

## CHAPTER 4: TENDERING PROCEDURES — PROFESSIONAL SERVICES

This table sets out the various tender evaluation methods available to tendering authorities for professional services as described in this Part C of the Manual.

<b>PROFESSIONAL SERVICES – METHOD SELECTION MATRIX</b>			
<b>Tender Evaluation Method</b>	<b>Contract \$ Value</b>		
	<b>\$0-50,000</b>	<b>\$50,001 to \$100,000</b>	<b>\$100,000 +</b>
Negotiation	✓ (refer Section 4.3.1)	✗	✗
Lowest Price Conforming Tender Method	✓ (refer Sections 4.3.2 to 4.3.4 and 4.3.7)	✓ (refer Sections 4.3.2 to 4.3.4 and 4.3.7)	✗
Simplified Brook's Law	✓ (refer Sections 4.3.2 to 4.3.4 and 4.3.6)	✓ (refer Sections 4.3.2 to 4.3.4 and 4.3.6)	✗
Simplified Weighted Attribute Method	✓ (refer Sections 4.3.2 to 4.3.5)	✓ (refer Sections 4.3.2 to 4.3.5)	✗
Quality-Price Trade Off Method	✓ (refer Appendix J)	✓ (refer Appendix J)	✓ (refer Appendix J)
Brook's Law	✓ (refer Section 4.7)	✓ (refer Section 4.7)	✓ (refer Section 4.7)
Weighted Attribute Method	✓ (refer Section 4.8)	✓ (refer Section 4.8)	✓ (refer Section 4.8)
Target Price Method	✓ (refer Section 4.9)	✓ (refer Section 4.9)	✓ (refer Section 4.9)

**Key**      (✗) = not permitted      (✓) = permitted

**Note:** For projects with a dollar value of less than \$50,000 negotiation is considered the most appropriate method because administration costs will be less and hence a more reasonable proportion of total contract value. Similarly for projects with a dollar value between \$50,000 and \$100,000 the most appropriate method is likely to be one of the other expedited procedures.

## CHAPTER 4 TENDERING PROCEDURES — PROFESSIONAL SERVICES : MANDATORY

### 4.1 Tendering Authority Procedures

- 4.1.1 Tendering authorities may submit to Transfund New Zealand for approval alternative CPPs which vary or replace mandatory sections of Parts A and C of this Manual but which are in conformance with section 26(3) of the Act.
- 4.1.2 Each tendering authority shall develop and document appropriate administrative procedures relating to all aspects of the tender process, for these CPPs or any alternative CPPs approved under Section 4.1.1 of this Manual. These procedures shall be publicly available.
- 4.1.3 As part of its procedures, each tendering authority shall establish a system for adequate recording of information in respect of each contract, for Transfund New Zealand audit purposes. Information recorded shall include:
- (1) The Request for Tender
  - (2) The Record of Tenders Received
  - (3) The Tender Evaluation and Recommendations.
- 4.1.4 Each tendering authority shall maintain a Register of Consultants unless it advertises every Request for Tender in accordance with Section 4.2.1(2) of this Manual.
- 4.1.5 Where a tendering authority maintains a Register of Consultants it shall advertise, no less than annually in appropriate newspapers, invitations for consultants to register or revise their information on the Register. Consultants shall be permitted to submit a new entry to the Register, or update their existing entry, at any time. Consultants shall not be charged for such registration.

#### ***G4.1 Tendering Authority Procedures***

*It should be noted that Transfund New Zealand will consider for approval alternative CPPs or variations to the requirements contained in this Manual where these can be shown to be the best means of maximising the efficiency of the land transport system. One such example is the sole supplier CPP contained in Part D of this Manual.*

*In many cases tendering authorities will already have properly established and adequate administrative procedures for the tender process. In such cases, there is no requirement for tendering authorities to establish duplicate procedures. Each tendering authority should verify that its current administrative procedures fall within the procedures specified in this CPP and document its procedures so that they are available for Transfund New Zealand audit.*

*Transfund New Zealand audit would be facilitated if all information relating to the history of each contract was held on an individual contract file. It is recommended that the contract file begins with a Contract Information Sheet including the following information:*

- (1) *Summary description of contract.*
- (2) *Item number in approved National Roothing Programme.*
- (3) *Account code to be charged in the Land Transport Disbursement Account.*
- (4) *Timetable showing:*
  - (i) *Date and time by which any Statement of Interest and Ability must be received (where relevant).*
  - (ii) *Date that tendering authority will complete screening to short-list (where relevant).*
  - (iii) *Date that short-listed tenderers will be invited to submit full tender (where relevant).*
  - (iv) *Date and time by which full tenders must be received.*
  - (v) *Date by which final selection shall be made.*
- (5) *Price estimate and main features.*

