost because of its public sector status. Further, adjust for other expenses or regulations which the government organisation is liable for but do not apply to an equivalent private sector organisation.

Cost adjustments, both positive and negative are made to ensure full cost-reflective pricing is applied to offset any net competitive advantage that a government organisation may enjoy as a result of its public-sector status. The adjustments are necessary to ensure that all tenderers are assessed on an equitable basis.

Competitively Neutral Tender Process

Actual Tender Price

In calculating the full cost of delivering the requirement, government organisations need to include all direct costs as well as other amounts such as salaries, on-costs, property and accommodation costs, depreciation of plant and equipment and allocations of administrative and executive costs. The key cost categories for most tenders are explained below.

Program Staffing Costs

The full cost of all staff directly responsible for delivering or supporting the provision of the requirement. The full cost is calculated to include:

- Salaries and wages (for full time, part time and casual staff).
- Fringe Benefits Tax – where this is paid by the government organisation in relation to the staff involved with delivery of the requirement.
- Leave Loading – for Territory agencies this is based on 17.5 per cent leave loading on 6 weeks annual leave.

- Superannuation – for Territory agencies this is based on a minimum of 9 per cent of wages.
- Workers compensation insurance – for Territory agencies 2 per cent of salaries should be used, unless the government organisation has a specific workers compensation insurance policy. Only include this amount here if the organisation is actually making payments for workers compensation insurance.
- Payroll tax – where the government organisation is making payments for payroll tax, the applicable rate will be a percentage of salaries and wages costs depending on the government organisation's total salaries and wages.

Where staff are not exclusively employed in relation to the requirement, their total costs should be allocated on the basis of the percentage of their time spent delivering or supporting the requirement.

Other Costs

Other costs which are directly attributable to the delivery of the requirement may typically include, but are not limited to:

- Leasing, rental or depreciation of premises;
- Leasing, rental or depreciation of equipment;
- Cost of borrowings;
- Other materials and consumables;
- Travel, accommodation and related costs;
- Applicable insurance costs including public liability, and property and assets; and
- Other requirement specific expenses.

Where the premises, equipment, materials or other costs are not exclusively employed in relation to this requirement, the relevant total costs should be allocated on the basis of the percentage of use pertaining to this requirement.

Allocations of Other Organisational Expenditures

The full cost of the requirement should also include an apportionment of the overall cost of providing management and administration, finance, and facilities management (i.e. cleaning, repairs and maintenance, security, and gardening etc.) services.

Competitively Neutral Tender Price

After the full cost of providing the requirements has been calculated, adjustments need to be made to account for other expenses that equivalent private sector organisations would normally incur. Adjustments are also required where the government organisation is liable for expenses or subject to regulations from which an equivalent private sector organisation would be exempt.

Examples of where public sector costs may be higher than those of a private organisation include: superannuation; leave loading and other salary entitlements; as well as the costs of any additional accountability or compliance requirements.

The following are examples of the adjustments required to account for expenses incurred by equivalent private sector organisations (if not already included in the actual price).

Payroll tax

If the government organisation is not currently paying payroll tax an adjustment should be made to increase the amount of the payroll tax to the rate that would be paid if the government organisation were a private business.

For further details and how to calculate the equivalent payroll tax, please refer to the *Employers guide to payroll tax in the Northern Territory* available on the Northern Territory Treasury website.

Services Free of Charge

There are instances where a government organisation may receive services free of charge from other government organisations, such as payroll, accounts payable, rent, property management and repairs and maintenance or has access to non-organisation owned facilities free of charge.

Guidance on the value of these services should be sought from the service provider and an adjustment to the actual tender price be made accordingly.

Insurance

Where a government organisation is not paying premiums for insurance (e.g. is covered by self-insurance), an adjustment should be made to reflect the equivalent cost of procuring appropriate commercial cover for the requirement, such as public liability, property and assets or workers compensation insurance.

Commercial rate of return on capital

A charge for a commercial rate of return on capital is to be included in the Competitively Neutral Tender Price as a means of ensuring comparability of prices with private sector organisations, who usually seek to make a profit on their activities or achieve a return from their investment.

The rate of commercial return required is often dependant on the level of market risk associated with the activity. As each industry has a different level of market risk it can be difficult to determine an appropriate risk premium for each business activity. The appropriate risk premium should be confirmed with Northern Territory Treasury Corporation, but would generally be in the range of 2 to 3% for low risk projects and 3 to 5% for higher risk projects.

The percentage commercial return is calculated by adding the risk premium to the risk free rate. The risk free rate can be determined as the current (nominal) rate of return on 10 year[2] Commonwealth bonds rate.

The percentage commercial return is then applied to the net assets of the government organisation **that are employed in the management, administration and provision of the requirement.** A net asset is the sum of all current and non-current assets owned by the government organisation less total liabilities owed. Assets and liabilities that relate to other activities of the government organisation (e.g. health services etc.) should not be included in this calculation.

Finance Costs on Debt

Finance costs on debt may not be included in the actual tender price where a government organisation receives significant grant funding and has not had to undertake borrowing for capital assets. In these

[2] Or another period which is appropriate for the term of the project

circumstances, an adjustment is required in the competitively neutral tender price for funding of capital assets associated with the supply of the requirement.

Superannuation

No adjustment to the amounts included in the Actual Tender Price is required.

Allowances

No adjustment to the amounts included in the Actual Tender Price is required.

Local Government Organisations – Competitively Neutral Tender Process

Local government organisations are to prepare tenders on a competitively neutral basis. As such, in preparing a competitively neutral tender, local government organisations are to include in the tender price all relevant taxes (including an adjustment for payroll tax), fees and charges, as well as, a commercial rate of return on capital.

Payroll tax adjustment

In accordance with the *Payroll Tax Act*, wages paid by local government organisations are generally exempt from payroll tax. Where an exemption applies, an adjustment to the tender price should be made to increase the price by the amount of the payroll tax that would be paid if the local government organisation were a private business.

For further details and how to calculate the equivalent payroll tax, please refer to the *Employers guide to payroll tax in the Northern Territory* available on the Northern Territory Treasury website.

Commercial rate of return on capital

A charge for a commercial rate of return on capital is to be included in the Competitively Neutral Tender Price as a means of ensuring comparability of prices with private sector organisations, who usually seek to make a profit on their activities or achieve a return from their investment.

Local Government organisations are required to determine the most appropriate rate of return to be applied taking into account the level of market risk associated with the activity.

Where a local government organisation is unable to determine an appropriate rate of return, it is to apply a default rate of 10 per cent return on capital.

The percentage commercial return is then applied to the net assets of the government organisation **that are employed in the management, administration and provision of the requirement.** A net asset is the sum of all current and non-current assets owned by the government organisation less total liabilities owed. Assets and liabilities that relate to other activities of the government organisation (e.g. health services etc.) should not be included in this calculation.

Appendix A – Summary Tender Inclusions and Adjustments

Actual Tender Price Inclusions	Adjustment required for Notional Tender Price (if not already included in Actual Tender Price)
Program Staffing Costs Salaries and wages Fringe benefits tax Leave loading Superannuation Workers compensation insurance Payroll tax	Payroll tax
Other Costs Leasing, rental or depreciation of premises Leasing, rental or depreciation of equipment Cost of borrowings Other materials and consumables Travel, accommodation and related costs Public liability insurance Other requirement specific expenses	Services Received Free of Charge Payroll Accounts payable Rent Property management Repairs and maintenance Access to facilities Insurance Public liability Property and assets Workers compensation Finance Costs on Debt
Organisation expenditure Management and administration Finance Facilities management	Commercial rate of return on capital