



MELCOE

Tender and Selection Policy

Draft



Document Approval

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Table of Contents

MELCOE	1
Tender and Selection Policy	1
Background	5
Probity.....	5
Purpose.....	5
Principles.....	5
Competitive Neutrality.....	6
Conflicts of Interest.....	6
Tenderers/EOIs	6
Staff.....	7
Tender Evaluation Committee Members	7
Request for Tender.....	7
Training.....	7
Notice of Tender	7
Request for Tender Amendment	8
Communications with Tenderers and Other	8
Persons	8
Confidential Information	8
Security and Distribution of Tender Documentation.....	9
Tender Evaluation.....	9
Tender Evaluation Principles and Rules	9
Evaluation Criteria	10
Procedures for Evaluating the Tenders	10
Methodology Used in Evaluating Tenders	10
Tender Evaluation Report.....	10
Announcing the Tender Decision	10
Debriefing the Unsuccessful Tenderers	11
Any Complaints about the Tender Process	11

Background

MELCOE must operate on the basis of fair and open tendering. A competitive process will apply to the procurement of products and services for the conduct of research projects.

This policy document provides an overview of principles and procedures for MELCOEs Tender/EOI process. These principles and procedures are designed to ensure the production of high-quality outcomes within agreed timeframes and budgets. MELCOE is responsible for project management and for conducting the tender process.

Probity

MELCOE's procedures for tender/EOI development, release, evaluation and reporting are designed to ensure a clear and transparent tender process that is fair and equitable, maintains the confidence of the public and tenderers, and sustains scrutiny by auditors and judicial review if necessary.

MELCOE requires educational jurisdictions who submit a tender/eoi to comply with this set of protocols designed to ensure high levels of probity are adhered to because of the possible involvement of personnel from such Jurisdictions in MELCOE, this equally applies to commercial entities

Purpose

The purpose of the tender procedures is to:

- ensure conformity to processes designed to achieve fairness, full disclosure of potential
- conflicts of interest, and value for money;
- ensure accountability;
- encourage commercial competition by ensuring that all responses are assessed against
- the same criteria;
- preserve public and tenderers' confidence in the tender process; and
- provide defensibility of decisions in the event of any legal challenge.

Principles

MELCOE uses the following basic rules and guidelines when conducting Tenders or EOI, for the purpose of this document these terms are interchangeable.

- All tenderers have access to exactly the same volume and quality of information
- concerning the tender. MELCOE responds to queries from tenderers via
- a regularly updated Tender Question and Answer page on its website at:
- <http://www.melcoe.mq.edu.au>.
- All tenders will be treated in exactly the same way.
- The Tender Evaluation Committee respects the confidentiality of tendered information.
- The Tender Evaluation Committee ensures that the Tender Evaluation Plan is consistent
- with information contained in the Request for Tender.
- The Tender Evaluation Committee conducts evaluations strictly in accordance with the

- Tender Evaluation Plan, and selects preferred tenderers on the basis of the evaluation
- criteria contained in the Request for Tender.
- The evaluation is based on the information contained in the tenderers' responses, and in
- referees' reports in cases where referees are asked for in the Request for Tender.
- All members of the Tender Evaluation Committee understand what it means to have a conflict of interest and that they must declare any such conflict of interest.
- The Tender Evaluation Committee is structured so that no one person is able to unduly influence the outcome.
- The evaluation of the technical and pedagogical merit of tenderers' responses is initially undertaken in isolation from evaluation of the tenderers' prices.
- All correspondence and documentation relating to an evaluation is stored, and all
- decisions taken during and in relation to a tender evaluation process are accurately documented so as to provide a clear audit trail of the process.

Competitive Neutrality

If a tenderer or a member of a consortium is a government business, the tenderer must give an undertaking that they comply with the requirements of competitive neutrality. This involves stating that the government business in question competes equally with private businesses by being exposed to the same types of costs and commercial disciplines faced by the private sector, including payment of taxes and charges, compliance with regulatory requirements, rates of return and cost of funds.

Conflicts of Interest

A conflict of interest arises where a participant in the tender process has an interest or an affiliation that may be seen to prejudice his or her impartiality. Conflicts of interest are commonplace and, provided that they are identified early and dealt with effectively, they need not involve wrongdoing.

To identify conflicts or potential conflicts of interest, all those involved in the tender process are required to make a full declaration of any conflict of interest in accordance with the Potential Conflict of Interest Monitoring Plan.

