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# STATE HIGHWAY CONSTRUCTION CONTRACT PROFORMA MANUAL

Manual number: SM031

March 2022



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# DOCUMENT MANAGEMENT PLAN

## Purpose

This is the Manual Management Plan which details updates, amendments, and contact points for the *State Highway construction contract proforma manual* (SM031).

This Manual is the property of Waka Kotahi NZ Transport Agency (Waka Kotahi). No part of it may be communicated to any person outside the organisation without written authority. Any copy not released directly by Waka Kotahi and released by a third party will not be a controlled version and therefore may not contain updates.

## Document Information

<b>DOCUMENT NAME</b>	State highway construction contract proforma manual
<b>MANUAL NUMBER</b>	SM031
<b>MANUAL OWNER</b>	Procurement Strategy and Methods Team
<b>MANUAL SPONSOR</b>	Senior Manager Procurement
<b>REVIEW TEAM MEMBERS</b>	Richard Wade, Colin MacKay, Delphine Haas, Glen Prince, Andrew Adams, Malcolm Pautz, Jaco De Vries, Audrey Koncsol, Jarrad Keenan

## Amendment and Review Strategy

This document is subject to review and amendment from time-to-time. Document revisions will be issued to the registered copyholder via a Technical Advice Notice (TAN) detailing the changes and section(s) affected.

All Corrective Action/Improvement Requests (CAIRs) suggesting changes will be acknowledged by the Manual Owner.

A summary of amendments for each publication is available for viewing on the Waka Kotahi website at: <https://www.nzta.govt.nz/resources/state-highway-construction-contract-proforma-manual/> and the Waka Kotahi internal files server at <https://infohub.nzta.govt.nz/otcs/cs.dll/link/39026133>

	COMMENTS	FREQUENCY
Amendments (of a minor nature)	Incorporate in Annual Review may require coordinating with relevant subject matter experts where necessary	Annual: January – March Quarter
Review (major changes)	Urgent amendments fundamentally changing the content or structure of the manual will be incorporated as soon as practicable. May require coordinating with relevant subject matter experts where necessary	As required
Notification	Technical Advice Notice is published on the Highways Information Portal.	Annually or as required

## **Other Information (at Manual Owner's discretion)**

There will be occasions, depending on the subject matter, when amendments will need to be worked through by the Waka Kotahi Procurement Strategy and Methods Team under the direction of the Review Team before the amendment is actioned. This may cause some variation to the above noted time frames.

## **Feedback**

If you have any comments with regard to this manual, please email [procurement@nzta.govt.nz](mailto:procurement@nzta.govt.nz) with the subject line of "Feedback for SM031". Your request will be forwarded to the Review Team for review.

## RECORD OF AMENDMENT

This document is a controlled document is therefore subject to review and amendment from time-to-time. Amendments will be recorded on this Amendment Control Sheet. Amendment Notices detailing the changes will be issued via a Technical Advice Notice and published on the Waka Kotahi website.

All individuals seeking to rely on, or implement, the Waka Kotahi *State Highway Construction Contract Proforma Manual*, or any other manual referred to in this document, have a duty to ensure that they are familiar with the most recent amendments.

