

CONDITIONS OF RFI

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1 GENERAL

1.1 General (Core)

Note to drafters: This template has been drafted on the basis that the sole purpose of this RFI is to seek information from industry on the matters described in Annex A. Accordingly, clause 1.1 makes clear that the RFI process is not itself a procurement and that no decision to undertake any form of procurement process relevant to the named project or procurement activity has been or will necessarily be made. If this RFI is to be used for purposes other than to obtain market information (eg to procure any good or service), significant changes may be required and specialist contracting advice sought.

- 1.1.1 As the sole purpose of this Request For Information (RFI) is to obtain information in connection with **[INSERT NAME OF PROJECT OR PROCUREMENT]**, it is not a procurement and does not form part of any Commonwealth procurement process.
- 1.1.2 A respondent who receives this RFI is under no obligation to respond and any response that is provided is submitted on a voluntary basis in accordance with the terms of this RFI.
- 1.1.3 Defence will not use this RFI (and responses received) to formally shortlist suppliers for any future procurement processes.
- 1.1.4 Respondents should nevertheless be aware that Defence may use responses to this RFI for capability development and / or procurement planning purposes, including to assist Defence identify, refine and cost capability options, develop any aspect of the acquisition and sustainment implementation strategy and to inform the preparation of any future capability development and / or solicitation documentation.

1.2 Interpretation of Request for Information (Core)

- 1.2.1 In this RFI, unless the contrary intention appears:
- a. the singular includes the plural and vice-versa;
 - b. a reference to one gender includes the other; and
 - c. the word 'includes' in any form is not a word of limitation.

1.3 Request for Information Process (Core)

Optional note to respondents – For when Option A is chosen in clause 3.1.

Note to respondents: When an amendment to the RFI is issued by the Commonwealth it will be through AusTender. Refer to clause 3.1 for further information on AusTender.

- 1.3.1 The Commonwealth may add to, vary, modify or amend this RFI by giving the respondents timely written notice of such addition, variation, modification or amendment.
- 1.3.2 If the Commonwealth adds to, varies, modifies or amends this RFI under clause 1.3.1 after responses have been submitted, it may then seek amended responses.
- 1.3.3 The Commonwealth may suspend, defer or terminate this RFI process at any time. The Commonwealth will notify respondents of any decision to this effect.

2 RESPONSE PREPARATION

2.1 Response Preparation (Core)

- 2.1.1 Respondents should complete and provide the information requested in Annex A to this RFI in the manner requested in the Annex.
- 2.1.2 Respondents are requested to ensure that the information provided is accurate, complete and current.
- 2.1.3 In responding to this RFI the respondent acknowledges that:

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- a. the Commonwealth may approach other suppliers (including suppliers that have not responded to this RFI) to provide information relevant to the **[INSERT NAME OF PROJECT OR PROCUREMENT]**, including information the same or similar to that requested by this RFI;
- b. the Commonwealth may conduct other industry engagement activities and future procurement processes in relation to the **[INSERT NAME PROJECT / PROCUREMENT]**, which the respondent may or may not be invited to participate; and
- c. providing a response to this RFI does not of itself entitle, qualify or disqualify the respondent to be invited to participate in any future industry engagement activity or procurement process.

2.2 Language and Measurement (Core)

- 2.2.1 Any response, including all attachments and supporting documentation, should be written in English.
- 2.2.2 All measurements should be expressed in Australian legal units of measurement unless otherwise specified by the Commonwealth.

2.3 Responsibility for Response Costs (Core)

- 2.3.1 The respondent's participation in this RFI process, or in relation to any matter concerning this RFI, is at the respondent's own risk and cost. The Commonwealth will not be responsible for any costs or expenses incurred by any respondent in preparation or lodgement of a response to this RFI.

2.4 Contact Officer for Request for Information Inquiries (Core)

- 2.4.1 The Contact Officer for this RFI is:
[INSERT CONTACT OFFICER DETAILS]
- 2.4.2 Respondents should direct any questions regarding this RFI in writing only to the Contact Officer.
- 2.4.3 Any question submitted by any respondent is submitted on the basis that the Commonwealth may circulate the respondent's questions and the Commonwealth's answers to all other respondents without disclosing the source of the questions or revealing Confidential Information or the substance of the proposed response.

2.5 Preparation and Transmission of Classified Responses (Optional)

- 2.5.1 Classified content in responses is to be avoided if possible. If this cannot be achieved, respondents are to seek advice from the Contact Officer in clause 2.4 on how responses containing classified content are to be prepared and transmitted.

3 RESPONSE LODGEMENT

3.1 Lodgement of Responses (Core)

Option A: For when responses will be lodged electronically via AusTender.

