

## CONDITIONS OF PREQUALIFICATION

### General

VicRoads<sup>1</sup> maintains a register of prequalified contractors and consultants that have demonstrated they possess the necessary expertise, management systems, insurances and financial capacity to undertake particular categories of works and services.

Only prequalified contractors and consultants are eligible to tender for the supply of works and services covered by these particular prequalification categories.

Prequalification does not assure a Request for Tender or an engagement for services. VicRoads may select prequalified tenderers from the register or may choose to advertise for tenders or seek expressions of interest in particular projects.

### Applications for Prequalification

Contractors and Consultants applying for prequalification must be incorporated.

Applications for prequalification or upgrading of prequalification can be submitted at any time. Applications must provide sufficient supporting documentation to demonstrate compliance with the specified eligibility criteria for the level of prequalification sought.

Applicants for prequalification or upgrading of prequalification must provide proof of current management systems certification/audit as specified in the Management Systems Guidelines and the Eligibility Criteria, applicable to the relevant prequalification level.

Applications for upgrading of prequalification will be considered where the applicant has demonstrated a consistent high level of performance/technical competence and is able to demonstrate the required organisational capacity and management systems required for the higher level of prequalification.

Contractors and consultants application for new, upgrading or the renewal of prequalification will only be considered upon receipt of all the information required by VicRoads for the assessment.

VicRoads will not accept a tender from a contractor or consultant that does not possess the specified level of prequalification for the work and will not accept any responsibility for not assessing applications prior to closing of tenders.

### Related and Subsidiary Companies

Prequalification of a contractor or consultant does not extend to related or subsidiary companies owned or controlled by the contractor or consultant.

Any such company should apply to register for prequalification in its own right.

### Conditional Prequalification

VicRoads may place conditions on a contractor's or consultant's prequalification in a particular category. These conditions may relate to the nature or scale of work to which the prequalification applies, or a requirement to use nominated specialist staff.

### Assessment and Notification

VicRoads will assess applications against the specified eligibility criteria. Applicants may be required to attend an interview to clarify details of their application or may be requested to provide any necessary authority to enable relevant enquiries to be carried out.

By submitting an application for prequalification, contractors and consultants are deemed to authorise VicRoads to seek verification of the information supplied.

Applicants will be notified in writing of their acceptance or non-acceptance for prequalification. (VicRoads will provide details in the case of non-acceptance).

Unless circumstances warrant an earlier review, a contractor's or consultant's prequalification status will remain valid for a period of 2 years from the date of approval or the date of any review that confirms the status.

### Updating of Register Details

Prequalified contractors or consultants must notify VicRoads of any significant change to their financial or technical capacity, contact details, address, ownership or holding.

### Performance Assessment

Prequalified contractors and consultants will be required to participate in regular reviews to assess performance against the eligibility criteria for prequalification. Such reviews will focus on outcomes and process and will be structured to obviate comment about individuals or personalities. The information obtained may be used as a basis for reviewing prequalification status.

Where Performance Reviews are undertaken contractors and consultants will be invited to assess VicRoads' management processes and contract documentation. VicRoads will consider and implement any changes if appropriate.

### Review of Prequalification

VicRoads reserves the right to review any prequalification at any time. A review may be initiated by VicRoads or by the prequalified contractor or consultant.

The contractor or consultant must provide any details required for the review upon request. Failure to comply with any request by VicRoads for such information may result in suspension of prequalification.

VicRoads<sup>1</sup> may at its absolute discretion suspend or reclassify the level of prequalification. Before such action is taken, the contractor or consultant will be given an opportunity to show cause why the prequalification should not be suspended or reclassified. The contractor or consultant will also be given details of the matters prompting the request to show cause. These matters may include:

- a period of more than 2 years since the date of approval or the date of a review that confirmed the status of prequalification;
- unsatisfactory performance;
- perceived changes to financial or technical capacity;
- breaches of these prequalification conditions.

Where prequalification is suspended, the contractor or consultant will be entitled to make application for reinstatement within a nominated period. Such applications will be required to demonstrate that any matters that lead to suspension have been rectified. If prequalification is not reinstated within the nominated suspension period it will be rescinded and removed from the register.

Where a decision is taken to downgrade or rescind a contractor's or consultant's prequalification, the contractor or consultant may request access to, and an opportunity to respond to material relied on by VicRoads in making its decision.

### **Determination**

A determination by VicRoads of any application for prequalification or for reclassification, suspension or rescission is at VicRoads absolute discretion.

VicRoads will not be liable for any costs or damages incurred in the exercise of such discretion.

### **Right of Review**

Contractors or consultants may seek a review of VicRoads' decision to:

- refuse to accept an application for prequalification;
- accept an application for prequalification at a lower level than the level applied for;
- downgrade the prequalification; or
- rescind the prequalification.

A request for review of a decision will only be accepted if it is submitted within 20 business days of VicRoads notification of the decision. Requests should be submitted in writing to:

**Director – Procurement Operations**  
**VicRoads**  
**60 Denmark Street**  
**KEW VIC 3101**

<sup>1</sup> Effective 1 January 2020, all road management functions and responsibilities of the Roads Corporation (VicRoads) are transferred to and vested in Head, Transport for Victoria (established under s64A of the Transport Integration Act 2010). As a result, a reference to the Roads Corporation or VicRoads in this document must be construed as a reference to Head, Transport for Victoria – (a) so far as the reference relates to any period on or after 1 January 2020; and (b) if not inconsistent with the subject matter.

VicRoads will establish a review panel to consider the contractor's or consultant's request for review. The panel members will be appointed by VicRoads and will include a member of the VicRoads Executive Leadership Team (ELT) as Chairperson, nominated by the Chief Operating Officer (COO)<sup>2</sup>, an independent probity auditor and one other person nominated by a relevant industry association.

The review panel's consideration of the matter will be limited to whether, in making the decision, VicRoads followed the procedures set out in these Conditions of Prequalification; and whether VicRoads gave the contractor or consultant an adequate opportunity to present material in support of its application.

The review panel may recommend either that VicRoads' initial decision be confirmed; or that VicRoads reconsider the matter taking into account any further information, circumstances or documents that the panel specifies.

VicRoads decision in response to the review panel's recommendation will be final and binding on the contractor or consultant.

### **Confidentiality and Publicity**

VicRoads will publish the names, addresses and prequalification categories of registered contractors or consultants on the Internet. No responsibility is accepted by VicRoads for any consequences arising from the publication of any such information.

Prequalified contractors or consultants may not advertise, promote or publish their prequalification status.

Other information provided with applications will not be disclosed to any other party except where necessary for the assessment of the application.

Contractors or consultants may designate commercial information as confidential in their applications or in any review. VicRoads will require that individuals dealing with such information enter into confidentiality agreements.

### **Tender and Contract Conditions**

Prequalification entitles a contractor or consultant to tender for eligible works but does not obviate the need for a contractor or consultant to fully comply with the Conditions of Tendering of any Request for Tender issued by VicRoads.

### **Acceptance of Conditions**

By applying for prequalification, contractors and consultants agree to accept these VicRoads Conditions of Prequalification.

<sup>2</sup> In accordance with the change stated in footnote 1, there have been structural and staffing changes within VicRoads and the Department of Transport. Instead of the now non-existent COO, it will be the Chief Procurement Officer (CPO) that will be establishing the review panel and will be appointing the director of the assessment division as the Chairperson and the panel as above.