



Government of **Western Australia**
Department of Finance



Business Risk Assessment for Prequalification and Tender Evaluation

VERSION 1.10 – 30 May 2024



Document Control

Version	Date	Reason
1	1/12/2016	Initial version Department of Finance
1.1	1/6/2017	General improvement to document
1.2	1/12/2019	Rebranded from Building Management and Works to the Department of Finance. Addition of a section relating to the ongoing monitoring of prequalified contractors' financial capacity. Changes to format, layout and grammar.
1.3	1/5/2020	Addition of section 1.5(h) relating to the sharing of information with other government agencies.
1.4	22/5/2020	New sections 5.8 and 5.9 relating to COVID-19 initiatives to speed up the tender evaluation process
1.5	1/6/2022	Temporary amendment to section 3.1 and 4.4 relating to the increase of the MACV calculation to address concerns with the rapid price rises for labour and materials in the building and construction industry.
1.6	1/9/2022	Addition of section 3.7 relating to the new weighting system for financial assessments.
1.7	31/3/2023	Updated the business risk assessment terminology from Low/Medium/High Risk to Risk Level 1/2/3/4. Deleted the weighting system from section 3.7.
1.8	1/5/2023	Added definition of the new risk levels at section 3.4. General review, removal of duplications and renumbering of sections.
1.9	19/6/2023	Amendment to section 3.1 and 4.4 relating to the increase of the MACV calculation.
1.10	30/5/2024	Amendment to section 3.3 relating to the new security of payment legislation and new name for the Office of State Revenue.



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Enquiries

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1 INTRODUCTION

- 1.1 The Department of Finance (Finance) assesses the financial viability and capacity of contractors through the conduct of business risk assessments. A business risk assessment is a due diligence process to ascertain the degree to which Finance will be exposed to financial and other risks. It forms a component of the evaluation of prequalification applications and tender submissions.
- 1.2 Finance initiates a business risk assessment whenever it is deemed necessary, including:
- (a) at the time a contractor applies for prequalification;
 - (b) on preferred respondents or tenderers;
 - (c) prior to the award of any contract over \$500,000 (GST inclusive); and
 - (d) at the discretion of Finance.
- 1.3 Finance reserves the right to:
- (a) undertake financial assessments on contractors as required;
 - (b) provide an exemption from conducting a business risk assessment for certain contracts;
 - (c) engage external service providers to conduct a business risk assessment;
 - (d) obtain direct and third-party information to assist with conducting a business risk assessment;
 - (e) utilise business risk assessments for all forms of procurement and types of works;
 - (f) determine the risk rating based on information available to Finance;
 - (g) impose appropriate risk mitigation strategies; and
 - (h) share information with other government agencies, including details associated with its assessment of contractor performance and capability.

2 FINANCIAL INFORMATION REQUIREMENTS

- 2.1 A contractor must provide the following information:
- (a) Financial Reports - previous three years;
 - (b) Management Accounts - no more than three months old;
 - (c) Aged Creditors' Schedules - at the reporting dates of the latest financial report and management accounts; and
 - (d) Workload (at tender stage only).

The following deadlines for financial reports are:

- (a) 30 November for financial reports with a 30 June year end; and
 - (b) 31 May for financial reports with a 31 December year end.
- 2.2 If a contractor fails to submit its financial information when requested by Finance, by the due date, the business risk assessment may be recorded as 'Risk Level 4'.

2.3 The audited financial report, financial report and current management accounts must contain the following:

Audited Financial Report	Financial Report	Management Accounts
Statement of Comprehensive Income (or Profit and Loss Statement)	Statement of Comprehensive Income (or Profit and Loss Statement)	Set of summarised accounting data for a Profit and Loss Statement and Balance Sheet
Statement of Financial Position (or Balance Sheet)	Statement of Financial Position (or Balance Sheet)	These accounts must have balances for current assets, non-current assets, total assets, current liabilities, non-current liabilities, total liabilities and equity.
Statement of Changes in Equity	Notes to the Financial Statements	Signed Director's Certification (with name of Director and certified as being true and correct, (i.e. 'deemed to be true and correct' written on the statements)
Statement of Cash Flows	Signed Director's Declaration	
Notes to the Financial Statements	Signed Accountant's Compilation Report (with name, qualification and signature of the Accountant who prepared the financial report)	
Signed Director's Declaration		
Signed Auditor's Report (with name, qualification and signature of auditor who audited the financial report)		

2.4 The audited financial report, financial report and current management accounts must disclose all the following information;

- (a) cost of goods sold statement;
- (b) all intangible assets;
- (c) all shareholder loans, related entity loans, related entity investments, director loans, units in related trusts, unpaid beneficiary entitlements; and
- (d) all shares not listed on the Australian Stock Exchange.