AMENDMENT NUMBER	DESCRIPTION OF CHANGE	EFFECTIVE DATE	UPDATED BY
1	Reissue Manual in full Annual update	April 02	I Gray
2	Annual update. Reissue: Manual, Appendix A, B, C, E, Add new appendix G1-3.	March 03	I Gray
3	Interim update. Reissue: Manual, Appendix A3, A4, A5, A6.	August 03	I Gray
4	Annual update. Reissue: Manual, Appendix A,B,C, E, G1 Add new appendix G4,5,6 and H1	March 04	I Gray
5	Annual update. Reissue: Manual, Appendix A,B,C,D, E, H	March 04	I Gray
6	Annual update. Reissue: Manual, Appendix A,B,C,D, E, H	March 06	U Cardiff
7	Annual update. Reissue: Manual, Appendix A,B,C,D, E, H	March 07	U Cardiff
8	Annual update. Reissue: Manual, Appendix A,B,C,D, E, G, H	March 08	U Cardiff
9	Amendment update. Reissue: Manual, Appendix A,B,C,D, E, G, H	August 08	U Cardiff
10	Amendment update. Reissue: Manual, Appendix A,B,C, E, H	March 09	U Cardiff
11	Amendment update. Reissue: Manual, Appendix, new Generic SIA, A (including new A6), B, C, E, H	March 10	E Beatson
12	Amendment update. Reissue: Manual, Appendix A, B, C, D, E including new ECI Proforma Appendix H	March 11	U Cardiff

13	Review. Reissue: Manual, Appendices A, B, D, E, H. Appendices C and G deleted	March 15	P Alkema
14	Review. Reissue: Manual, Appendices A, B, D, E, H.	March 16	P Alkema
15	Review. Reissue: Manual, Appendices A, B, D, E, H.	March 17	P Alkema
16	Amendment update. Reissue: Manual, new Generic ROI, Appendices A, B, E, H	March 20	T Cleary
17	Interim update. Reissue: Manual, Appendices A8, B4, E1, E2, H3	March 21	A Koncsol
18	Amendment update. Reissue: Manual, Generic ROI, Appendices A, B, D, E, H	August 21	A Koncsol
19	Communicable Disease definitions update	March 22	J Keenan

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# 1 HOW TO USE THIS MANUAL

## 1.1 Purpose

- 1.1.1 The purpose of this manual is to house Waka Kotahi NZ Transport Agency's (Waka Kotahi) standard physical works construction contract documentation and to provide a guide to consultants preparing construction contract documents for Waka Kotahi.

## 1.2 Objective

- 1.2.1 The primary objective of this manual is to ensure the appropriate and consistent use of approved contractual models for state highway construction works.
- 1.2.2 The secondary objective is to ensure the manual allows flexibility to the user to customise the documentation to the individual project needs.
- 1.2.3 This will be achieved by the following means:
- a) Utilising NZS 3910:2013 and NZS 3916:2013 Conditions of Contract;
  - b) Applying Waka Kotahi standards and specifications;
  - c) Compliance with Waka Kotahi relevant process and policy manuals;
  - d) Allowing consultants to tailor documentation for site specific requirements;
  - e) Where possible allow contractors to introduce innovation through design development and alternative tenders;
  - f) Feedback and review of documentation and update to reflect best practice.

## 1.3 Manual status

- 1.3.1 This manual has the status of a "Standard" as defined in the Waka Kotahi *Register process manual for network standards and guidelines*. The authority to amend or vary the manual has been delegated to the Sponsor of this manual.
- 1.3.2 This manual forms the basis of all formal contract documentation used to engage a contractor for the physical works of any construction or improvement project.

## 1.4 Intended manual users

- 1.4.1 This manual is intended to be a user's manual, and a repository for the Waka Kotahi physical works, construction tender documentation. It will be maintained by the Waka Kotahi Procurement Team and used by the Waka Kotahi staff and consultants preparing physical works request for tenders (RFT).
- 1.4.2 The proforma documents listed in this manual shall be used for all Waka Kotahi physical works construction RFTs.

## 1.5 Communication and amendment control

- 1.5.1 Manual users may communicate via email at the address given on the amendment control sheet.
- 1.5.2 A list of amendments to this manual will be documented in the record of amendments table at the start of this manual.

## 1.6 Manual review process

- 1.6.1 The manual owner is responsible for the review and update of this manual. The review will be carried out in conjunction with the Waka Kotahi subject matter experts. The purpose of the review is to allow feedback from our suppliers and Waka Kotahi staff, and update the contract delivery models to ensure the proforma documents remain current and represent best practice.

