

ROADING NEW ZEALAND

BUILDING AND MAINTAINING NEW ZEALAND'S
LAND TRANSPORT INFRASTRUCTURE

SUBMISSION

TO

NZ TRANSPORT AGENCY

ON

**HIGHWAYS AND NETWORK OPERATIONS (HNO)
DRAFT PORTFOLIO PROCUREMENT STRATEGY 2010**

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Introduction

Roading New Zealand would like to thank HNO for the opportunity to comment on this Draft Procurement Strategy Document. As you are aware Roothing New Zealand is very interested in this Procurement Strategy as it impacts directly on our members who carry out 80% of New Zealand's roading work.

Overview

As a general comment Roothing New Zealand supports HNO's Draft Portfolio Procurement Strategy 2010 and congratulates HNO for the document's comprehensive approach. We do believe, however, that the quality of the Strategy could be further enhanced by

- (1) Adding the following opportunities to the Directional Plan contained in Section 2.4
 - *Seek out improvements that increase the productivity of the contracting industry and roading sector*
 - *Identify and target the optimum number of bidders per contract to maintain a healthy contracting industry and efficient roading sector*
- (2) Adding the following business improvements to Section 2.8
 - *Identify and rectify inconsistencies within HNO contract documents. In particular between NZTA's performance based specifications, SOMAC and NZS 3910.*
 - *Investigate the use of NEC General Conditions of Contract for use in collaborative risk sharing type contracts (also refers to Section 5.4).*
 - *Review NZTA's requirements for health and safety prequalification requirements to be consistent with Department of Labour's Guidelines for Principals to Contracts.*
- (3) Adding the following extra characteristic for Asset Improvement Delivery Models to the 3 listed at the top of page 17 (Section 3.1.1)
 - *State of the economy: Ensuring that the HNO is a client of choice during times of high demand for contractors.*
- (4) Amend the second bullet point at the top of Page 17 to include *"improved economies of scale resulting in improved productivity and value for money"*.
- (5) Adding into Section 3.1.2 Asset Management Delivery Models at the end of paragraph 2 on Page 18

"NZTA competition statistics show that despite the move over the last 10 years to larger more bundled contracts competition has increased over the last 5 years with the number of successful bidders across the whole roading sector increasing from 180 to 189. Also the number of suppliers able to bid these larger bundled contracts has risen from 2 to 3 in 2000 to around 7 to 8 currently. This shows that even though the shape of the market has changed significantly competition is still strong".

- (6) Suggesting in Sections 4.2.3 and 4.4 that Purchaser Nominated Price (target price) should be used to help eliminate unsustainable prices.
- (7) Including in Section 4.8 (Prequalification) a review of the operation of the prequalification system to further reduce compliance costs.
- (8) Clarifying what is meant in Section 4.4.4 by the bullet point
 - Re-examine the logic around the contractual division of the State Highway network in consideration not only of achieving operating efficiencies, but also market dynamics.
- (9) Adding to Section 5.9 Risk Management

Market fluctuations in international bitumen prices are a significant risk outside the control of the Industry. We suggest that HNO review its current procedures for applying market fluctuations in this area to ensure the risk of fluctuations is managed by those best to handle it so that any risk premiums are minimized.
- (10) Adding to 6.2.2 (Industry Capacity and Capacity) the following:

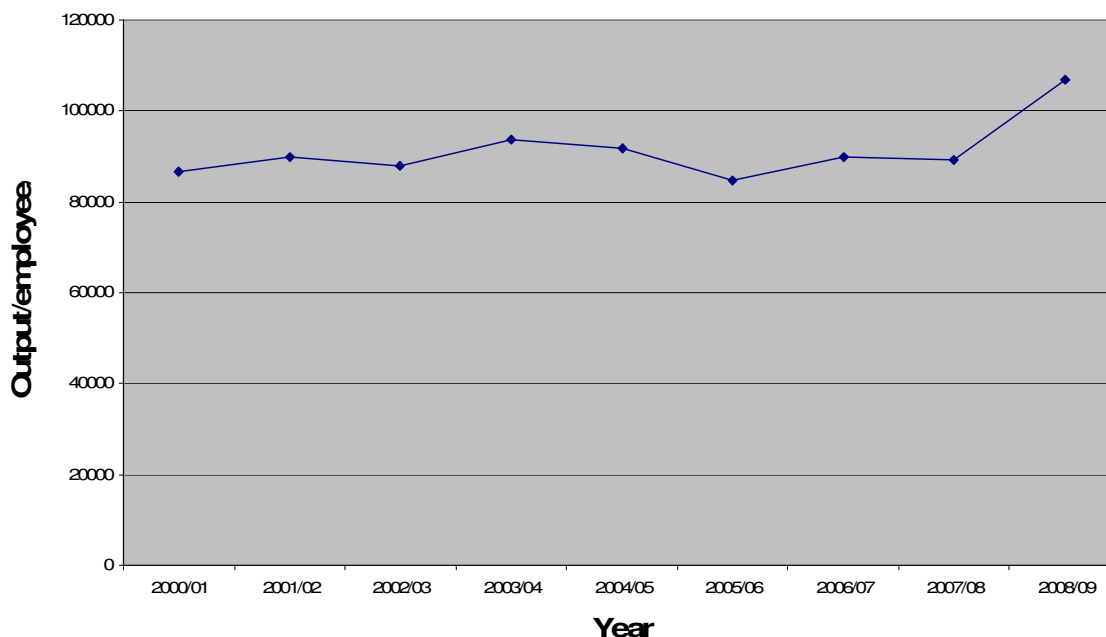
HNO also has a role to ensure that the skills of the Industry are increased to match the demand. Consequently it will investigate appropriate mechanisms to do that through its procurement processes. We suggest that one option could be requiring contractor's staff to demonstrate certain levels of competency.

