

**COMMONWEALTH OF AUSTRALIA**

**DEPARTMENT OF DEFENCE**

TENDER DOCUMENTS

DESIGN SERVICES CONTRACT (AUSTRALIA)

TENDER NUMBER: *[INSERT TENDER NUMBER]*

PROJECT NUMBER: *[INSERT PROJECT NUMBER]*

PROJECT NAME: *[INSERT PROJECT NAME AND DESCRIPTION OF WORKS AND SERVICES, AS APPLICABLE]*

*[LAST AMENDED 27 OCTOBER 2022 - PLEASE REMOVE PRIOR TO TENDER ISSUE]*



**19th Chief Engineer Works**

**ROYAL AUSTRALIAN ENGINEERS**

**373A Avoca Street, RANDWICK, NSW 2031**

**(Ph: 02 9349 0242)**

**Please note:**

* matters in ***[SQUARE BRACKETS AND ITALICS]*** are to be completed by the Principal before Tender Documents are issued to Tenderers; and
* matters in **[SQUARE BRACKETS AND BOLD]** are to be completed by the Tenderer before lodging a Tender.

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PART 1 - TENDER CONDITIONS

TENDER CONDITIONS

1. INFORMATION FOR TENDERERS
   1. General

The Tenderer is invited to lodge a Tender for the Services on the terms of the Tender Documents.

* 1. AusTender, the Australian Government Tender System
     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 tender process, the Tenderer must 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.
     2. The Tenderer must direct all queries and requests for technical or operational support related to AusTender to:

AusTender Help Desk

Telephone: 1300 651 698

International: +61 2 6215 1558

Email: tenders@finance.gov.au

The AusTender Help Desk is available between 9.00am and 5.00pm ACT Local Time, Monday to Friday (excluding ACT and national public holidays).

* + 1. The Tenderer must direct all questions related to the Tender Documents or the tender process to the Tender Administrator under clause 2.2(a).

1. interpretation OF tender documents, QUESTIONS AND AMENDMENTS
   1. Interpretation

In the Tender Documents:

* + 1. all words and expressions will (unless the context otherwise requires) have the meanings assigned to them in the Conditions of Contract in Part 5 or the meanings assigned to them in these Tender Conditions;
    2. **Annual Financial Report** means:
       1. the financial statements for the year comprising a profit and loss statement for the year, a balance sheet at the end of the year, a statement of cash flows for the year and (if required by the accounting standards) a consolidated profit and loss statement, balance sheet and statement of cash flows;
       2. the notes to the financial statements; and
       3. the directors' declaration about the financial statements and notes;
    3. **Australian Privacy Principle** has the meaning given in the Privacy Act;
    4. **Claim** includes (without limitation) any claim:
       1. under, arising out of, or in any way in connection with, any contract which the Tenderer may enter into with the Principal in respect of the project;
       2. arising out of, or in any way in connection with, any task, thing or relationship connected with the project; or
       3. otherwise at law or in equity including (without limitation):
          1. by statute;
          2. in tort for negligence or otherwise, including (without limitation) negligent misrepresentation; or
          3. for restitution;
    5. **Closing Date and Time** means the time and date set out in the Tender Particulars;
    6. **Covered Procurement** has the meaning in the Judicial Review Act;
    7. **Information Documents** means:
       1. the documents listed in the Tender Particulars; and
       2. the documents listed in the disclaimer and confidentiality agreement:
          1. if the Principal is using AusTender, published on AusTender or issued by the Tender Administrator by email or post; or
          2. if the Principal is not using AusTender, issued by the Tender Administrator by email or post,

(**Disclaimer and Confidentiality Agreement**), with such listed Information Documents being:

* + - * 1. if the Principal is using AusTender, published on AusTender or issued by the Tender Administrator by email or post, as indicated in the Disclaimer and Confidentiality Agreement; or
        2. if the Principal is not using AusTender, issued by the Tender Administrator by email or post, as indicated in the Disclaimer and Confidentiality Agreement; and
      1. any other document or amendment to a document which is:
         1. if the Principal is using AusTender, published on AusTender (with attachments to the Information Document published on AusTender or issued by the Tender Administrator by email or post, as indicated in the Information Document); or
         2. if the Principal is not using AusTender, issued by the Tender Administrator by email or post (with attachments to the Information Document issued by the Tender Administrator by email or post, as indicated in the Information Document),

prior to the Closing Date and Time and at the time of being published or issued expressly stated to be an "Information Document" or an amendment to an Information Document (notwithstanding that AusTender describes such documents as "addenda" or "ATM Documents");