- 1.6.2 All comments relating to amendments to this manual shall be made via email to the address given on the amendment control sheet
- 1.6.3 Initially all proformas will undergo annual review, with the exception of models under trial. Once new models have been suitably trialled, they will revert to an annual review cycle.
- 1.6.4 In some instances a change to a fundamental part of the document (e.g. a change in the Waka Kotahi *Procurement manual*, or as a result of legal issues) may require a proforma to be reissued outside the programmed review cycle, if this occurs the Waka Kotahi consultants and registered manual holders will be informed of the change and issued with the new proforma.

## 1.7 Interrelationships with other manuals

- 1.7.1 This manual contains the Waka Kotahi proforma contract documentation for preparing physical works RFTs. In addition, staff and consultants shall refer to other Waka Kotahi manuals, standards and guidelines in the preparation of RFTs, including, but not limited to the following:
  - a) *Procurement manual*
  - b) *State highway infrastructure strategy*
  - c) *Contract procedures manual (SM021)*
  - d) *State highway professional services contract proforma manual (SM030)*

## 1.8 Document availability

- 1.8.1 The *State highway construction contract proforma manual (SM031)* is available in pdf form on the [Waka Kotahi website](#).
- 1.8.2 The *State highway construction contract proforma manual (SM031)* appendices are available to the Waka Kotahi consultants in MS Word format for use in preparing RFTs via the Waka Kotahi project manager responsible for their commission.
- 1.8.3 The proforma manual (Appendices A to E) are held on the [Waka Kotahi Document Management System](#).
- 1.8.4 The Alliance (Appendix D) and proforma is available from the Procurement Team by emailing [Procurement@nzta.govt.nz](mailto:Procurement@nzta.govt.nz) with the subject line "Feedback for SM031".
- 1.8.5 The *State highway construction contract proforma manual (SM031)* appendices are available to Road Controlling Authorities (RCAs). RCAs should contact, in writing, the Waka Kotahi Procurement Team, or by emailing [procurement@nzta.govt.nz](mailto:procurement@nzta.govt.nz) with the subject line "Feedback for SM031", identifying which appendices are required. Waka Kotahi will endeavour to supply appropriate documentation subject to agreement to our standard disclaimer.

## 2 GLOSSARY OF TERMS AND ABBREVIATIONS

The following terminology has been used throughout this manual.

Basis of payment (BP)	A proforma document and part of the RFT, detailing what is included in each payment item within in the schedule of prices, and how the contractor is to be paid.
Conditions of Contract (CC)	A proforma document and part of the RFT. Using NZS3910: 2013 and NZS 3916: 2013 General conditions of contract, as amended by the Waka Kotahi special conditions
CPM	The Waka Kotahi <i>Contract procedures manual</i> , reference number SM021
Instructions For Tendering (IFT)	A proforma document and part of the RFT, detailing the work to be carried out and explaining the procedure for preparing, submitting, and evaluating a tender.
Delivery Model	Delivery method, for example design and construct. A delivery model consists of a number of proformas (eg IFT, CC, BP, PS)
PQM	Price Quality Method
Principal Requirements (PR)	A proforma document and part of the RFT, detailing the standard of workmanship expected to be undertaken by the contractor (used on design and construct contracts)
Proforma	The framework, or base documentation that shall be used by consultants in preparing the project specific RFT
Project Specification (PS)	A proforma document and part of the RFT, detailing the standard of workmanship expected to be undertaken by the contractor (used on traditional contracts)

## 3 CONSTRUCTION MODELS AVAILABLE

### 3.1 Introduction

3.1.1 Each delivery model comprises of a number of elements, or proformas. This manual is designed as a series of independent proformas that can be combined to form a single contract document relevant to the type of works proposed.

### 3.2 Registration of Interest (ROI)

3.2.1 The Registration of Interest (ROI) proforma document is used to shortlisting applicants prior to the full tender process. This document is used for both the traditional and design and construct delivery models.

