
Construction Contractors Association of Western Australia Inc

This Position Paper provides a summary of the CCA WA member endorsed approach proposed for the nominated Topic, and is intended to be used as a guideline for CCA WA member interactions, communications and other activities related to the nominated Topic.

Topic: Requirements for Alliance and D&C Contracts

Context and Key Issues

Design and Construct (D&C) and Alliance contracting models are used widely within the construction contracting market as a mechanism to deliver complex projects.

Typically, projects in this area will have a high level of technical risk, significant unknowns, timeliness constraints and significant stakeholder interfaces. Selection of a successful proponent contractor is often undertaken in a competitive bid arrangement.

The bidding process limits the competitive opportunities for the industry in general due to the high financial burden that the process puts onto contractor proponents which is not currently fully reimbursed.

Coupled with the above, clients often require tenderers to accept risks which are beyond their capacity.

The contractual obligations should ensure the entity *best placed to manage risk, holds the risk*. (See QLD Gov Transport Infrastructure Project Delivery System Volume 1 as an example)

CCA WA Proposed Approach

CCA promotes the establishment of a procurement framework based on risk identification and mutually agreed allocation to the party best placed to accept the risk.

For D&C and/or Alliance procurement framework the CCA's position is:

- Shortlisting of proponents to two competitor proponents.
- Reimbursement of tender costs for Alliance contracts at 1% of pre-estimated project costs for both proponents.
- Reimbursement of tender costs for D&C contracts at 0.5% of pre-estimated project costs for both proponents.
- All documentation to be issued on 'Day 1' of the shortlisting tender period. With information provided to minimise duplication of general investigations which include:
 - A clear Scope of Works & Technical Criteria (SWTC)

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- The proposed commercial contract documentation for the project delivery phase between the Client and the successful proponent
 - Full feature surveys (where appropriate)
 - Utility service information with Provisional sums for service allocation. (where applicable).
 - Existing reference design information models in native formats.
 - Sufficient geotechnical information agreed with the shortlisted proponents.
 - Other general relevant information applicable for the project.
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- For projects which require a greater than 12-month duration, a 'rise and fall' financial model to cover index movements in CPI, fuel, bitumen fluctuations or other project specific materials. The base date for the 'rise and fall' is the tender submission date.
 - Tenders to be valid for a period of 90 days from the tender submission date.
 - No liability for the unsuccessful proponent/s should aspects of the Intellectual property (IP) be incorporated into the temporary or permanent design of the successful proponent.
 - Tender submission criteria to be 'project specific'. Submission information should be limited to the necessary design and investigation activities for the client to adequately assess proponents particularly in the case a prequalification system or EOI has been utilised.
 - Should a D&C contract be selected by a client the preferred contract model is based on an NEC4 contract.

Outcomes *(outline the benefits and other outcomes for each key Stakeholder)*

The CCA WA proposed approach outlined above would provide the following outcomes and benefits:

- Fair and equitable risk allocation between Clients and Contractors.
- Increased certainty of cost, time and quality outcomes for Clients and Contractors.
- Fair and equitable contractual conditions, payment and extension of time mechanisms.
- Clients and Contractors would be jointly motivated to minimise disruption, additional costs and delays to projects.