

LOCAL GOVERNMENT ACT 1989
SECTION 186

APPROVAL OF ARRANGEMENTS

I, Jeanette Powell MP, Minister for Local Government approve the arrangements for the purposes of section 186(5)(c) of the *Local Government Act 1989* (Act), for contracts councils enter into for the purchase of building and construction works and related consultancies with pre-qualified contractors and consultants registered with the Construction Suppliers Register (CSR).

This approval takes effect from 1 July 2012.

For the purpose of this approval:

- a) The CSR is administered by the Department of Transport (DOT) on behalf of the State Government. The CSR is a register of contractors and consultants who have been pre-qualified for financial viability, skills, expertise and performance.
- b) Councils that intend to procure building and construction works and related consultancies through the CSR must adhere to the following rules:

Value of Proposed Works

- Where the value of the contract for building and construction works is estimated to be equal to or more (inclusive of GST) than the current threshold for contracts for the carrying out of works under section 186(1) of the Act, tenders must be sought from a minimum of three (3) pre-qualified contractors registered with the CSR;
- Where the value of the contract for building and construction related services including consultancy services is estimated to be equal to or more (inclusive of GST) than the current threshold for contracts for the carrying out of goods or services under section 186(1) of the Act, tenders must be sought from a minimum of three (3) pre-qualified consultants registered with the CSR.

Contracts

- General conditions of contract standard in the industry and where possible, Australian Standards, are to be used;
- Special conditions of contract are to be kept to a minimum and are not to be onerous;
- Contract conditions shall, as far as practicable, allocate risks to the party best able to manage the risk;
- Where applicable, the head contract shall require the use of standard subcontract conditions, compatible with the head contract, unamended other than to reflect the head contract conditions;

- Contracts must provide for –
 - fair entitlement to payment;
 - prompt payment;
 - proof of payment to subcontractors and suppliers – as a minimum, mandatory standardised statutory declarations stating payments have been made;
 - the use of bank guarantees as an alternative to cash securities; and
 - alternative dispute resolution;
- Contracts must prohibit the:
 - use of 'pay when paid' or 'pay if paid' clauses in subcontracts; and
 - amendment of clauses relating to payment timing in subcontracts.



JEANETTE POWELL MP
Minister for Local Government

Date: 17 / 5 / 2012