

FACT SHEET

JOINT VENTURES | PREQUALIFICATION REQUIREMENTS

The purpose of this Fact Sheet is to provide an overview of the ACT Government's prequalification requirements when an approach to market allows a Joint Venture to submit a response. The Fact Sheet summarises the more detailed requirements and implementation measures for a Joint Venture, specifically when the nature of the work falls under the National Prequalification Scheme (NPS) for Civil Road and Bridge works.

The ACT Government has adopted the NPS for both Civil Road and Bridge as well as Commercial work (with a value exceeding \$50 million). It should be noted that prequalification levels are identified before consideration is given around Joint Ventures so as to understand the market capability and capacity.

The Fact Sheet also includes a commentary on the differences in our requirements should an approach to market allow a Joint Bid and background information on prequalification for Unincorporated Joint Ventures.

How a Joint Venture can become prequalified with the ACT Government

On certain infrastructure projects the Territory may include in the approach to market a provision that allows an incorporated Joint Venture (JV) to submit a response. The response may be to an Expression of Interest, a Request for Tender or similar.

If the Territory considers that a JV is an acceptable tendering entity we will include specific requirements that will need to be met by the parties forming the JV, generally in advance of the closing date for submissions.

Whilst each approach to market will have bespoke requirements that are relevant to the individual project, the following provides an overview of the minimum requirements that a JV would need to meet.

Both companies intending to form the JV will each need:

- To be prequalified to the required category(s) in their own right;
- If the approach to market requires more than one category each company will need to be prequalified for each category. The Joint Venture will be in default of their contractual obligation should either company's Prequalification expire or is terminated;
- To submit their latest audited or "Final" financial Statements (Final Statements are signed by the Accountant at the Compilation Report and the Directors at the Directors Declaration) for assessment (combined, they must equal the required financial criteria for the requested prequalification financial level);
- To have current Public Liability (Minimum \$20 million) and Workers' Compensation insurances;
- To have current Professional Indemnity Insurances – minimum \$5 million or for the required amount;
- Current audited and certified QA, OHS&R and EMS (Business Management Systems). Also, they will need to nominate one company's BMS for the Joint Venture to operate under for each proposed submission; and
- Have completed a past project that meets the required technical level of the approach to market.

The Joint Venture will also need to be prequalified to the required category in its own right. To do this they will need to:

- If it is an incorporated JV, form an incorporated entity with an ABN. For example: the legal names will be "AAA Pty Ltd" and "ZZZ Pty Ltd" trading as (t/a) Canberra Civil Joint Venture (this name is only an example);
- Provide a letter from a Solicitor explaining:
 - The structure of the Joint Venture;
 - The Terms of Agreement between the two companies; and
 - How the JV is going to operate as a separate entity.
- The Agreement is to state that both parties are joint and severally liable to the Territory;
- Provide a commitment that the JV will purchase Public Liability and Workers' Compensation insurances to cover the JV's proposed team, if successful with a submission; and
- Nominate a street and postal address the Joint Venture will operate from.

Unincorporated Joint Ventures

The Territory can accept applications for prequalification from Unincorporated joint ventures under the National Prequalification Scheme. The granting of prequalification to an Unincorporated joint venture is at the sole discretion of the Territory. Unincorporated joint ventures are only eligible for “Conditional” Prequalification, noting that such prequalification may not be mutually recognised by other States and Territories.

An application for an Unincorporated joint venture is to include:

- Organizational structure of the joint venture;
- Details of key personnel from each of the joint venture parties;
- Details of the Business Management Systems to be used; and
- Written confirmation that each party will be joint and severally liable to the Territory.

Joint bids

The Territory may in certain approaches to market accept Joint Bids. Joint Bids are only applicable to projects covered by the ACT Government’s Prequalification Scheme. For projects covered by the NPS Joint Bids are not acceptable. If a Joint Bid is allowed the Tenderer must provide, in its tender:

- A Tender Declaration from each party;
- Details of the legal entity of each party to the bid;
- Evidence that each party is prequalified to the required level or levels as the case may be;
- Details of the Joint Bid arrangements from a Solicitor, all as required for an incorporated Joint Venture; and
- Written confirmation that each party will be joint and severally liable to the Territory if selected as the preferred tenderer.

Further information

For Civil Road and Bridge projects that operate under the National Prequalification Scheme – Civil Road and Bridge, further information on the Scheme’s requirements for JVs can be found in the NPS Requirements document at: <https://bit.ly/3mG4fjv>, or contact:

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