### 3.3 Traditional (M&V / LS)

3.3.1 Waka Kotahi has a single proforma Instructions for Tendering (IFT). This proforma is used for the Lowest Price Conforming (Basic and Advanced) and Price Quality Method supplier selection methods. This document caters for both measure and value and lump sum contracts under the traditional delivery model and will be used for procuring the majority of Waka Kotahi physical works construction contracts. These are typically used as follows:

Lowest Price Conforming (Basic) (LPC Basic)	Simple Projects	<\$2m
Lowest Price Conforming (Advanced) (LPC Advanced)	Complex Projects	\$2-5m
PQM	Simple – Complex Projects	\$2->\$20m

3.3.2 The remainder of the traditional suite of proforma documentation is made up as follows:

- a) Project Specification (PS)
- b) Basis of Payment & Schedules of Prices (BP & SP);
- c) Conditions of Contract (CC).

3.3.3 The General Conditions of Contract are NZS 3910: 2013. The PS, BP and CC proformas are common to all traditional IFT's.

### 3.4 Design and construct

3.4.1 The Transport Waka Kotahi Design and Construct (D&C) model is made up of the following proformas:

- a) Instructions for Tendering (IFT);
- b) Principal's Requirements (PR);
- c) Basis of Payment & Schedules of Prices (BP & SP);
- d) Conditions of Contract (CC).

3.4.2 There is a single proforma IFT document for the D&C model that caters for both the D&C Basic (contracts up to \$4.5M) and D&C models. The General Conditions of Contract are NZS 3916: 2013.

### **3.5 Prequalification in proformas**

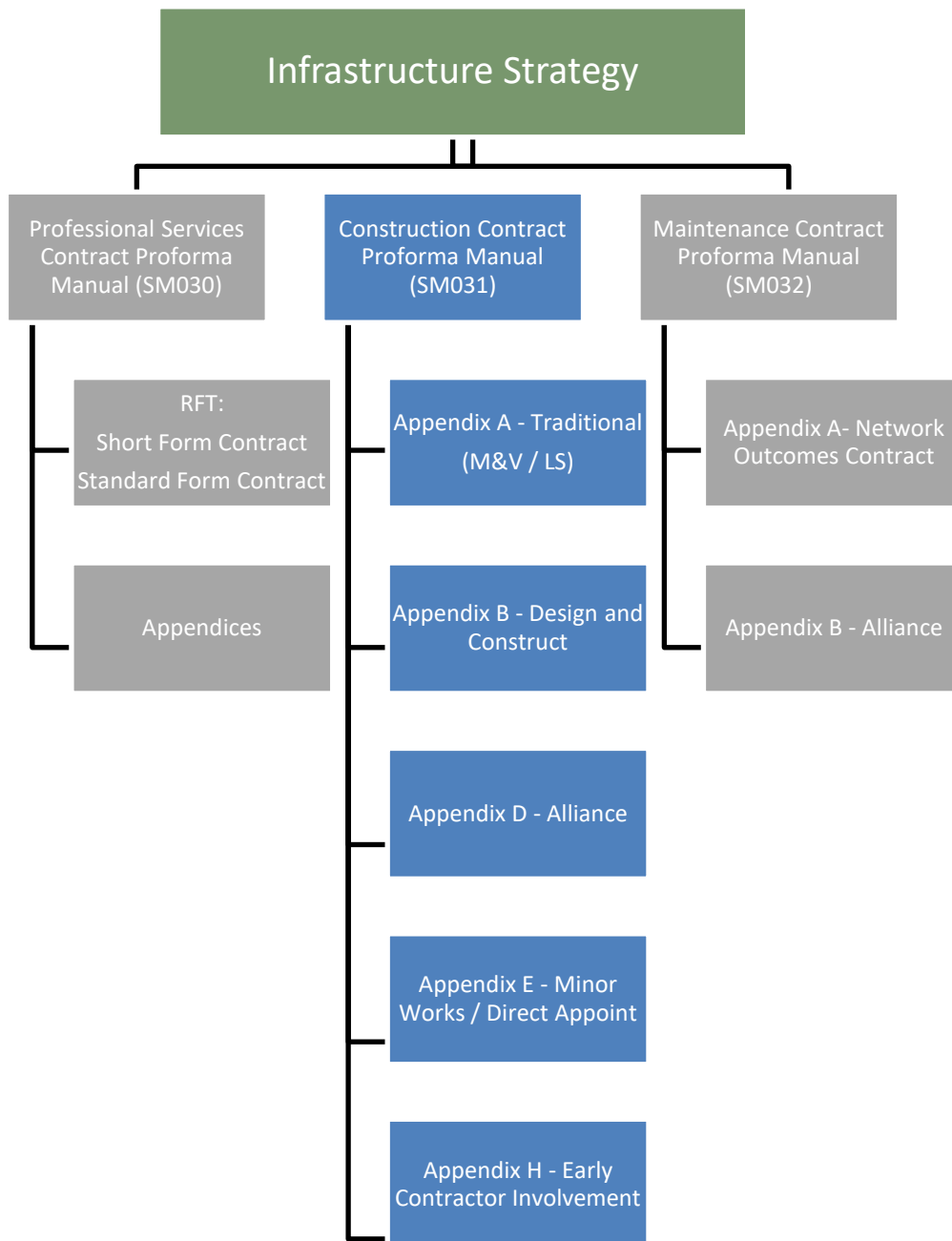
- 3.5.1 Each of the standard proformas has specific prequalification clauses (purple text) that can modify the requirements for the use of the standard non-price attributes. Additional guidance on the use of the pre-qualification with non-price attributes can be found in the Waka Kotahi *Contract Procedures Manual*.
- 3.5.2 For details of the prequalification process and to download the Waka Kotahi Prequalification Information Pack, refer to the [Waka Kotahi website](#), or alternatively [contactprequalification@nzta.govt.nz](mailto:contactprequalification@nzta.govt.nz).

