

# Memorandum



File reference

**SUBJECT:** STATUTORY DECLARATION BY  
TENDERERS FOR STATE  
GOVERNMENT BUILDING AND  
CONSTRUCTION PROJECTS

**NO:** 12/1993      **CIRCULATION:** AGENCIES, DIRECTORS,  
ASSISTANT DIRECTORS

**DATE:** 5/4/1993      **CONTACT**  
**OFFICER:** ASSISTANT DIRECTOR,  
FACILITIES DEVELOPMENT  
(TEL. 03 616 7000)

Concerns regarding practices in the building industry in relation to tendering procedures have been raised during inquiries generated by the public statements of contractors undertaking work in the Government sector. This has required the institution of measures to prevent unsatisfactory processes.

The Attorney - General has advised of a Statutory Declaration format to be used in relation to all building and construction projects undertaken by an Agency. An appropriate pro forma is attached to this circular.

The Statutory Declaration is to be completed by tenderers. It contains statements confirming that there has been no collusion between tenderers and that no arrangements exist whereby the winning contractor pays a fee to another tenderer or to a trade association.

The Agency has the responsibility to ensure that the Statutory Declaration has been completed prior to the acceptance of a tender.



Brian Joyce  
Director  
Finance and Major Capital Projects

## STATUTORY DECLARATION

I,

of

in the State of Victoria

do solemnly and sincerely declare

THAT

### Definitions

1 In this Statutory Declaration -

\*<sub>1</sub> "the client" means

\*<sub>2</sub> "the Tenderer" means

\*<sub>3</sub> "Project" means

"tender price" means the amount indicated by a tenderer as being the lowest amount for which that tenderer is prepared to complete the Project;

"Industry Association" means any organisation of building or construction contractors and includes the Master Builder's Association of Victoria and the Australian Federation of Construction Contractors.

### Preamble

2 I hold the position of \_\_\_\_\_ and am duly authorised by the Tenderer to make this declaration on its behalf.

3 I make this declaration on behalf of the Tenderer and on behalf of myself.

### Collusive Tendering

4 Prior to the Tenderer submitting its tender for the Project, neither the Tenderer nor any of its servants or agents had knowledge of the tender price or proposed tender price for the Project of any other tenderer who submitted, or of any other person or organisation proposing to submit, a tender for the Project.

5 Prior to the close of tenders, neither the Tenderer nor any of its servants or agents disclosed the Tenderer's tender price for the Project to any other tenderer who submitted a tender for the Project, to any other person or organisation proposing to submit a tender for the Project, or to any other person or organisation connected with such a tenderer, person or organisation.

### Cover Bidding

6 Neither the Tenderer nor any of its servants or agents has provided information to any other tenderer who submitted a tender for the Project, to any other person or organisation proposing to submit a tender for the Project, or to any other person or organisation for the purpose of assisting in the preparation of a tender for the Project, being a tender known in the building and construction industry as a "cover bid", where the Tenderer was of the belief that the person or organisation proposing to submit the tender did not intend to genuinely compete for the contract.

7 The Tenderer is genuinely competing for the contract for the Project and its tender

is not a "cover bid".

**Industry Association Agreements**

8 Neither the Tenderer nor any of its servants or agents has entered into any contract, agreement, arrangement or understanding, other than as disclosed to the Client, that the successful tenderer for the Project would pay any money to, or would provide any other benefit or other financial advantage to, an Industry Association in respect of the Project.

**Unsuccessful Tenderer's Fees**

9 Neither the Tenderer nor any of its servants or agents has entered into any contract, agreement, arrangement or understanding that the successful tenderer for the Project would pay any money, or would provide any other benefit or other financial advantage, to or for the benefit of an other tenderer who unsuccessfully tendered for the Project.

**Qualifications to Tenders**

10 Neither the Tenderer nor any of its servants or agents has entered into any contract, agreement, arrangement or understanding that tenderers for the Project would include an identical or similar condition or conditions in their tenders.

AND I make this solemn declaration conscientiously believing that it is true and correct and is made in the belief that a person making a false declaration is liable to the penalties of perjury.

DECLARED at \_\_\_\_\_ in the \_\_\_\_\_ )  
State of Victoria this \_\_\_\_\_ )  
day of \_\_\_\_\_ One thousand \_\_\_\_\_ )\*<sub>4</sub> .....  
nine hundred \_\_\_\_\_ )

Before me \*<sub>5</sub>. . . . .

- \*<sub>1</sub> Name of Agency
- \*<sub>2</sub> Details of tendering corporation as appropriate
- \*<sub>3</sub> Details of the Project
- \*<sub>4</sub> Signature of person making declaration
- \*<sub>5</sub> Signature of person before whom the declaration is made, title and name and address of person before whom the declaration is made.