*Where the consultant may have access to information contained in such a Contract File tendering authorities may wish to have two files; one containing all the record of tenders information and another containing the non-confidential information for the consultant's use.*

*The Record of Tenders should contain the following:*

- (1) *Names of tenderers*
- (2) *Tender prices*
- (3) *Number of tenders received*
- (4) *Name of evaluating officer/s.*

*Some thought may be needed to devise a system which will cater for tenders submitted by fax which also ensures confidentiality of the contents. This may be particularly important where the "two envelope" system is being used because of the importance of evaluating non-price attributes without knowledge of the price of each tender.*

*Tendering authorities should be prepared to add or delete consultants from the Register of Consultants at the consultants' request and should ensure that the Register is updated as frequently as necessary.*

*Information which should or should not be included in the Register is not specified. The Register is intended to be a record of available consultants and their claimed fields of expertise; it is not intended as a means of recording performance on past projects.*

*To facilitate checking of the Register by consultants it should be available for public perusal during normal office hours.*

*Tendering authorities may operate a combined Register of Consultants serving more than one tendering authority if they find this convenient.*

## **4.2 Invitation to Tender**

- 4.2.1 For each contract, advice of a request for tender shall be:
- (1) Sent to all Consultants on the tendering authority's register who have registered to undertake the class of work; and/or
  - (2) Advertised in appropriate print media. The extent of advertising shall bear a relationship to the size of the contract.
- 4.2.2 Every tendering authority shall make available on request a list of all parties who have uplifted documents. This requirement shall not apply on the tender closing day.
- 4.2.3 The requirements of Sections 4.2.1 and 4.2.2 do not apply in relation to any contract subject to the Expedited Tender Procedures (Section 4.3 of this Manual).

### **G4.2 Invitation to Tender**

*Where a tendering authority does maintain a register of consultants it may still advertise to invite tenders if it wishes.*

*Tendering authorities should ensure that, wherever practical, their choice of newspapers is consistent for projects of similar type and size, and that the choice of newspaper does not unreasonably advantage one potential tenderer over another.*

*In general, large contracts should be advertised in at least one local and at least one metropolitan (Auckland, Wellington, Christchurch, Dunedin) daily newspaper; smaller contracts need only be advertised in local newspapers. Consideration should also be given to advertising in the Tenders Gazette.*

*When providing the list of parties who have uplifted documents, tendering authorities should make it clear that the list is only complete up to the time it is requested. There is no obligation on the tendering authority to forward subsequent updates. If a tenderer comes from out of town and requests this information by phone or fax, it should be provided.*

## **4.3 Expedited Tender Procedures**

- 4.3.1 For contracts valued at \$50,000 or less, tendering authorities may adopt any procedure (including negotiation) that minimises administration cost and effort but still assures a satisfactory and competitive contract price. This provision does not apply to professional services contracts valued at more than \$50,000. When using the negotiation method, tendering authorities shall ensure that contract prices are competitive and must be able to demonstrate this in an auditable way.
- 4.3.2 For contracts valued at \$100,000 or less, tendering authorities may use a simplified CPP, which shall be in accordance with Sections 4.3.3 to 4.3.7. This procedure shall not be used for contracts valued at more than \$100,000.

4.3.3 Tendering authorities shall seek tenders by either:

- (1) Seeking at least three tenders from independent consultants listed on its register who are able to undertake the class of work concerned; or
- (2) Advertising in appropriate print media.

4.3.4 Tender evaluation shall be by a simplified method using the attributes specified in Section 4.5.1 of this Manual or a subset of those attributes, and one of the three procedures described in the following Sections 4.3.5 to 4.3.7. The basis of tender evaluation including, where appropriate, the weights to be assigned to each attribute, shall be described in the RFT. Where advertising is used to seek tenders, evaluation shall be based on all the attributes specified in Section 4.5.1 of this Manual.