### **3.6 Future procurement models**

- 3.6.1 Waka Kotahi may also develop other procurement models, which will also be included in this manual if pursued.

### **3.7 State highway infrastructure strategy**

- 3.7.1 The following chart summarises the State Highway Infrastructure Strategy referenced suite of contract proforma manuals, currently in use by Waka Kotahi.



# 4 PROFORMA DOCUMENT USE AND STRUCTURE

## 4.1 Overview

4.1.1 Waka Kotahi has developed a standard suite of physical works delivery models, with the objective of providing a consistently high quality of tender documentation, incorporating national and international best practices, with a fair allocation of risk.

## 4.2 Choice of delivery model

4.2.1 The selection of the delivery model shall be confirmed in the large project Stage 2 procurement strategy (refer to [Appendix XXIX](#) of the Waka Kotahi [Contract procedures manual](#)). This is typically undertaken by the consultant as part of the Pre-implementation phase.

4.2.2 The choice shall be consistent with the Waka Kotahi State highway infrastructure strategy.

4.2.3 If preparing contract documents using the traditional proforma, the consultant shall obtain approval of the Waka Kotahi Project Manager if they wish to use the advanced proforma. In general the advanced proforma shall be used for projects greater than \$4.5m construction cost, or projects with special conditions, which require the use of the advanced selection method.

## 4.3 Roles and responsibilities

4.3.1 Waka Kotahi is responsible for the following tasks relating to document preparation and tender evaluation:

- a) Ensure the consultant has the latest proforma documentation;
- b) Review draft tender documentation produced by the consultant;
- c) Lead or participate in the interactive tender process, as outlined in the *Contract procedures manual* (SM021);
- d) Lead or participate in the tender evaluation and contract award process, as outlined in the *Contract procedures manual* (SM021).

