

Weedicide work as part of horticultural maintenance contracts

Most contract weedicide work in City Parks areas in Canberra is included in horticultural maintenance contracts. The contractor still has to meet all the requirements outlined for the hourly rate contracts. The main difference is that the contractor has to supply specified chemicals and that payment is made for producing a specified standard of horticultural work.

As mentioned earlier supervision is relatively easy as the standard of landscape maintenance is being inspected and not the different operations that go to achieving the standard. The first clause under the Weed and Pest Control Section is, 'The contractor shall, through good horticultural practice, maintain the area free of weeds and pests and adopt control measures to eliminate infestations'. This clause is the basis for the management of this section of the contract and it has been City Parks experience that most of our staff can supervise the contractor according to the clause.

The contractor can plan the different operations to best suit the time of year and the weather conditions. This is important as often weather conditions prohibit the safe application of chemicals and the contractor can divert staff to other activities.

City Parks has been able to achieve long term, cost effective contract maintained landscapes using the above type of contracts.

Specific area or 'job lot' contracts

City Parks has rarely used this type of contract for weedicide work. The contract is very similar to the hourly rate contract except the contractor is paid for effective weed control and not by the hour. Payment is divided into two equal payments. Fifty per cent is paid after the work has been completed and the remainder after an agreed period of time when the effect of the chemical should be obvious. This ensures that the contractor applies the chemical correctly as the contract requires the contractor to respray if satisfactory

results are not obtained at his own cost or that City Parks will do the work and costs deleted from the contractors payment.

In our region variations of this type of contract are used in private enterprise and in rural and forestry areas. It is very suitable for jobs like kerb, road and drain spraying, woody vegetation control under power lines, and larger 'one off' projects in landscape development.

Conclusion

Experience in Canberra has shown that contractors can provide very cost effective services for weed control work. However, all of the points made in this paper need to be taken into account, as using chemicals in the urban area requires complete control of all aspects of the operation. This is difficult enough with your own trained staff and if contractors are to do work to the same standard the contract needs to be well prepared, and the contractors need to be experienced, trained and well supervised.

Contract documentation

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Introduction

Contracts establish a legal relationship between two or more parties and contract documents describe this relationship. Contracting for the supply of works, services, consultancies or equipment and supplies can appear to involve a snowstorm of pieces of paper. The questions to ask are:

- Do I have all of them?
- How do they relate to each other?

This paper describes a contract and indicates what is required for putting together the necessary documentation for one.

A contract

A contract can be described in the simplest manner as an offer to do or provide something for or to someone else, acceptance of that offer and involvement of consideration.

Consideration is 'the conferring of benefit on, or the incurring of a detriment on behalf of, the other party to the agreement or the giving of a promise to do so at a future time' (Competitive Tendering Procedures Manual, MAV, August 1994). Consideration might be more graphically described as the glue that cements the offer and acceptance. Consideration is often simply identified as the money and associated intentions involved.

There must be an intention to enter into a contractual arrangement and some other items that pop up in the courts when things go wrong. For the non-lawyer, the offer, acceptance, consideration and intent suffice to describe a contract.

Types of contract

Current focus inside and outside local government (i.e. those considering tendering to local government) is on forms of contract that satisfy the conditions of CCT (compulsory competitive tendering).

There are a number of different types of contract. Basically they are defined and described in relation to how work is done or the product acquired and how it is paid for. Some types of contract are:

- lump sum (fixed or rise and fall),
- schedule of rates,
- cost plus,
- hourly,
- percentage of revenue,
- turn key/design construct and
- annual supply.

An explanation of lump sum and schedule of rates follows.

Lump sum means that something will be done for some amount of money that is identified and agreed on at the time that the contract agreement is struck. There may be variations in more work being

done for proportionally more money. There may also be rise and fall which is again in an agreement relating to negating the effects of inflation etc. which is agreed on at the time of striking the agreement.

A schedule of rates contract means that a list of activities has been priced. Contractors perform the activities as directed and invoice for their service or product at the rate accepted.

There can be contractual arrangements that appear to be hybrids of these forms. A lump sum contract may have a schedule of rates attached to it. It may also have a bill or schedule of quantities attached. The latter form can be seen as a schedule of rates which is extended to include quantities.