4.3.5 ***Weighted Attribute Method***

- (1) The evaluation shall be conducted in two stages, as follows:
  - (i) The first stage shall consist of determining the tender acceptability and grading against each of the attributes. Each non-price attribute shall be graded on a points basis, from 0 (totally inadequate) to 100 (excellent). Any tender that scores 35 or less on any attribute shall be excluded from further consideration. The formula in Section 4.8.2(2) of this Manual shall be used to convert the price to a grade.
  - (ii) The second stage shall consist of multiplying the weight of each attribute as previously specified in the RFT by the grade of that same attribute and then dividing by 100 to give an index for each attribute. The indices for each tender shall then be summed to give an overall index for each tender.
- (2) The tendering authority shall only enter into a contract for the tender which scores the highest overall index. Each tender's overall index shall be rounded to the nearest whole number. Where more than one tender shares the top overall index, the contract shall be awarded to whichever of these has the lowest price. Negotiation is permitted provided it does not circumvent the intent of Section 4.12.1 of this Manual.

4.3.6 ***Simplified Brook's Law Method***

- (1) Tenderers shall be required to submit their proposal in two envelopes. Envelope 1 shall contain all tender information other than price. Envelope 2 shall contain the price information.
- (2) Tender evaluation shall be conducted in two stages as follows:

- (i) The first stage shall involve assessing tenders against the non-price attributes. A systematic method specified in the RFT shall be used to rank tenders from highest overall quality to lowest quality.
  - (ii) The second stage shall involve opening the second envelope of the highest ranked tender. Negotiation shall be conducted with the consultant who submitted this tender, to resolve and agree details of the contract including the methodology, the resources to be applied, and an acceptable price. When agreement has been reached, the second envelopes of all unsuccessful tenderers shall be returned unopened to those tenderers.
- (3) If agreement cannot be reached with the tenderer whose tender scored the highest overall index then that tender shall be rejected, and the tenderer advised in writing. The procedure described in Section 4.3.6(2)(ii) shall then be repeated with the next highest scoring tender.
- (4) Once a tender has been rejected, for any reason whatsoever, the tendering authority shall not subsequently accept that tender, either in its original form or in any negotiated form.

#### 4.3.7 ***Lowest Price Conforming Tender Method***

- (1) This method may be used but only for the following categories of project, and only for discrete projects having contract durations of one year or less:
- (i) Traffic surveys
  - (ii) RAMM surveys
  - (iii) Bridge inspections
  - (iv) Design of minor safety works
  - (v) Supervision of minor safety works
- (2) In addition this method shall only be used where tendering authorities are confident that all tenderers invited to submit proposals can provide the required quality and where additional quality is not important. When tenders are sought by advertising, tendering authorities shall meet the above requirement by ensuring that proposals which do not provide the required quality are excluded in (3), stage (ii) below.
- (3) This tender evaluation process shall be conducted in two stages as follows:
- (i) The first stage shall consist of ranking tenders in ascending order based on prices.
  - (ii) The second stage shall consist of determining the tender acceptability when assessed against each non-price attribute. Determination of acceptability shall commence with the lowest priced tender and shall cease when the first acceptable tender is determined.

- (4) The tendering authority shall only enter into a contract for the conforming tender with the lowest price. Negotiation is permitted provided it does not circumvent the intent of Section 4.12.1 of this Manual.

4.3.8 These Expedited Tender Procedures shall not be used to request tenders for a number of contracts which together form a single project or service with a total value greater than the respective limits of \$50,000 or \$100,000, or be used for professional services contracts which have been disaggregated to a significant degree.

4.3.9 In the case of permanent reinstatement following emergency repairs that have been deemed necessary under Sections 1.3(2) or 1.3(3) of this Manual, and to which Section 2.3.3 applies, tendering authorities may adopt any procedure that minimises administration cost and effort but still assures a satisfactory and competitive contract price.

#### **G4.3 Expedited Tender Procedures**

*The expedited procedures are intended for use in situations where the total administration costs associated with the full tender and evaluation process would exceed the project efficiency gains likely to result from use of the full process. Recent research has shown that on smaller projects, administration costs involved in the tendering process can be high compared to the value of the contract.*

*When using the negotiation method, tendering authorities are required to ensure that contract prices are competitive and be able to demonstrate this in an auditable way. Examples of ways of testing the competitiveness of contract prices are to benchmark against prices paid by other tendering authorities and to compare with recent work of a similar nature that has been tendered. To ensure auditability action taken to test prices must be recorded in writing and be accessible.*

*In order to be in conformance with these CPPs, tendering authorities should only use these expedited tendering procedures where it can be expected, on the basis of a soundly derived estimate, that the contract price will be \$100,000 or less, or in the case of the procedure permitted by Section 4.3.1 of this Manual, \$50,000 or less.*

