

Running a contestable selection
process for specialist advice services

Claimant Guide

March 2010



Ngā Kaitiaki Rēti Ngahere Karauna

CROWN FORESTRY RENTAL TRUST



This guide provides claimant groups wishing to apply for specialist advice funding from the Crown Forestry Rental Trust (“the **Trust**”) with information on how to manage a contestable selection process to select a specialist advisor to provide specialist advice services.

Specialist advice is advice provided by recognised experts to assist claimant groups to negotiate a better Treaty settlement. To receive specialist advice funding, a claimant group must be an approved client of the Trust, have completed the Trust’s Eligibility and Capability requirements, and have an operational funding contract with the Trust. For more in depth information about specialist advice, we recommend you read the Trust publication “*Specialist Advice Funding for Treaty Settlement Negotiations.*”

This guide does not address goods and services funded as part of a claimant group’s operational contract. However, a contestable selection process is always good practice and can be applied when procuring goods and services other than specialist services.

The guide answers four common questions:

1. What is a contestable selection process?
2. What type of Trust funding does it apply to?
3. Why does the Trust need to undertake this process?
4. How is a contestable selection process undertaken?

This guide is a first step. The Trust encourages you to read this guide in conjunction with the Trust’s Guide *Specialist Advice Funding for Treaty Settlement Negotiations* and the *Guide for Claimants Negotiating Treaty Settlements*, which gives more detail on the Trust and the Trust’s funding in general.

Most importantly, this guide is designed for claimant groups to use in conjunction with their Trust Relationship Manager. Trust Relationship Managers can work with claimant groups to assist with completing the contestable process requirements. If you are unsure of who your Trust Relationship Manager is, please contact the Trust on **0800 CFRT CFRT**.

Electronic copies of this and all other Trust publications are available for download at **www.cfrt.org.nz**



What is a contestable selection process?

A contestable selection process is used by organisations to source products and services from the best suppliers at prices that reflect true market conditions. The process is based on tenderers supplying information against specific information supplied by the organisation to satisfy the organisation's requirements.

If your application for Trust funding support is under \$50,000, then you do not need to complete a contestable selection process. However, your application for this specialist advice funding must include:

- the name of the specialist advisor;
- a CV and / or company profile for the specialist advisor which demonstrates their qualifications, experience and capability;
- a description of how you chose the specialist advisor;
- the specialist advisor's hourly rate, any estimated disbursements, and the total amount of funding sought; and
- an explanation why this specialist advisor was chosen.

If your application for Trust funding support is between \$50,000 and \$80,000 for a single specialist advice

activity, your application must include two written quotes for the activity, along with the information described above.

If your application for Trust funding support is for over \$80,000 for a single specialist advice activity, you must conduct a contestable selection process for the activity. There are two options:

- if you have already carried out a contestable selection process before submitting your application for Trust funding support, your application will need to include:
 - the request for tender;
 - copies of the responses to the request for tender; and
 - an explanation of why your preferred specialist advisor was chosen.
- If you have not carried out a contestable selection process before submitting your application for Trust funding support, your application will need to include:
 - a list of suitable and available specialist advisors;
 - the estimated costs and hourly rates for each of the specialist advisors identified; and
 - confirmation that you will complete a contestable selection process if the Trust approves your application for Trust funding support.

PART TWO:

What type of Trust funding does it apply to?

Currently the contestable selection process only applies to funding for specialist advisors (ie lawyers, valuers, tax or any other advisers).

You do not need to run a contestable selection process for services provided under operational funding contracts (eg, administration costs or hui hosting).

If you are unsure about whether you need to run a contestable selection process for the type of funding you are seeking, contact your Trust Relationship Manager.

PART THREE:

Why does the Trust need to undertake a contestable selection process?

Trustees approve activities and costs the Trust will fund and the manner in which claimant groups will be funded. All funding must be within the terms of the Trust Deed. A copy of this Trust Deed is available for download from our website:

www.cfirt.org.nz.

Trustees require a contestable selection process for all specialist advice services over \$50,000.

This process provides assurance to Trustees that they are approving specialist advice funding to a claimant group that:

- is undertaken by an individual or firm that is recognised, capable and qualified in their field of expertise.
- is undertaken by an individual or firm that has a good track record of a quality product delivered on time and within budget.
- is within accepted market rates and time estimates for the work required.

PART FOUR:

How is a contestable process undertaken?

One of the roles of the Project Manager will include running the contestable selection process to select specialist advisors. It is important for your group to have a Project Manager who can complete this important task correctly and in a timely manner. The Trust will not provide funding support for any specialist advice activity requiring a contestable selection process if your group or the Project Manager has not completed this task to the Trust's satisfaction.

If you have any questions about the tender process, the Trust strongly recommends that you seek your own independent legal advice. The Trust is unable to provide legal advice about tenders.

The Trust has prepared template documents to assist with the request for tender process you are required to carry out as part of your application for funding for specialist advice services. These template documents and other samples are available for download from the Trust website:

<http://www.cfrt.org.nz/doclibrary/public/thestorehouse/publications/Howtorunatenderprocessforspecialistservices.doc>

Steps in the tender process

Step 1

The claimant group decides which specialist advice services it requires and which specialist advisors it wishes to invite to tender for the specialist advice services. This sets out the terms and conditions of the tender process and specifies the information each tenderer must provide.

Step 2

The claimant group sends a letter and Request for Tender to potential tenderers inviting them to tender for the specialist advice services.

Step 3

The claimant group acknowledges receipt in writing of all tenders.

Step 4

The claimant group evaluates the tenders by comparing the tenders received against evaluation criteria.

The best tender will need to demonstrate that the tenderer has the capacity and the capability to meet the requirements.

The evaluation of the tenders should:

- assess all aspects, whether related to costs or otherwise, of each tender;
- take into account other non-price factors, such as the experiences of the tenderer and their availability;
- make sure the tenderer has included all costs for these services, including GST and disbursements; and
- include whether the tendered price is reasonable.

Step 5

The claimant group makes its decision as to the preferred tenderer based on the evaluation criteria.

Step 6

The claimant group notifies the preferred tenderer in writing that they are the preferred tenderer and advises all other tenderers in writing that their tenders were not successful.

Step 7

The claimant group sends the information to the Trust as part of the specialist advice application. The Trust requires:

- a description of the selection process used to select the preferred provider/tenderer

- a table summarising all applications received that shows:
 - the names of the person or firm
 - the cost quoted
 - the person's expertise and experience
 - availability to do the work
- copies of the documentation received from the person or firm
- an explanation of why this person or firm was chosen.

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