4.3.2 The consultant is responsible for preparing and administering the tender documents in accordance with this manual and shall ensure that all procedures followed are in accordance with the Waka Kotahi *Contract procedures manual* (SM021). The following tasks relate to document preparation and tender evaluation:

- a) Develop the proforma into a project specific document for tendering;
- b) Update tender documentation through notice to tenderers;
- c) Lead or participate in the interactive tender process, as required by the tender documents;
- d) Carry out tender evaluation and contract award.

## 4.4 Standard document structure

4.4.1 The standard documentation is structured around the Waka Kotahi standard specifications, and NZS 3910:2013 or NZS 3916:2013. Consultants also require knowledge of other Waka Kotahi reference and policy manuals (for example *SM021 Contract procedures manual*) in compiling RFTs.

4.4.2 RFT's may comprise of one or more bound volumes, depending on the size of the RFT. They shall contain the following parts, and be structured in the following order:

- a) Part 1: Contract Cover Sheet and Quality record; Table of Contents; Instructions for tendering
- b) Part 2: Schedule of Prices and Basis of Payment.

- c) Part 3: Conditions of Contract.
- d) Part 4: Project Specification.
- e) Part 5: Standard Technical Specifications (not part of this manual).
- f) Part 6: Drawings (the drawings are project specific, and not part of this manual)
- g) Part 7: Appendices to the RFT (Appendices are project specific, and do not form part of this manual. Appendices may include but are not limited to the following: traffic management schedule, archaeological management plan, geotechnical data and reports, erosion management plan, resource consents, designation conditions).
- h) Part 8: Additional Documents (these are project specific, and not part of this manual).

## 4.5 How to use the proforma RFT

4.5.1 The process for customising the RFT proforma and the subsequent compilation of the signing contract document sets is described below. The Project Manager is responsible for ensuring the various tasks comprising this process are professionally executed in accordance with the requirements of this manual and the following Waka Kotahi documentation:

- a) *Procurement manual*;
- b) *Contract procedures manual (SM021)*; and
- c) *State highway professional services contract proforma manual (SM030)*.

4.5.2 The proforma documents are accessed using MS Word.

4.5.3 The document compiler is required to enter a number of details in creating an RFT. This data will include, but is not limited to, the following:

- a) Contract name;
- b) Contract number (supplied by the Waka Kotahi Tender's Secretary);
- c) Supplier selection method;
- d) Quality Record;
- e) Project Specific data including scope, contact details, tender close, first schedule to conditions of contract, and other key contract data.

## 4.6 Standard proforma wording and amendments

4.6.1 Amendments, which reflect local or site specific conditions and will enhance the performance of the contract may be made with prior approval of the Waka Kotahi project manager.

4.6.2 Wherever the content is not applicable to a particular project the section or paragraph can be deleted. It is important to retain the structure and format of the document if consistency is to be achieved and for the purpose of retaining cross-referencing throughout the documentation. Where numbered sections are deleted, it is recommended that the deleted wording be replaced with the words 'Not Used'.

4.6.3 The document may be amended to suit the individual contract. There are limitations on what changes may be made to the document. The compiler will note that this manual (if not photocopied) and the proformas it contains use colours. These colours have the following meanings:



COLOUR	STATUS
<b>Black text</b>	Is mandatory and may not be changed.
<b>Red text</b>	Is used for data which requires fields to be updated or at least considered for each contract and marked at the beginning with “[” and at the end with “]”. Text can be used as-is, modified or replaced.
<b>Purple text</b>	Highlights pre-qualification clauses that need to be either added or omitted. Guidelines will also be present to help the Manual User.
<b>Green Text (within the ROI)</b>	Is used for traditional inclusions within the GENERIC Registration of Interest.
<b>Brown Text (within the ROI)</b>	Is used for Design and Construct inclusions within the GENERIC Registration of Interest.
<b>Blue text</b>	Is used for optional clauses which can be included as-is or deleted in full.
<b>&lt;&lt;Guidance notes&gt;&gt;</b>	Is used for guidance notes for the tender document creator and marked at the beginning with “<<” and the end with “>>”. These must be removed prior to tender document release.