Where appropriate, these are now discussed in more detail.

Productivity of Roothing Sector

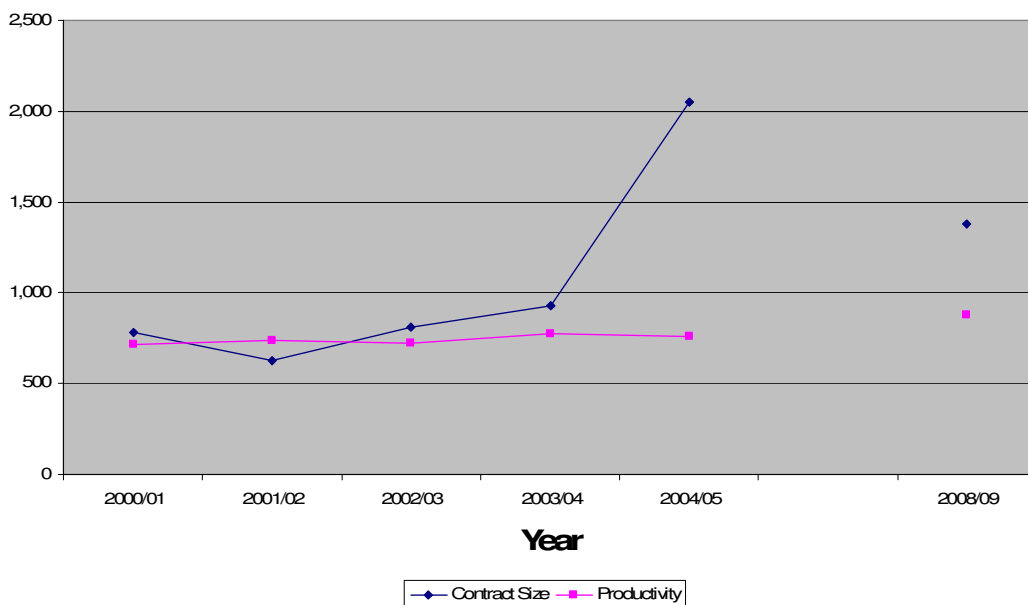
Employment Data from Statistics NZ and expenditure data from NZTA shows that the productivity of the roading sector has increased by around 23% over the last 10 years. Productivity is defined as "Output per employee" where output is the GDP of the roading sector.