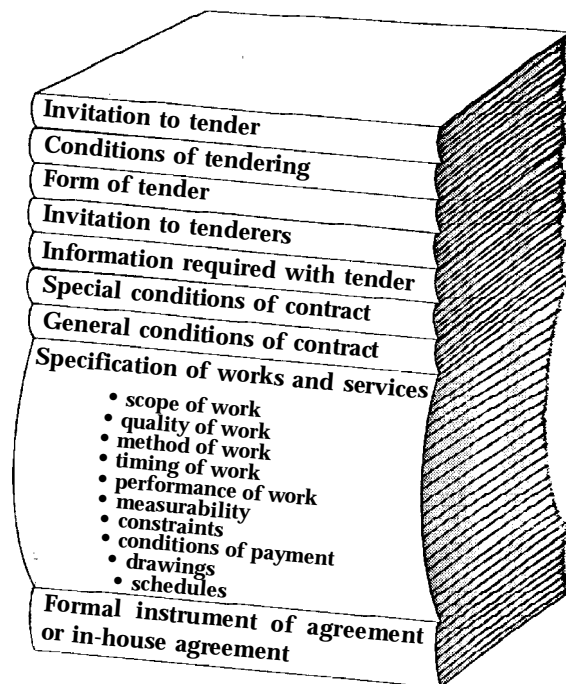
Administration

The process of utilizing contracts once they have been prepared is known as administering. It includes the tender process and is followed by ensuring that the works are done or the product delivered as per the documents and that the contractor or supplier is paid.

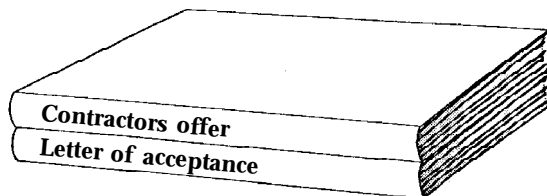
Tendering

Tendering consists of giving sources of work or supply an opportunity to make an offer to do the works or supply the goods or services as detailed in the contract documents. Tendering is the asking for, receiving and evaluating of bids to perform some service in response to and in the framework of the documentation. One or more of those making the offer may have their offer accepted and a contract arrangement is formed.

The total package of tender documents (taken from *Writing Quality Specifications* by L. Boyd and N. McInnes, 1994, MAV, p. 25).



Following acceptance of a tender to these documents is added:



and all the above documents become the contract documents.

Tendering's primary focus is clarity and fairness. The laws that relate to contract provide more definition as to what is and what is not legal. Tendering itself is less defined or constrained. Generally speaking, if tendering is not fair then legislation such as Administrative Law Act 1978, Trade Practices Act 1974 (Commonwealth) and Fair Trading Act 1985 may be applied to the situation.

It is important to emphasize that supervision of personnel is not contract administration. It is ensuring that the details of the contract documentation are adequately applied to the service or works covered by the contractual arrangement.

Quality assurance

Quality assurance, which is a relatively new concept, is a process that seeks at one level to shift the responsibility for ensuring that work is done as per the documentation from the party administering the contract to the party doing the works or providing the service.

Contract documents

Possibly the most important aspect of contract documents is to ensure that they do not repeat themselves and thus provide areas of inconsistency that may invalidate the whole contract.

The list of the total package of tender documents that follows is compiled from 'The Competitive Tendering Procedures Manual' prepared by The Local Government Industry Working Party, August 1994:

- Invitation to tender (standard format, particular information)—generally a standard letter that is made specific to the project.
- Conditions of tendering (standard)—details what is expected from the tenderer and the tender itself to ensure that it will be examined and done so fairly.
- Form of tender or tender form (standard)—the actual document on which the tenderer will enter the price for which they will perform.
- Information/notice to tenderers (standard format, particular information)—details information that is necessary for the particular tender such as the date for submission.
- Information required with tender (standard format, particular information)—details what sort of references etc. may be required.
- Special conditions of contract (standard format, particular information)—this may have information relating to things such as industrial agreements that may be in place etc.
- General conditions of contract (standard, particular type)—the major document that spells out the general legalities of the situation.
- Annex to general conditions of contract (standard format, particular information)—details the specifics of the particular project or purchase in terms of the general conditions.
- Schedules (standard format, particular type)—are similar to annexes and provide for requirements for additional information from the tenderers. Generally this information might include specific and/or details of the firms submitting tenders and possibly documents such as statutory declarations.
- Preliminary clauses (standard, particular type)—are a part of the documentation relating generally to the specific types of works that are being done rather than the project or purchase itself. (e.g. toilet arrangements, access to services, responsibility for paying tax, insurance).
- Specification (particular)—what is to be done or provided.
- Drawings or plans (particular)—where it is to be done or provided.
- Contractor's offer—submission of the tenderer and is usually the tender form.
- Letter of acceptance (standard format, particular information)—accepts the successful tender or tenders.
- Formal instrument of agreement (standard)—the document that officially binds the parties together.
- Deed (standard)—indicates that a contractual arrangement is intended.