

Australian Standard[®]

Code of tendering

This Australian Standard was prepared by Committee OB/10, Construction Industry Practice. It was approved on behalf of the Council of Standards Australia on 28 October 1994 and published on 31 December 1994.

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Association of Consulting Engineers Australia
Australian Chamber of Commerce and Industry
Australian Institute of Purchasing and Materials Management
Australian Liquor Hospitality and Miscellaneous Workers Union
Construction Industry Development Agency
Construction Industry Engineering Services Group
Law Council of Australia
Master Builders Australia
MTIA/National Construction Council
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<p>First published as AS 4120(Int)—1993. Revised and designated AS 4120—1994.</p>

PUBLISHED BY STANDARDS AUSTRALIA
(STANDARDS ASSOCIATION OF AUSTRALIA)
1 THE CRESCENT, HOMEBUSH, NSW 2140

ISBN 0 7262 9426 8

PREFACE

This Standard was prepared by the Standards Australia Committee on Construction Industry Practice to supersede AS 4120(Int)—1993, *Code of tendering*.

The previous edition of this Standard was developed and issued to public comment by the Construction Industry Development Agency (CIDA) Code of Practice Working Party and forwarded to the Standards Australia Committee on Construction Industry Practice for endorsement as an Interim Australian Standard.

This edition incorporates the following major changes from the previous edition:

- (a) Clause 6.1.1—includes a statement on project funding.
- (b) Clause 6.1.2—expands on the objectives of the tender documents.
- (c) Clause 6.1.3—includes a statement on the application of pre-qualification criteria.
- (d) Clause 6.2.1—includes a statement on commitment to proceed with project.
- (e) Clause 6.2.2—expands on inclusions in the advertisement.
- (f) Clause 6.5—clarifies tender requirements and tender evaluation criteria.
- (g) Clause 8—includes a statement on commercial in confidence.

NOTES:

- 1 In developing this Standard, Recommendations 6, 11 and 12, 13 and 20 of the Construction Industry Development Agency's Report on Security of Payment, were taken into consideration in Clauses 6.1.1, 6.1.2(h), 6.6 and 6.1.2(e) respectively. Recommendation 10 of that Report recommends the use of this Standard. Users may refer to that report for further information concerning CIDA's Security of Payment recommendations.
- 2 The Principal should recognize the cost of preparing tenders, especially in the case of certain procurement systems, which require Tenderers to prepare documentation (including design or the preparation of alternative proposals) as part of their tender. In appropriate circumstances this may require the Principal to consider payment to Tenderers to offset these costs.

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FOREWORD

The purpose of this Standard is to encourage high ethical standards in tendering in the construction industry, in the belief that significant benefits will flow to the entire community through the delivery of higher productivity, high quality construction work, better working conditions and elimination of malpractice. It constitutes a statement of the ethics which underline best-practice tendering procedures. It imposes an obligation on all those parties to refuse to condone unethical behaviour by others in the industry.

Inherent in adoption of this Standard is a willingness to deal only with industry organizations and personnel whose standards of performance and behaviour conform to those expected by this Standard.

STANDARDS AUSTRALIA

Australian Standard

Code of tendering

1 SCOPE This Standard sets out the ethics and the obligations of the Principal and Tenderers in tendering in the construction industry. A separate Standard covers the selection of consultants providing professional services.

2 APPLICATION This Standard applies equally to Principals, their agents, contractors, subcontractors and suppliers and their associations and professional organizations.

3 DEFINITIONS

3.1 Construction industry—includes all building, refurbishment, maintenance, civil engineering, process engineering, mining and heavy engineering projects. It excludes cottage construction.

3.2 Intellectual property—all copyright, patents and all rights in relation to inventions, registered and unregistered trademarks (including service marks), registered designs, circuit layouts and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

3.3 Principal—any party inviting and receiving tenders. A Principal may include a contractor or subcontractor.

3.4 Tenderer—any party submitting tenders, including contractor, subcontractor and supplier.

4 ETHICS This Standard is based on the following principles:

- (a) Tendering at all levels in the construction industry shall be conducted honestly and in a manner that is fair to all parties involved.
- (b) Parties shall comply with all legislative obligations including those required by trade practices and consumer affairs legislation.
- (c) The Principal shall have regard to the costs of tendering and the number of Tenderers, recognizing that the cost of tendering is a significant industry overhead.
- (d) Tenderers shall only tender where they intend to carry out the work.
- (e) The Principal shall call for tenders only after the Principal has arranged funding for the project and has made a firm commitment to proceed with the project.
- (f) The conditions of tendering shall be the same for each Tenderer.
- (g) Parties shall not engage in practices such as collusion on tenders, inflation of prices to compensate unsuccessful Tenderers, secret commissions, or any other such improper arrangements.
- (h) The Principal and Tenderers shall be prepared to attest to their probity, if necessary by Statutory Declaration or other reasonable means.
- (i) Tender documents shall specify the Principal's requirements as clearly and precisely as possible and, when documents are altered, sufficient time shall be allowed for all Tenderers to review and revise their tenders.