2.5 The audited financial report, financial report and current management accounts should be prepared by a natural person who meets the following criteria:

Audited Financial Report	Financial Report	Management Accounts
Qualified Accountant who holds membership with either the Institute of Chartered Accountants Australia New Zealand (CA ANZ), Certified Practising Accountants Australia (CPA Australia) or Institute of Public Accountants (IPA)	Qualified Accountant who holds membership with either CA ANZ, CPA Australia IPA	Prepared or generated internally based on information extracted from the accounting system
Qualified Accountant who is a Registered Company Auditor or a Registered Auditor with Australian Securities and Investments Commission under the provisions of the <i>Corporations Act 2001</i>		

2.6 Finance prefers audited financial reports for Level 5 prequalification.

2.7 Financial reports, management accounts and financial information should be in the contractor's own right to ensure that the financial performance and position of the contractor can be assessed appropriately.

- 2.8 Finance will only consider consolidated financial reports when:
- the contractor does not prepare their own financial reports;
 - the contractor provides the last three years' turnover information which is signed by both a qualified Accountant and a Director, current management accounts that are no more than three months old and corresponding aged creditors schedules; and
 - the contractor nominates a suitable guarantor to guarantee the performance of the contractor throughout the term of prequalification or contract.
- 2.9 If the contractor is a trustee, the financial information assessed will be those of the trust. A copy of the Trust Deed and any amendments to the Trust Deed will be required unless it is already held by Finance.
- 2.10 If the contractor has been registered for three years or more, it must provide financial reports for the last three years (unless they are already held by Finance).
- 2.11 If the contractor has been registered for less than three years:
- one year's financial report may be considered acceptable if applying for Level 1 or Level 2 prequalification, or tender valued up to \$3M; or
 - two years' financial reports may be considered acceptable if applying for Level 3, 4 or 5 prequalification, or tender valued over \$3M.
- 2.12 If the contractor has been registered for less than one year, a Special Purpose Financial Report for the part-year may be considered acceptable.

3 FINANCIAL CRITERIA AND RISK RATINGS

- 3.1 The three main financial criteria used for business risk assessments are provided below:

Criterion	Formula (prequalification)	Formula (tender)
Adjusted Net Tangible Assets ratio (minimum requirement is 5%)	Adjusted Net Tangible Assets divided by Turnover	Adjusted Net Tangible Assets divided by Turnover
Adjusted Working Capital ratio (minimum requirement is 10%)	Adjusted Working Capital divided by the Maximum Prequalification Value	Adjusted Working Capital divided by the Contract Value
Maximum Aggregate Contract Value (MACV)	The MACV is set on the highest inflation adjusted turnover in the last three years, plus a 30% uplift. ¹	The MACV is assessed on the contractor's current workload information

- 3.2 Certain assets and liabilities have been determined as being disallowed as they cannot be relied upon for the purpose of supporting the contractor in the event of default. These assets and liabilities are adjusted for the following items:
- all intangible assets;
 - all shareholder loans, related entity loans, related entity investments, units in related trusts, director loans, and unpaid beneficiary entitlements. All related parties will be assessed in accordance with the Australian Accounting Standards; and

¹ The temporary increase to the MACV commenced on 1 June 2022 and is based on the Australian Bureau of Statistics Producer Prices Index for Non-residential building construction Western Australia (6427.0, table 17)

- (c) all shares not listed on the Australian Stock Exchange.

3.3 Finance will also consider several other matters as part of the business risk assessment. These include, but are not limited to:

- (a) reviewing general financial information, such as working capital, net tangible assets, profit levels, gearing, gross and net profit margin ratios, and historical performance (both on face values and adjusted values);
- (b) reviewing past financial performance and references;
- (c) reviewing current management accounts that are no more than three months old;
- (d) reviewing aged creditors schedules to ensure payment performance history does not exceed the payment terms outlined in the *Building and Construction Industry (Security of Payment) Act 2021*;
- (e) reviewing current projects (workload) for the next 12 months;
- (f) reviewing reports obtained from external financial service providers that assess a contractor's financial status;
- (g) conducting background searches of Worksafe WA's Prosecution Summaries database to identify if there have been any successful prosecutions;
- (h) conducting other relevant checks to confirm the existence and status of the contractor (including Australian Securities and Investments Commission, Australian Business Register and Western Australian Register of Builders);
- (i) reviewing information obtained from Revenue WA regarding outstanding Revenue WA obligations;
- (j) reviewing other supplementary financial and non-financial information that is provided by the contractor at the request of Finance; and
- (k) reviewing (if applicable) the nominated guarantor's financial information.