MELCOE's responses to a conflict of interest or potential conflict of interest may vary. At one extreme, it may be decided that the person with the conflict of interest cannot be involved in the tender process. At the other end of the scale, it may be sufficient to document and declare the conflict. The final decision regarding any conflict of interest will be taken by the Conflict of Interest Review Panel. This panel is a permanent panel of MELCOE and its terms of reference are captured within the Potential Conflict of Interest Monitoring Plan. If a conflict of interest is identified but classified as non-material, this will be recorded by the Chair of the Tender Evaluation Committee, along with details of any management action required to avoid the development of any later perception that the conflict was material and influenced any relevant decision.

Tenderers/EOIs

Tenderers must state in their tender any circumstances, arrangements, understandings or relationships which constitute, or may reasonably be considered to constitute, an actual or potential conflict of interest with the tenderers' obligations under the Request for Tender. Tenderers and their respective officers, employees, agents and advisors must not place themselves in a position which may, or does, give rise to a conflict of interest or a potential conflict of interest with the interests of the associated companies.

Staff

Staff will not seek or accept any favours or gifts for services from anyone where such favours or services could be construed as an attempt to induce favoured treatment.

Tender Evaluation Committee Members

All members of any Tender Evaluation Committee must make a full declaration of any conflict or potential conflict of interest and complete and agree to a conflict of interest monitoring plan.

Request for Tender

A Request for Tender (RFT) or EOI document is developed for each tendered project. It is based on a Project Scoping Brief that defines the content scope, functionality, standards and technical requirements for that project.

The Request for Tender document comprises five parts:

- **Part A: Conditions of Tender** defines the conditions for responding to MELCOE's Request for Tender.
- **Part B: Evaluation Process and Criteria** defines the criteria for MELCOE's evaluation and selection of tenderers.
- **Part C: Requirements** defines the requirements for development including specifications, guidelines and processes.
- **Part D: Tenderers' Response** provides templates for tender responses.
- **Part E: Agreement** defines general contractual requirements for successful tenderers.

Training

Training and guidelines on probity principles will be provided to staff and personnel involved in the Tender Evaluation Committees. Training will cover handling conflict of interest when dealing with or engaging the services of companies and individuals, observing confidentiality and security requirements, limiting access to information, keeping detailed documentation on meetings, and excluding personnel from meetings when necessary. This training will occur early in the tender evaluation process, well before the closing date of the tender.

Notice of Tender

The Request for Tender will be advertised on MELCOE's website. On public notice of the tender, a Tender Evaluation Committee will be established. Each Tender Evaluation Committee will be multidisciplinary and include members that have subject matter expertise

For each project, membership of the Tender Evaluation Committee will usually consist of:

- The Chair
- Research Director
- Project Manager (as required)
- Interoperability Analyst and/or Technical Manager (as required)
- Two subject matter experts
- Administrative support.

The financial, compliance and quality assurance aspects of the tender will be handled by specialist Tender Evaluation Committee members and, where appropriate, by expert independent advice.

Request for Tender Amendment

The original Request for Tender may be amended at any time at the discretion of MELCOE. However, any changes to the Request for Tender will be communicated to all tenderers. Tenderers will be allowed the opportunity and adequate time to respond to such amendments.

Communications with Tenderers and Other Persons

MELCOE will maintain a high degree of probity, reinforce the integrity of the evaluation process, and ensure equity in tenderers' access to information, through the following measures:

- No tendered material or evaluation data will be communicated to persons outside the Tender Evaluation Committee.
- All external inquiries pertaining to the evaluation proceedings must be directed to the Chair of the Tender Evaluation Committee for that project.
- Prior to the closing date of tenders, tenderers can clarify issues solely through posting questions through the appropriate section of MELCOE's website, where answers will also be posted. All questions and answers will be accessible to all tenderers. Protocols for managing the written question and answer process will be adhered to at all times.
- After the closing date of tenders, communication between MELCOE and tenderers will be conducted through meetings to clarify issues and through negotiations.

Confidential Information

Information that is particularly sensitive, the release of which might have a seriously adverse effect on the activities of MELCOE and/or their relations with constituent members or other agencies, will be classified as 'confidential' for limited internal use of MELCOE. The *Confidential* classification will be restricted to information that involves at least one of the following:

- Information not already in the public arena, that has been obtained by MELCOE from another party with the expectation, expressed or implied, that it will be kept in confidence; and
- proprietary information owned by others but held by MELCOE in the expectation, expressed or implied, that it will be kept in confidence.

The *Confidential* classification will apply to print, electronic, photographic and graphic material.

The classification of information as *Confidential* will be the responsibility of the Chief Operating Officer of MELCOE, in consultation with the Director.

Information classified as *Confidential* will be made available only to staff with a demonstrated need to know, as determined by the Chief Operating Officer of MELCOE, in consultation with the Director. The *Confidential* classification will remain for such period of time as determined by the Chief Operating Officer.

The conduct of the tender process gives staff access to information classified as confidential.

Any use of such information outside MELCOE will constitute breach of confidence.