*It is recommended that a two envelope system be used for the weighted attribute method to ensure that evaluators are not influenced by price in the evaluation of quality. A separate envelope for price is required for the Simplified Brook's Law Method but is not an absolute requirement for the weighted attribute method or lowest price conforming tender method.*

*Tendering authorities must be judicious in their use of the expedited procedures. Competition must be encouraged and new competent tenderers must be given the opportunity to tender for work.*

*The tendering authority may initially telephone consultants to invite tenders but the invitation to tender and tender information, including specification of work to be done, should also be delivered by suitable means in hard copy.*

*The expedited procedures allow a tendering authority to decide not to request information on all attributes. In the case of the Weighted Attribute and Simplified Brook's Law methods, tendering authorities need to think very carefully about doing this and be absolutely certain that there are no relevant discernible differences in quality between the selected consultants on the particular attributes in question. It is highly likely that tendering authorities will need to get information on personnel and methodology in all cases. Tendering authorities should exercise judgement, when evaluating tenders, to ensure that attribute grades reflect the tendering authority's requirements. The restrictions on the weights that can be assigned to attributes (Section 4.5.2 of this Manual) do not apply to the expedited tender procedures.*

*If advertising is used to seek tenders, information must be requested on all attributes. This is because a consultant for whom the tendering authority did not have sufficient information to carry out a proper evaluation could apply.*

*Because the Lowest Priced Conforming Tender method scores attributes on a pass/fail basis, this method should only be used for projects where the tendering authority is satisfied that the invited consultants can all achieve the required level of quality and where a higher level of quality will not be value for money to the tendering authority. Because the tendering authority must already be satisfied that invited consultants can achieve the required level of quality, further information on quality attributes should not be required.*

*It is particularly important in the case of design of minor safety works that tendering authorities only use the Lowest Priced Conforming Tender method if they are confident that quality differences do not matter. Such projects may appear minor in terms of capital cost, but the consequences of incorrect designs can be large. Road user costs could increase as a result of a sub-optimal design, or the full potential safety benefits might not be realised.*

*Caution should also be exercised when selecting consultants for RAMM rating surveys that all of the firms invited to tender will provide suitably qualified and experienced rating teams. If tenders are sought by advertising it will be necessary to undertake rigorous checks into the attributes of tenderers to ensure that only firms that are competent to perform the rating surveys are considered.*

*Tendering authorities are advised to be judicious in their use of these procedures; a number of related small contracts can quickly mount up to exceed the tender dollar limits specified for Expedited Tender Procedures.*

*Expedited versions of each of the procedures given in the later sections of this Manual are presented here except for the Target Price Method. It was not considered necessary to have an expedited procedure for the Target Price Method as it is already a simplified procedure.*

#### **4.4 Short-Listing Procedures**

4.4.1 Any tendering authority may adopt a two-part selection process in which case the procedure shall be as follows:

- (1) Invite consultants to submit a Statement of Interest and Ability pertaining to the particular project by advertising or by selecting from the register those consultants registered for the class of work.

- (2) Request that relevant information in the Statement of Interest and Ability be provided under the following attributes (headings):
  - (i) Relevant Experience
  - (ii) Track Record
  - (iii) Technical Skills
  - (iv) Management Skills
- (3) Each attribute shall be scored on a points basis from 0 (completely inadequate) to 100 (excellent). Scores for each Statement of Interest and Ability shall then be summed and only the highest scoring prospective consultants, generally not exceeding five in number, shall be requested to submit a full tender.

4.4.2 In requesting a Statement of Interest and Ability the tendering authority shall instruct all recipients that details and/or discussion of price or methodology should not be included.

#### **G4.4 Short-Listing Procedures**

*The purpose of using this procedure is to endeavour to ensure that no more than five consultants are put to the expense of preparing full tenders. The rationale for this is that tender preparation can be expensive, and the cost of preparing unsuccessful tenders will reflect in higher tender prices in subsequent tenders. Short-listing is particularly appropriate for large projects where it would be inefficient for a large number of tenderers to expend considerable cost on preparing tenders.*

*The tendering authority needs to determine whether this short-listing procedure will be used prior to inviting tenders.*

*The process is:*

- (1) *Advertise or invite from the register for consultants to submit a Statement of Interest and Ability based on a general specification of the nature of the services to be performed.*
- (2) *Evaluate all Statements of Interest and Ability and determine a short-list of five.*
- (3) *Send out RFTs only to those consultants on the short-list.*