Note to drafters: Response Closing Time must be between 10 am - 4pm ACT local time and not fall on a national or local ACT public holiday. This is to ensure that the AusTender Help Desk function is available to respondents during the Response Closing Time.

Note to respondents: The Response Closing Time will also be displayed in the relevant AusTender webpage together with a countdown clock that displays in real time the amount of time left until Response Closing Time (for more information please see AusTender Terms of Use). For the purposes of determining whether a tender response has been lodged before the Response Closing Time, the countdown clock will be conclusive.

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- 3.1.1 AusTender is the Australian Government's procurement information system. Access to and use of AusTender is subject to terms and conditions. In participating in this RFI (Approach to Market (ATM)), respondents are to comply with those terms and conditions and any applicable instructions, processes, procedures and recommendations as advised on AusTender at <https://www.tenders.gov.au/?event=public.termsOfUse>.
- 3.1.2 All queries and requests for AusTender technical or operational support are to be directed to:
AusTender Help Desk,
Telephone: 1300 651 698
International: +61 2 6215 1558
Email: tenders@finance.gov.au

The AusTender Helpdesk is available between 9am and 5pm Australian Capital Territory (ACT) local time, Monday to Friday (excluding ACT and national public holidays).
- 3.1.3 Responses are to be lodged electronically via AusTender (<https://www.tenders.gov.au>) before **[INSERT TIME]** local time in the Australian Capital Territory (ACT) on **[INSERT DATE]** (the 'Response Closing Time') in accordance with the tender lodgement procedures set out in this RFI and on AusTender.
- 3.1.4 Responses are to be lodged in **[INSERT FORMAT]** format. All file names should:
a. incorporate the respondent's name; and
b. reflect the parts of the response they represent, where the response comprises multiple files.
- 3.1.5 Response files should not exceed a combined file size of 500 megabytes per upload.

Option B: For when the RFI will be distributed, and responses will be submitted, via email.

- 3.1.6 Responses (including any supporting documentation such as brochures, handbooks and sample drawings, if applicable) are to be lodged on or before 12.00 pm local time on **[INSERT DATE]** (the 'Response Closing Time') at:
[INSERT EMAIL ADDRESS] (the 'Response Address').

- 3.1.7 Responses lodged after the Response Closing Time may or may not be considered by the Commonwealth.

4 MATTERS CONCERNING RESPONSES

4.1 Confidential Information (Optional)

- 4.1.1 The Commonwealth may require a respondent to execute a deed of confidentiality in a form acceptable to the Commonwealth before being provided with some or all of the information included in the RFI.
- 4.1.2 Whether or not such a deed is required respondents are to:
a. treat the RFI and any information provided to respondents by or on behalf of the Commonwealth in connection with the RFI process as confidential information belonging to the Commonwealth; and
b. accordingly, not disclose or use that information except as strictly required for the purpose of developing a response in accordance with the RFI.

4.2 Ownership and Use of Response Documents (Core)

- 4.2.1 All response documents submitted in response to this RFI become the property of the Commonwealth. Respondents submitting documents do so on the basis that the

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Commonwealth may use, retain and copy the information contained in those documents for purposes related to **[INSERT NAME OF PROJECT OR PROCUREMENT]**, including to assist Defence identify, refine and cost capability options, develop any aspect of the acquisition and sustainment implementation strategy and / or prepare any future capability development and / or solicitation documentation.

- 4.2.2 Subject to clause 4.2.3, the Commonwealth may disclose all or part of the response documents to a third party for the purposes described in clause 4.2.1.
- 4.2.3 Respondents are not to include confidential information in their response without the prior written agreement of the Contact Officer. If the Commonwealth agrees to the inclusion of confidential information belonging to a respondent, this information is to be clearly and precisely identified as confidential in the response. Subject to the respondent's demonstrated compliance with this clause 4.2.3, the Commonwealth may agree to treat this information on different terms to those outlined in clause 4.2.2, including by obtaining an appropriate confidentiality undertaking from the third party prior to disclosure to that party.
- 4.2.4 Nothing in this clause 4.2 affects the ownership of the Intellectual Property in the information contained in a response.

5 ASSESSMENT OF RESPONSES

5.1 Response Assessment (Core)

- 5.1.1 Responses to this RFI will not be competitively evaluated. Consistent with the terms of this RFI, responses will be reviewed and considered by the Commonwealth as an information source for the purposes described in this RFI.
- 5.1.2 The Commonwealth may at any time seek additional information on, or clarification of, a response from a respondent.

5.2 Feedback on Responses (Optional)

- 5.2.1 The Commonwealth may, but is under no obligation to, provide feedback on responses to this RFI on a case by case basis. Respondents should contact the Contact Officer in clause 2.4 if they wish to request feedback on their RFI response.