3.4 The four possible ratings arising from a business risk assessment are:

Rating	Definition
Risk Level 1	Contractor satisfies requirements in its own right. Contractor is considered acceptable for contract award or prequalification.
Risk Level 2	Contractor does not satisfy requirements in its own right but has provided sufficient mitigation. Contractor is considered acceptable for contract award or prequalification.
Risk Level 3	Contractor does not satisfy requirements in its own right and has not provided sufficient mitigation, however the situation justifies Finance relaxing its normal requirements. Contractor is considered acceptable for contract award or prequalification under the circumstances.
Risk Level 4	Contractor does not satisfy requirements and has not provided sufficient mitigation or has not provided the requested information for assessment. Contractor is considered not acceptable for contract award or prequalification. If the contractor is currently prequalified, its prequalification will generally be immediately suspended or cancelled.

3.5 In such circumstances where Finance determines that there are matters that indicate that the contractor is in financial difficulties or the existence of other matters of concern,

Finance reserves the right to:

- (a) require the contractor to nominate an approved guarantor in accordance with section 7;
- (b) place a restriction on the value (in the aggregate or individual) of contracts that the contractor can be awarded;
- (c) impose any other risk mitigation strategy that Finance determines is required; and
- (d) assess the contractor as 'Risk Level 4'.

4 BUSINESS RISK ASSESSMENT FOR PREQUALIFICATION PURPOSES

- 4.1 Business risk assessments for prequalification purposes assist with the evaluation of prequalification applications and monitoring of contractors' financial capacity.
- 4.2 Business risk assessments for prequalification will be conducted, at a minimum, as part of the prequalification application and renewal process. In addition, when a business risk assessment is conducted for tender purposes, an analysis will be conducted to determine whether the contractor continues to meet the financial requirements associated with its current prequalification level (see section 6).
- 4.3 The two main financial criteria, based on the contractor's latest financial year report are:
- (a) equal to or greater than 5% of adjusted net tangible assets to turnover ratio; and
 - (b) equal to or greater than 10% of adjusted working capital to maximum prequalification value ratio.
- 4.4 The MACV cap will be set by Finance based on the highest inflation adjusted turnover in the last three years plus a 30% uplift.
- 4.5 A contractor will be assessed as 'Risk Level 1' when:
- (a) the financial criteria are met and there are no adverse observations from a Finance review of other matters in accordance with section 3.3; or
 - (b) the contractor fails to meet the adjusted working capital to maximum prequalification value ratio but accepts a limit on the value of individual contracts that can be awarded (at ten times the contractor's adjusted working capital). This risk mitigating strategy is known as the Maximum Contract Value (MCV) and is only applicable when the contractor passes the adjusted net tangible assets to turnover ratio.
- 4.6 A contractor will be assessed as 'Risk Level 2' when:
- (a) the contractor submits consolidated financial reports in line with section 2.8; or
 - (b) the contractor fails to meet a financial criterion or there are adverse observations from a Finance review of other matters in accordance with section 3.3 and can nominate a suitable guarantor.
- 4.7 A contractor will be assessed as 'Risk Level 3' when:
- (a) the contractor fails to meet a financial criterion or there are adverse observations from a Finance review of other matters in accordance with section 3.3 and is unable to nominate a suitable guarantor; and
 - (b) the contractor is able to deliver extraordinary social procurement outcomes; and
 - (c) the contractor's financial position is not considered extreme.

- 4.8 A contractor will be assessed as 'Risk Level 4' when:
- (a) requested financial and other information is not provided by the contractor; or
 - (b) the contractor fails to meet a financial criterion or there are adverse observations from a Finance review of other matters in accordance with section 3.3 and is unable to nominate a suitable guarantor.

5 BUSINESS RISK ASSESSMENT FOR TENDER PURPOSES

- 5.1 Business risk assessments are conducted as part of the tender evaluation process for Finance construction contracts valued at over \$500,000.
- 5.2 The two main financial criteria, based on the contractor's latest financial year report are:
- (a) equal to or greater than 5% of adjusted net tangible assets to turnover ratio; and
 - (b) equal to or greater than 10% of adjusted working capital to contract value ratio.
- 5.3 The contractor should not exceed the set MACV at the time of tender assessment taking into account the tender under consideration.
- 5.4 Where the contractor is not prequalified with Finance, the MACV cap will be set by Finance at the time of tender assessment.
- 5.5 A contractor will be assessed as 'Risk Level 1' when:
- (a) the financial criteria are met and there are no adverse observations from a Finance review of other matters in accordance with section 3.3; and
 - (b) the MACV requirement is not exceeded.
- 5.6 A contractor will be assessed as 'Risk Level 2' when:
- (a) the contractor submits consolidated financial reports in line with section 2.8; or
 - (b) the contractor fails to meet a financial criterion or there are adverse observations from a Finance review of other matters in accordance with section 3.3 and can nominate a suitable guarantor; or
 - (c) the MACV is exceeded and the contractor can demonstrate to the satisfaction of Finance that it has sufficient capable personnel and other necessary resources available to completely fulfil the obligations of the contract (by way of providing written justification) and can nominate a suitable guarantor.
- 5.7 A contractor will be assessed as 'Risk Level 3' when:
- (a) the contractor fails to meet a financial criterion or there are adverse observations from a Finance review of other matters in accordance with section 3.3 or exceeds its MACV cap and is unable to nominate a suitable guarantor; and
 - (b) the contractor is able to deliver extraordinary social procurement outcomes or is the only supplier available or suitable to deliver the project in the necessary timeframe; and
 - (c) the contractor's financial position is not considered extreme.
- 5.8 A contractor will be assessed as 'Risk Level 4' when:
- (a) requested financial and other information are not provided by the contractor; or
 - (b) the contractor fails to meet a financial criterion or there are adverse observations from a Finance review of other matters in accordance with section 3.3 and is unable