*Where any Statement of Interest and Ability does include details and/or discussion concerning price and/or methodology, the tendering authority should ignore that information.*

#### **4.5 Tender Evaluation Specification**

4.5.1 The attributes to be considered by the tendering authority when evaluating competing tenders shall comprise the following, and shall be defined in the RFT:

- (1) Relevant Experience
- (2) Track Record
- (3) Technical Skills
- (4) Management Skills
- (5) Methodology
- (6) Price

4.5.2 Where the evaluation method requires that a weight be assigned to each attribute, the RFT shall specify the weight to be applied to each attribute. When assigning weights the tendering authority shall ensure that:

- (1) All attributes are assigned a weight;
- (2) All non-price attributes are assigned a minimum weight of 10;
- (3) The price attribute is assigned a maximum weight of 20 when Section 4.8 of this Manual is used;
- (4) The sum of all weights is 100.

#### ***G4.5 Tender Evaluation Specification***

*Whilst only these attributes may be considered, tendering authorities are able to interpret the terms flexibly. However each tendering authority should apply the same interpretation of each attribute when evaluating tenders for any single project, and also for different projects of similar size and type.*

*Interpretation of these attributes is further discussed in Appendix E of this Manual.*

*Where tenders are to be evaluated using the Weighted Attribute method, numerical weights or percentages are to be assigned to each and every attribute to reflect each attribute's importance; the more important the tendering authority considers the attribute, the larger the share of total weighting points (100) that should be assigned to that attribute. In assigning a weight to the price attribute, tendering authorities should note that the Act requires price to be a significant attribute to ensure the efficient application of funds. The weightings to be used need to be specified in the RFT and each tendering authority should develop a consistent approach so that, for projects of a similar type and size, the same attributes are given similar weights.*

#### **4.6 Tender Evaluation Process**

4.6.1 The tender evaluation shall be undertaken using one of the three methods described in Sections 4.7, 4.8, and 4.9 of this Manual.

4.6.2 Tenders shall only be evaluated as specified in the RFT.

4.6.3 If the tendering authority wishes to seek clarification of the tender for any reason, and/or modification such as removal of tags to ensure conformance with the RFT, it shall do so before or during tender evaluation, and prior to tender acceptance.

4.6.4 A tendering authority is permitted to carry out face to face interviews as a part of the tender evaluation process, if it deems this to be necessary, to obtain clarification of

the tender and for no other purpose. Such interviews shall be conducted before knowledge of price.

- 4.6.5 Minutes shall be taken at any interview and relevant minutes shall be incorporated in the contract documents. This documentation shall include the purpose of the interview.

#### **G4.6 Tender Evaluation Process**

*While interviews are permitted during tender evaluation, they should only be for the purpose of clarification of material contained in the tender. However, where possible, such clarification is best obtained by writing to the tenderer in question. There is no compulsion for any tendering authority to carry out interviews. Indeed, if such interviews become too common, it could encourage less precision in tender preparation.*

*If a tendering authority decides to undertake interviews, it should be conscious of the need for all tenderers to be treated fairly and for this to be perceived to be so.*

*Interviews may be particularly useful when the tendering authority does not know the individual personnel well and the contract in question requires significant contact with the public. Tendering authorities are not easily able to assess whether a tenderer has the necessary public relations and interpersonal skills for such contracts from a written proposal.*

*For all interviews, the tendering authority should have an explicit reason for undertaking interviews and this should be communicated prior to or early in the interview. Consideration should be given to using a common list of questions for all interviews.*

*Tendering authorities should be aware of the administrative cost to all parties associated with interviewing and should advise in the RFT if interviews are to be part of the evaluation process. Such advice would not compel tendering authorities to interview any or all tenderers. Tendering authorities should not interview tenderers who, based on knowledge of their score for non-price attributes, clearly will not achieve the highest overall grade when the price score has been added. Particular care should be taken not to penalise tenderers who are not interviewed.*

*As specified, it is highly desirable that all tender clarification by interview or other discussion takes place prior to selection of the successful tenderer. However, it is recognised that further clarification and re-direction of the work will be appropriate during the work itself.*

#### **4.7 Tender Evaluation — Brook's Law Method**

4.7.1 Tenderers shall be required to submit tenders in two separate parts, as follows:

- (1) Envelope 1 shall contain all tender information other than price.
- (2) Envelope 2 shall contain the tender price information.

