

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

WRITTEN QUESTION

Mr. Higgins to the Minister for Infrastructure, Planning and Logistics

Port Keats Road Maintenance

- 1. Please advise if a select tender has been used in the past with respect to road maintenance on the Port Keats road?**

Yes.

If not, why not? If yes, when and why?

A road maintenance contract was formed via select tender to Nauiyu – Nambiyu Aboriginal Corporation prior to the formation of the Victoria Daly Regional Council. Following that, a select tender process was also used to engage the Victoria Daly Regional Council for maintenance works on the Port Keats Road.

The Victoria Daly Regional Council disposed of all of the plant and equipment of the Nauiyu - Nambiyu Aboriginal Corporation in July 2013 and advised the Department of Infrastructure, Planning and Logistics it could no longer service the road maintenance contract.

The Department currently has a small contract (which was a select tender) with Thamarrurr Development Corporation for wet season road management and minor repairs and maintenance.

Road maintenance on Port Keats Road has since been publicly tendered and contracts awarded for two terms to NT Feral Pig Harvesting Pty Ltd.

- 2. Community concern in the West Daly region is that in future the open tender for road maintenance will move from a competitive open tender process to a select closed tender. Is this true, and how concerned should residents be about this transition?**

The Department undertakes procurement activities in accordance with the NT Government Procurement Framework which contains provisions for select procurements to be utilised, provided there is sufficient justification to demonstrate Value for the Territory.

The Local Decision Making process has seen both the Wadeye and Daly River communities express interest in undertaking road maintenance works in lieu of or in conjunction with existing contracts.

The Department is currently analysing the future maintenance requirements for the Port Keats Road and is of the view that there are benefits of both select and competitive processes. Regardless of the tender process, the Department will ensure road maintenance is delivered to an acceptable standard.

3. How are select tenders awarded? What criteria is used to identify potential winners of select tenders?

Select tenders are invited based on an assessment of the prospective tenderer/s skills, capacity, experience, ability and local consideration factors relevant to the requirement.

Award of the select tender is dependent on the tenderer demonstrating that their offer represents Value for the Territory based on the assessment criteria and weightings for the specific procurement.

The assessment criteria will include price, local development, past performance and capacity.

A request for tender on a select basis does not automatically assume acceptance of any offer and if criteria cannot be met, then the process will be ended and an alternative process considered.

4. What are the advantages and disadvantages of using a select tender option for a project like road maintenance?

Under the NT Procurement Framework, a Select Tender Process may be used where it can be demonstrated to have significant benefit to Government and suppliers.

There are a range of circumstances under the procurement regulations where the select process is justified.

The most significant advantage of a select tender process in this situation is that it allows the Department to deal directly with the one business enterprise and target benefits for the community or the region that may or may not be possible as part of a public tender assessment process. Whilst Local Development is heavily weighted and mandated as part of the assessment process, the select process allows this to go one step further in considering "Local" right down to the grass roots level of community.

5. **In the past NT Feral Pig Harvesting Pty Ltd has won the competitive tender to re-sheet sections of the Port Keats road. NT Feral Pig has been advised that the competitive tender for maintenance of the Port Keats road will end and move to a select tender process. Why is this so? Please outline the reasons for this decision.**

Only a portion of the routine maintenance works are proposed to be via select tender. NT Feral Pig Harvesting Pty Ltd have been kept informed of the proposal and have agreed that it is a satisfactory outcome. It is expected that they will still have an opportunity to publicly tender on work of the same or similar value of their current contract.

NT Feral Pig Harvesting Pty Ltd will also still have the opportunity to tender for any specific maintenance works such as re-sheeting works, as this does not fall within the maintenance contract. Procurement methods for this work are not proposed to be changed from what it has always been.

6. **The current contract with NT Feral Pig Harvesting Pty Ltd expires in March 2019. Has the Department of Infrastructure, Planning and Logistics (DIPL) advised local businesses in the area that:**

- (a) **the contract with NT Feral Pig Harvesting Pty Ltd will expire in March 2019;**

The Department has advised NT Feral Pig Harvesting Pty Ltd of the anticipated timelines for advertising the public tender.

The Department has been conversing with the communities as part of the Local Decision Making meetings.

- (b) **the competitive tender process for maintenance work on the Port Keats Road will transition to a select tender process.**

Only a portion of the routine maintenance works are proposed to be via select tender.

The Local Decision Making process has seen both the Wadeye and Daly River communities express interest in undertaking road maintenance works in lieu of or in conjunction with existing contracts.

The Department is currently analysing the future maintenance requirements for the Port Keats Road and of the view that there are benefits of both select and competitive processes. Regardless of the tender process, the Department will ensure road maintenance is delivered to an acceptable standard.

7. Is DIPL aware of the capacity and capability of local Indigenous business such as Thamarrurr Development Corporation (TDC) to perform road maintenance work?

Yes. The Department currently have a small contract (which was a select tender) with Thamarrurr Development Corporation for wet season road management and minor repairs and maintenance.

8. When was the last time DIPL carried out a capability audit of businesses in the West Daly region?

Investigation of Indigenous Business Enterprises (IBEs) capability does occur through capital works projects, including liaising with Prime Minister and Cabinet officers and making use of their Ironbark contract as well as researching companies through Supply Nation or the Indigenous Business Network.

9. What support does DIPL provide to facilitate Indigenous businesses to win contracts for road maintenance?

The Department proactively identifies opportunities for Aboriginal or IBEs to tender for and deliver Government works through the strategic timing and packaging of works, where practical, to ensure IBEs are afforded the best opportunity to build on their capacity and skills, and provide for sustained training and employment of local people.

To support Aboriginal employment, skills development and retention opportunities, the Department mandates tenderers provide an Indigenous Development Plan (IDP) for all construction contracts above \$500 000. DIPL provide support to all businesses that wish to tender for works such as industry briefings and tender debriefs and workshops. The Procurement section run regular workshops on how to complete tender responses and staff provide workshops and support to industry groups such as Traffic Management Association of Australia and Civil Contractors Federation NT.

The select tender process fits the objectives of the Remote Contracting Policy for works that are to be delivered in remote areas. It identifies 73 communities, homelands and outstations and supports Aboriginal economic development and seeks to create employment opportunities for Aboriginal residents in their communities.

10. What support and guidance does DIPL provide to Indigenous Businesses to win public contracts in an open competitive tender process?

Refer to response provided for Question 9.

11. Does DIPL have any way to distinguish an Indigenous business located and operating exclusively in the West Daly Region and an Indigenous business based in Darwin and operating across the Top End?

Yes, the response schedules that must be submitted by the tenderer will clearly show such information. There are around 15 responses related to the local development requirement and range from details of number of employees, sub-contractors and supplier information, organisation structure and skills, qualifications and experience of employees.

12. What is the criteria used by DIPL for a business to qualify as being Indigenous?

An IBE is defined as a business which has an ABN and is 50 percent or more Indigenous owned. However a non-Indigenous business that employs at least 75 percent Indigenous workers may be treated as an IBE.