- 4.6.4 The text colour should be reset to black, and all guidance notes removed prior to printing the final RFT.**
- 4.6.5 The General Conditions of Contract (NZS 3910:2013 and NZS 3916:2013) and Standard Specifications are not required to be bound into RFT's.
- 4.6.6 Where, during the Tender Period, a page of the RFT is reissued, the replacement page should be tagged with a footer identifying the Notice number and date, e.g. Revised by NTT Number 2 – 02 May 2016.
- 4.6.7 The contract documents are ultimately compiled for signing as required in the *Contract Procedures Manual*.

## 5 CONTRACT DOCUMENT PREPARATION

### 5.1 General information

- 5.1.1 Schedule 1 - Conditions of contract (NZS 3910:2013 and NZS3916) require a number of variables to be completed. The proforma has been developed with default values and supporting guidance that should be used by consultants in discussion with the Waka Kotahi Project Manager in order to develop the RFT.

### 5.2 Time for completion

- 5.2.1 The LPC (Advanced) and PQM supplier selection methods allow the contractor to nominate the period for completion, with the approval of the Waka Kotahi Project Manager, and within maximum duration stated in the tender documents. Measure and Value and Lump Sum procurement models provide for the possession date and period in respect of the contract works (which must be within the Waka Kotahi allowable construction period) to be negotiated with the Tenderer prior to contract acceptance, and the agreed possession date and construction timing then forms part of the tender acceptance letter.

### 5.3 Electronic tender documentation

- 5.3.1 Tender documentation is to be made available, in an appropriate electronic form, for example an excel spreadsheet for the schedule of prices, or a word document for sections the tenderer is required to complete, or.pdf format for tender documents.
- 5.3.2 Electronic documents are provided in good faith, to assist tenderers.
- 5.3.3 It is the consultant's responsibility to have procedures in place for managing and checking any electronic information sent to and/or received for tendering purposes.

### 5.4 Document branding

- 5.4.1 Contract documents shall have standard Waka Kotahi covers front and back and the Waka Kotahi logo in the title block of all drawings. Use of the Waka Kotahi logo must adhere to the [Waka Kotahi Brand Manual](#). The consultant may include their logo in the title block on drawings. The consultant's logo must not appear in the header or footer of any pages in the RFT document. The consultant shall not copyright either the document or any drawings.

# APPENDICES

APPENDICES TO THE STATE HIGHWAY CONSTRUCTION CONTRACT PROFORMA MANUAL	
<b>ROI</b>	<b>Registration of Interest</b>
<b>Appendix A</b>	<b>Traditional (M&amp;V and LS)</b>
A1	Instructions for Tendering – LPC, PQM
A6	Project Specification
A7	Basis of Payment
A8	Conditions of Contract
A9	Consultant's standard - Technical Specifications
A10	Appendices
<b>Appendix B</b>	<b>Design and Construct</b>
B2	Instructions for Tendering
B3A	Principal's Requirements
B3B	Appendices to Principal's Requirements
B4	Conditions of Contract
B5	Basis of Payment
<b>Appendix D</b>	<b>Alliancing</b>
D1	Request for Proposals (Alliance)
D2	Request for Proposals (Competitive Alliance)
D3	Interim Project Alliance Agreement
D4	Project Alliance Agreement
<b>Appendix E</b>	<b>Minor Works</b>
E1	Minor Works
E2	Direct Appoint
<b>Appendix H</b>	<b>Early Contractor Involvement</b>
H1	Instructions for Tendering
H2	Principal's Requirements
H3	Conditions of Contract
H4	Basis of Payment