4.7.2 This tender evaluation shall be conducted in three stages, as follows:

- (1) The first stage shall involve opening only envelope 1 and assessing tenders against the five non-price attributes and no others. Each attribute shall be scored on a points basis, from 0 (completely inadequate) to 100 (excellent). Any tender that scores a 35 or less on any attribute shall be excluded from further consideration.
  - (2) The second stage shall consist of multiplying the weight of each attribute as previously specified in the RFT by the grade of that same attribute and then dividing by 100 to give an index for each attribute. The indices for each tender shall then be summed to give an overall index for each tender.
  - (3) The third stage shall involve opening the second envelope of the tender which scored the highest overall index only. Negotiation shall be conducted with the consultant who submitted this tender, to resolve and agree details of the contract including the methodology, the resources to be applied, and an acceptable price. When agreement has been reached, the second envelopes of all unsuccessful tenderers shall be returned unopened to those tenderers.
- 4.7.3 If agreement cannot be reached with the tenderer whose tender scored the highest overall index then that tender shall be rejected, and the tenderer advised in writing. The procedure described in Section 4.7.2(3) above shall then be repeated with the next highest scoring tender.
- 4.7.4 Once a tender has been rejected, for any reason whatsoever, the tendering authority shall not subsequently accept that tender, either in its original form or in any negotiated form.

<b>G4.7 Tender Evaluation — Brook's Law Method</b>
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*The first stage requires, for each tender, the tendering authority assigning a grade to each attribute to reflect the quality of the tender in respect to each attribute. Tendering authorities should exercise judgement, when evaluating tenders, to ensure that attribute grades reflect the tendering authority's requirements.*

*In the second stage, the grade and previously assigned weight for each attribute are multiplied together and then divided by 100. The indices are then summed to given an overall index out of 100.*

*The third and final stage involves opening the price envelope of the tender which scored the highest overall index and negotiating with that tenderer to reach an acceptable price. If negotiation is not successful, negotiation commences with the second ranked tenderer.*

*The reason for tendering authorities not being able to revisit a tender once it has been rejected is to prevent a tendering authority being able to go back and re-enter negotiations having knowledge of another tenderer's price. This could be unfair.*

*Negotiation plays a major role in this form of tender evaluation. Therefore, it is important that tendering authorities using this method are aware of the requirements of the job in*

*question and have the knowledge of what a reasonable price would be so that they can negotiate on a sound footing. If, during negotiations, some major changes in a quality feature such as methodology or personnel is considered necessary, for example to meet a budgetary constraint, consideration should be given to terminating the negotiations and proceeding to the next highest scoring tenderer, particularly if the features being varied were significant in the attribute evaluation.*

*This method of tender evaluation is likely to be particularly suitable for contracts having outputs that are difficult to specify precisely (such as some transportation planning contracts).*

#### **4.8 Tender Evaluation — Weighted Attribute Method**

4.8.1 Tenderers shall be required to submit tenders in two separate parts, as follows:

- (1) Envelope 1 shall contain all tender information other than price.
- (2) Envelope 2 shall contain the tender price information.

4.8.2 This tender evaluation shall be conducted in three stages, as follows:

- (1) The first stage shall involve opening only envelope 1 and assessing tenders against the five non-price attributes. Each attribute shall be scored on a points basis, from 0 (completely inadequate) to 100 (excellent). Any tender that scores 35 or less on any attribute shall be excluded from further consideration.
- (2) The second stage shall consist of opening the second envelope and converting the tender price to a grade using the following formula. Any provisional sums in tender prices shall be removed before calculating price grades.

$$\text{Grade} = 50 - 100 \times \left( \frac{\text{Tender Price}}{\text{Estimate}} \right)$$

*Price grade may be negative but shall not be greater than 100.*

- (3) The third stage shall consist of multiplying the weight of each attribute as previously specified in the RFT by the grade of that same attribute and then dividing by 100 to give an index for each attribute. The indices for each tender shall then be summed to give an overall index for each tender.

4.8.3 The tendering authority shall only enter into a contract for the tender which scores the highest overall index. Each tender's overall index shall be rounded to the nearest whole number. Where more than one tender shares the top overall index, the contract shall be awarded to whichever of these has the lowest price. Negotiation is permitted provided it does not circumvent the intent of Section 4.12.1 of this Manual.