Roothing Sector Productivity



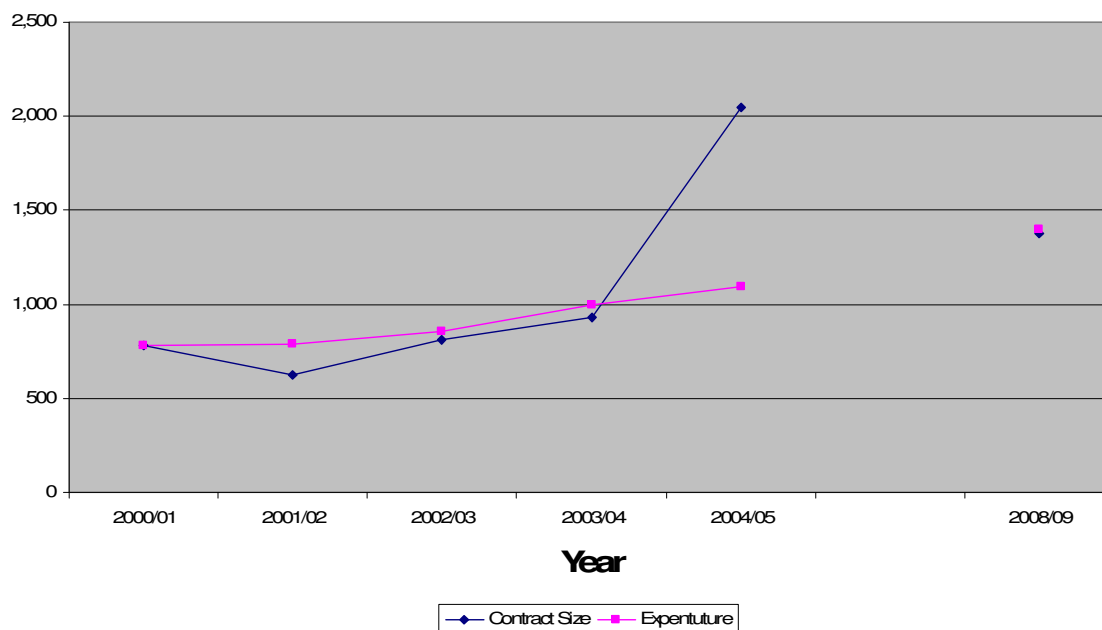
NZTA data shows that there is a strong correlation between a 3 fold increase in the size of contracts across the sector and this increase in productivity. In the graph below the spike for contract size in 2004/05 related to the Northern Gateway Alliance. This spike is untypical and if removed, the graph shows a strong relationship between contract size and productivity. Unfortunately, figures for 2005/06, 2006/07 and 2007/08 are not available.

Productivity and Average Contract Size



As shown in the graph below this increase in size of contracts appears to be driven by the increasing size of the Roding Programme, if the 2004/05 spike is removed.

Average Contract Size and Sector Expenditure



Interviews with Road Controlling Authorities put the reasons for these productivity improvements down to

- Reduced cost of tender process
 - Improved value for money due to economies of scale (labour, plant materials)
 - Superior emergency management
 - Superior communications and project management due to one point of Contact
 - Confidence that work will be delivered due to high quality management systems
 - Better management of health and safety and environmental risk
 - More direct communication and savings through removal of consultant layer.

We believe there is further scope to improve the productivity of the sector and hence value for money to HNO.

Optimum Number of Bidders

We believe that for all contractors across HNO's Procurement Portfolio the optimum number of bidders should be targeted using the type of contract used and the package contained in that contract.

From a competition perspective we believe that a minimum of 3 bidders should be targeted but from a "cost to industry" no more than 6 to 8 are required.

Inconsistencies in Contract Documents

We are aware of a number of inconsistencies within HNO's Contract Documentation. These inconsistencies arise from mixing performance requirements within method specifications which result in confusion of accountability.

NEC General Conditions of Contract

Roading New Zealand firmly believes that NZS 3910 was developed under a philosophy of adversarial parties to the contract and that it is inappropriate to "bend" it through amendments to accommodate other contract philosophies such as collaborative procurement.

This approach is supported by Standards NZ who have developed other General Conditions of Contract for other types of contract with different philosophies. The best example of this is NZS 3915 which is meant to be used when there is no "Engineer to the Contract". It's interesting to note that the construction sector felt that it was inappropriate to amend NZS 3910 so it could accommodate not having an "Engineer to the Contract." In the same way we believe that it is not appropriate to amend NZS 3910 to make it fit with the collaborative procurement model especially when there are other models available (such as NEC) that do this very well.

Client of Choice

We believe that it is in HNO's interest to be a client of choice to attract bidders for its work. This is very straight forward in times of a recession but becomes more problematic in times when there is plenty of work available for contractors. Rounding New Zealand believes in the principle of reciprocity whereby HNO contractors support their client in boom times and HNO supports their regular suppliers in times of recession.

Purchaser Nominated Price

Rounding New Zealand believes that this type of contract has merit in reducing the instances of unsustainable prices. It requires the Principal to nominate the contract price and the tenderer to offer scope and levels of service to meet that nominated price. We believe that this approach can minimize unsustainable tender prices because the tender evaluation process is based on attributes and not price, so it's not possible to offer an unsustainable price.

We suggest that HNO trials this type of contract to test its validity for reducing the number of unsustainable prices.

Prequalification

We believe that the operation of the prequalification system has become overly bureaucratic and inconsistent with the original intent of the system. This particularly applies to the requirement to repeatedly submit attribute information for low risk, lowest price conforming bids. The prequalified system was meant to eliminate this.

We trust you find this submission helpful and we would like to speak to it at a suitable time in the near future.

Yours sincerely



Chris Olsen
Chief Executive