Security and Distribution of Tender Documentation

All information concerning the tenders and their evaluation will be appropriately secured and protected in a dedicated evaluation centre.

Precautions include:

- storage of back-up copies of all tender responses in a secondary location;
- arrangements for daily back-up and weekly off take of all new data brought into existence on the secure LAN; and

All tender response documentation and evaluations will be treated as *Commercial in Confidence*.

The original of all response documents will be retained and secured by the Chair of each Tender Evaluation Committee. Copies of responses will be issued to members of the Tender Evaluation Committee as required.

No copying of any part of the responses will be permitted without the written authorisation of the Chair. On completion of the evaluation, all copies or parts of the responses and evaluation materials, will be delivered to the Chair for retention or disposal in accordance with record management requirements.

The Project Manager on the project will be responsible for ensuring that this protocol is adhered to. Any changes can be agreed by the Project Board and documented in the minutes.

Tender Evaluation

The Tender Evaluation Plan and timeline will define tasks and responsibilities for undertaking the tender evaluation process within the agreed timeframe. The following information will be contained in this document:

- a timetable for the evaluation process;
- probity protocols to be observed by persons involved in the evaluation and selection process;
- a list of personnel assigned to the various evaluation teams and committees (including a description of key roles);
- the administrative procedures of the evaluation process;
- the process for conducting the evaluation;
- a full list of evaluation criteria and evaluation templates;
- guidelines for scoring and weighting tenderers' responses;
- guidelines for preparing the evaluation report; and
- processes for announcing MELCOE's decision and debriefing the unsuccessful tenderers.

The Tender Evaluation Plan provides an established process to ensure that selection of the tenderer results in innovation, quality, appropriateness, stimulation of the market for researchers, value for money and a process that can withstand public scrutiny.

The Tender Evaluation Plan, as described in the Request for Tender, will not deviate from the advertised tender process.

While scoring and weighting of tenderers' responses provides a useful guide to ranking of tenderers, it is acknowledged that additional qualitative judgment are often required that may override the outcomes of a simple scoring system. Where these judgments do override any implied ranking by scores, the reasons for these judgments will be documented as part of the ranking process.

Tender Evaluation Principles and Rules

Evaluation Criteria

All tender responses will be evaluated against the same evaluation and key selection criteria as described in the Request for Tender. These criteria fall under the general headings of:

- Proposed Approach;
- Technical/research capacity;
- Project Management and Quality Assurance;
- Compliance and Conformance; and
- Financial Capability and Proposed Pricing
- Track Record of the Organisation in delivering similar projects

Procedures for Evaluating the Tenders

The success of the tender evaluation depends on the protection of the evaluation process from improper influence by internal and external sources, and fair dealing during the evaluation process. The information dealt with during the evaluation process will be commercially sensitive and will be handled and protected accordingly. MELCOE's Tender and Selection Policy outlines the Guidelines and Procedures to be implemented for all tender evaluation processes.

Methodology Used in Evaluating Tenders

The evaluation methodology for assessing tender responses is designed to ensure:

- clarification and elimination of any uncertainties, ambiguities or inconsistencies in the Request for Tender and resulting responses;
- identification and clarification of inadequacies and issues requiring negotiation;
- assessment of each tender response, as clarified, against the evaluation criteria published in the Request for Tender; and
- comparison of tender responses using the evaluation criteria as the framework for comparison.

The evaluation methodology and process will ensure that the evaluation is conducted in an objective, documented and verifiable manner and provides accessible information, in a flexible format, to support key decisions and activities throughout the competitive tendering process.

Tender Evaluation Report

A tender evaluation report will be developed at the completion of the tender process. The report will provide a comprehensive record of the assessments and decisions that led to the final evaluation outcome. The report will fully document the evaluation methodology and process, and the assessments and decisions taken that led to the development of a particular rank order of tenders.

Announcing the Tender Decision



Only after the Tender Evaluation Committee and Chief Operating Officer have signed off the final tender evaluation decision will all tenderers be advised, each at the same time, of that decision.

Debriefing the Unsuccessful Tenderers

A summary document, Tender Evaluation Feedback, will be sent to all tenderers. Further written feedback may be sent to all unsuccessful tenderers who reached the shortlist. Some other unsuccessful tenderers may request more in-depth feedback so that they can fully understand the reasons why their tender response was not successful, and so possibly avoid making the same mistakes again. In such cases, individual written feedback can be provided.

The investment of MELCOE's time in this process is designed to benefit the tenderers, and also to avoid potentially damaging speculation about the outcome of the process in the wider commercial community.

Any Complaints about the Tender Process

Any tenderer who has a complaint about the tender process may write to the Chief Operating Officer, setting out the grievance or complaint. That grievance or complaint will be investigated where appropriate.