#### **G4.8 Tender Evaluation — Weighted Attribute Method**

*In the case of professional service projects which will then lead on to physical works projects, tendering authorities should consider the cost implications to the project as a whole when evaluating tenders for professional services.*

*The first stage requires, for each tender, the tendering authority assigning a grade to each attribute to reflect the quality of the tender in respect to each attribute. The fail threshold of 35 was decided upon by an industry working group. It recognises that a tender may be inadequate even though it has some merit. If a tender contains some alternative proposed methodologies each should be given a separate grade in case a separate price has been proposed for each. Alternatively the RFT should require that any alternative methodologies and their prices be submitted in separate envelopes.*

*In the second stage, the CPP specifies a formula to be used when assigning a grade to the tendered price. The formula uses an estimate of the cost of the work. The estimate is determined by the tender evaluation team prior to the close of tenders. It is recommended that the estimate be put in a sealed envelope, clearly marked as estimate, and placed in the tender box prior to the close of tenders.*

*The price formula means that:*

- (1) A tender price equal to the estimate receives a grade of 50;*
- (2) A tender price which is higher than the estimate receives a grade of less than 50, while a tender price below the estimate receives a grade of more than 50;*
- (3) Tender prices which significantly exceed the estimate will receive a negative grade. This is considered appropriate and the grade is carried through to the calculation of the overall index;*
- (4) A cap of 100 helps prevent tenderers being able to receive an extremely high grade by tendering an unrealistically low price.*

*In the third stage, the grade and previously assigned weight for each attribute are multiplied together and then divided by 100. The indices are then summed to give an overall index out of 100. The tender with the highest overall index is then the preferred tender.*

*A worked example of this process is included in Appendix C of this Manual.*

#### **4.9 Tender Evaluation – Target Price Method**

- 4.9.1 The Target Price Method shall only be used for: strategy studies; feasibility studies; transportation studies; and investigations.
- 4.9.2 The tendering authority shall specify in the RFT the price to be paid for the contract.
- 4.9.3 Any tenders received for any price other than the specified price shall be excluded from further consideration.
- 4.9.4 This tender evaluation shall be conducted in three stages, as follows:

- (1) The first stage is to confirm that the price conforms to the target price.
- (2) The second stage shall involve assessing the tenders against the five non-price attributes and no others. Each attribute shall be scored on a points basis, from 0 (completely inadequate) to 100 (excellent). Any tender that scores 35 or less on any attribute shall be excluded from further consideration.
- (3) The third stage shall consist of multiplying the weight of each attribute as previously specified in the RFT by the grade of that same attribute and then dividing by 100 to give an index for each attribute. The indices for each tender shall then be summed to give an overall index for each tender.

4.9.5 The tendering authority shall only enter into a contract for the tender which scores the highest overall index. Each tender's overall index shall be rounded to the nearest whole number. Negotiation is permitted provided it does not change the price or circumvent the intent of Section 4.12.1 of this Manual.

#### ***G4.9 Tender Evaluation — Target Price Method***

*Target Price is an alternative evaluation method for professional services contracts. Target Price Method is most useful for contracts where the outputs are difficult to specify or quantify. The types of contracts suited to the Target Price Method are: strategy studies; feasibility studies; transportation studies; and investigations. The Target Price Method has not been recommended as an alternative method for physical works because for those contracts the outputs can be specified reasonably precisely and the tendering authority should be able to estimate the approximate price to expect. However, for the above types of professional services there is often less information on which to base the possible range of expected prices.*

*Tenders only need to be submitted in one envelope as price is specified in the RFT.*

*If two or more tenderers score the same overall index, the tendering authority should consider the relative amounts of output proposed in the methodology as means for selecting the preferred tenderer.*

#### **4.10 Tender Negotiation**

4.10.1 Where only one conforming tender is received, the tendering authority may negotiate with the tenderer but shall not accept a negotiated price that exceeds the tender price.

#### ***G4.10 Tender Negotiation***

*For various reasons tendering authorities may on occasion wish to reject all tenders with respect to any RFT. In such situations legal advice should be sought as case law is very fluid*

*in this area. Some recent court cases are finding that a de-facto contract is established as soon as a tendering authority has invited tenders and suppliers have submitted tenders in response to this. Tenderers can successfully sue tendering authorities which break this contract by declining all tenders. Tendering authorities that wish to reject all tenders should seek legal advice that considers the specifics of their situation and the latest legal precedents.*

#### **4.11 Notification Procedures**

- 4.11.1 All tenderers shall be provided with a summary of the tender evaluation and recommendation, but notification shall not extend to cover disclosure of the details of the tenders or the details of how the evaluation was arrived at.