to nominate a suitable guarantor; or

- (c) the MACV is exceeded and the contractor is unable to demonstrate to the satisfaction of Finance that it has sufficient capable personnel and other necessary resources available to completely fulfil the obligations of the contract (by way of providing written justification).

5.9 Finance may rely on elements of previous business risk assessments completed within the last six months where it considers it is appropriate to do so.

6 ONGOING REVIEW OF PREQUALIFIED CONTRACTORS' FINANCIAL CAPACITY

6.1 Where a contractor is prequalified with Finance, and when a business risk assessment for tender purposes is undertaken, analysis will be undertaken to confirm it has the financial capability to remain at its current approved prequalification level. Information on this process is included in Finance's Builders Prequalification Scheme document.

6.2 Contractors or Finance may request a business risk assessment proactively, to enable Finance's future tender evaluation to be expedited.

7 PROVISION OF APPROVED GUARANTORS

7.1 Finance will request the nomination of a suitable guarantor if the contractor:

- (a) submits consolidated financial reports;
- (b) fails a financial criterion;
- (c) has adverse observations in accordance with section 3.3; or
- (d) exceeds or will exceed its MACV.

7.2 If a guarantor is required as per section 7.1 then Finance will require the guarantor of the:

- (a) prequalified contractor, to provide a deed of guarantee for the duration of prequalification plus three months. The three-month period is designed to provide a contingency to allow for instances where the contractor has applied for its prequalification status to be renewed and the assessment of this renewal has not concluded by the prequalification expiry date; or
- (b) non-prequalified contractor, to provide a contract specific deed of guarantee for the contract being awarded.

7.3 All suitable guarantors must agree to provide the deed of guarantee on the terms proposed by Finance. Deeds of cross guarantees (including Australian Securities and Investments Commission deeds) are not accepted by Finance.

7.4 Finance must be able to identify the guarantor(s) that hold the required level of assets.

7.5 The contractor must provide the proposed guarantor's latest financial report which is prepared and signed by a qualified Accountant and a Director.

7.6 If the guarantor is a trustee, the financial information assessed will be those of the trust. A copy of the Trust Deed and any amendments to the Trust Deed must be provided (unless it is already held by Finance).

7.7 Corporate guarantors are preferred by Finance and must be capable of fulfilling the obligations of the deed. Finance will consider, as corporate guarantors, trust structures



where the trustee is a natural person.

- 7.8 The following requirements must be met for a suitable corporate guarantor to be accepted by Finance:

Prequalification	Tender
The guarantor has equal to or greater than 5% adjusted net tangible assets to maximum prequalification value	The guarantor has equal to or greater than 10% adjusted net tangible assets to contract value, for the contract being awarded. Where the contractor is prequalified, the guarantor must hold 5% adjusted net tangible assets to maximum prequalification value.
There are no adverse observations relating to the guarantor from a Finance review of other matters in accordance with section 3.3	There are no adverse observations relating to the guarantor from a Finance review of other matters in accordance with section 3.3

- 7.9 If a corporate guarantor cannot be provided, the guarantor can be a natural person or persons (such as the Company Director). The guarantor(s) will need to demonstrate to the satisfaction of Finance that he/she holds unencumbered real property holdings with a market valuation no more than 12 months old.

- 7.10 The following requirements must be met for a suitable natural person guarantor to be accepted by Finance:

Prequalification	Tender
The guarantor holds unencumbered real property holdings valued at equal to or greater than 5% of the maximum prequalification value	The guarantor holds unencumbered real property holdings valued at equal to or greater than 10% of the contract value, for the contract being awarded. Where the contractor is prequalified, the guarantor must hold 5% adjusted net tangible assets to maximum prequalification value.

- 7.11 The Department reserves the right not to accept a guarantee from a natural person where the Department believes that it will not, for public policy reasons, call on the guarantee due to the nature of the individual.