#### ***G4.11 Notification Procedures***

*All parties should be notified of the tender result within seven working days of the tendering authority's decision. To avoid criticism tendering authorities should ensure consistency in notifying unsuccessful tenderers.*

*Under the Official Information Act, tenderers are entitled to receive certain information. It is considered that the following should be provided:*

- (1) Name of the successful tenderer*
- (2) Price of the successful tender*
- (3) Number of tenders received*
- (4) Price range for conforming tenders*
- (5) Range of scores for each non-price attribute*
- (6) For each tenderer, their individual attribute scores*
- (7) Reason for accepting other than the lowest priced conforming bid if this occurred.*

*An important reason for supplying the above information is to help promote future competition. For example, if a tenderer notes that their score for a particular attribute is at the low end of the range of scores for that attribute they can take steps to improve it in future tenders. They might do this by recruiting personnel with more relevant skills or joint-venturing with another organisation that has complementary attributes.*

*Tendering authorities should also be prepared, on request, to confirm that a particular tenderers' tender has arrived if the tenderer in question is not locally based and therefore cannot hand deliver their tender.*

#### **4.12 Conformity with RFT**

- 4.12.1 No contract which is subject to this CPP shall be entered into where the end result or quantum is outside the scope of the RFT.
- 4.12.2 Differences in the duration of period contracts are deemed to be outside the scope of the RFT. Extensions to period contracts after entering into such contracts are not permitted, except where Section 5.4.2 applies or in the circumstances defined by Section 4.12.3 below.
- 4.12.3 In cases where tendering authorities have encountered unexpected difficulties in completing the process of re-tendering prior to expiry of the existing contracts, period contracts may be extended on the same terms by the tendering authority for a maximum of 3 months.
- 4.12.4 Where the tendering authority is considering such an extension, the difficulties encountered and the justifications for the extension shall be fully documented and signed by the authorised representative of the tendering authority for that contract. Where the extension is granted, this documentation shall be retained on the contract file for audit purposes.

#### **G4.12 Conformity with RFT**

*Once a tenderer has submitted a tender, the tendering authority cannot then enter into a contract on different terms and conditions from those specified in the RFT, unless the tender process is repeated with a revised RFT. When seeking clarification of any issues before or during the evaluation process, tendering authorities will need to ensure that any clarification does not alter the requirements of the RFT.*

*An example of the situation that this Section 4.12 of the Manual seeks to prevent is a tendering authority issuing an RFT for a contract to design a small bridge on a rural road, and then signing up a contract, with the successful tenderer, for the design of six small bridges because they offered a good price. This is not considered efficient because any of the other tenderers may have greater economies of scale and been able to submit an even better price for a six bridge contract if given the opportunity to tender for it.*

*This section does not prevent tenderers from proposing innovative methods for achieving the end result specified within the RFT.*

#### **4.13 Use of Particular Inputs**

- 4.13.1 A contract input shall only be made available by the tendering authority under the following conditions:
- (1) The availability of the contract input is notified in the RFT;
  - (2) The contract input is available to all tenderers;
  - (3) The terms (including terms as to price) on which the contract input is available are specified in the RFT;

(4) The terms (including terms as to price) on which the contract input is actually made available are those specified in the RFT; and

(5) There is no compulsion on any tenderer to use that contract input.

4.13.2 Notwithstanding Section 4.13.1, the tendering authority may make a contract input available to a particular tenderer provided that the contract input is made available on terms which are usual for a contract of that type and at a price which is fair in the prevailing market. In this case the contract input need not be mentioned in the RFT.

4.13.3 Notwithstanding Section 4.13.2, where the successful tender did not contemplate or allow for the provision of a contract input by the tendering authority, this may still occur during the course of the contract, provided that the contract input is made available on the terms described in Section 4.13.2.

<b>G4.13 Use of Particular Inputs</b>
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*It is generally not efficient for the consultant to be required to use certain inputs and is inconsistent with the emphasis on end result specifications. Most efficient results will be obtained if the consultant is permitted to choose whether or not to use tendering authority provided inputs.*

*Transfund New Zealand audit in respect of these provisions would be facilitated if the tendering authority were able to produce from its records, the following information relating to resources provided for the contract by the tendering authority:*

- (1) Details of all tendering authority resources used by a consultant in relation to a particular contract.*
- (2) Details of the terms under which such resources were made available (in particular the price).*
- (3) Copies of relevant contracts between the tendering authority and the consultant.*

*Where a tendering authority is contemplating making a contract input available to a private sector consultant, it should be aware of, and seek appropriate expert advice on, the provisions of the Local Government Act with respect to the inadvertent constitution of a LATE.*