* + 1. **Judicial Review Act** means the *Government Procurement (Judicial Review) Act* *2018* (Cth);
    2. **Material Change** means any actual, potential or perceived material change to the circumstances of the Tenderer including any change:
       1. arising out of or in connection with:
          1. a Change of Control;
          2. an Insolvency Event; or
          3. the Tenderer's financial viability, availability, capacity or ability to perform the Services and otherwise meet its obligations under the Contract in Part 5; or
       2. which affects the truth, completeness or accuracy of:
          1. the Tender; or
          2. any other information, documents, evidence or clarifications provided by the Tenderer to the Principal arising out of or in connection with its registration of interest, the registration of interest process, its Tender or the tender process;
    3. **Personal Information** has the meaning given in the Privacy Act;
    4. **Principal** means the person set out in the Tender Particulars;
    5. **Privacy Act** means the *Privacy Act* *1988* (Cth);
    6. **Relevant Commonwealth Procurement Rules** has the meaning in the Judicial Review Act;
    7. **Strategic Interest Issue** means any issue that involves an actual, potential or perceived risk of an adverse effect on the national security interests of the Commonwealth including:
       1. protecting Australia’s national security requirements, in accordance with all Statutory Requirements (including the Information Security Requirements); and
       2. ensuring that the whole (or any part) of the [[Confidential Information](#ConfidentialInformation)](#ConfidentialInformation) is not exported (or capable of being exported) outside of Australia or is not disclosed or transmitted (or capable of being disclosed or transmitted) to any person who does not hold (or is not eligible to hold) an Australian Defence security clearance, unless the [Commonwealth](#Commonwealth) has given its prior written consent (in its absolute discretion); and
       3. ensuring compliance by all Tenderers and the successful Tenderer with Australia's national security requirements, in accordance with all Statutory Requirements (including the Information Security Requirements);
    8. **Tender** means the documents lodged with the Principal pursuant to these Tender Conditions;
    9. **Tender Administrator** means the person specified:
       1. if the Principal is using AusTender, in the Tender Particulars and on AusTender; or
       2. if the Principal is not using AusTender, in the Tender Particulars,

or any other person notified to the Tenderer by the Principal;

* + 1. **Tender Conditions** means these tender conditions in Part 1;
    2. **Tender Documents** means:
       1. the Tender Conditions;
       2. the Tender Particulars in Part 2;
       3. the Tender Form in Part 3;
       4. the Tender Schedules in Part 4;
       5. the Contract in Part 5;
       6. the Brief (as defined in the Conditions of Contract in Part 5); and
       7. the other documents referred to in the reference in the Contract Particulars in Part 5, which correspond to the definition of "Contract" under clause 18.1 of the Conditions of Contract in Part 5,

but excludes the Information Documents;

* + 1. **Tender Validity Period** means:
       1. 90 days from the Closing Date and Time; or
       2. if the procurement is suspended under the Judicial Review Act or in accordance with clause 15.2, the period specified in paragraph (i) extended by the period of suspension, up to a maximum of 180 days;
    2. **Tenderer** means the entity (or entities) invited to lodge a Tender;
    3. any reference to a Part is a reference to a Part of the Tender Documents; and
    4. any reference to one of the documents described in the definition of the "Tender Documents" in subparagraph (r) is a reference to the document so entitled which is included in the Tender Documents.
  1. Questions and Amendments to Tender Documents
     1. If the Tenderer finds any discrepancy, ambiguity, error or omission in the Tender Documents, has any questions or concerns, or wishes to make any enquiry concerning the Tender Documents or the tender process, it must notify the Tender Administrator by email no later than 7 days prior to the Closing Date and Time. Subject to the Commonwealth Procurement Rules, neither the Principal nor the Tender Administrator is obliged to respond to all such notices, questions, concerns or enquiries. Subject to paragraph (b), the Principal may (in its absolute discretion) respond to such notices, questions, concerns or enquiries in the form of addenda under paragraph (d) or as an Information Document.
     2. At the time of its notice under paragraph (a), the Tenderer may request that a matter notified under paragraph (a) and any response remain confidential on the basis that the whole or any part of the matter notified contains commercial-in-confidence information. The Tenderer must clearly state in its notice that it is a request under this paragraph (b) and must provide justifications for its request. If a request is made under this paragraph (b), the Tender Administrator will notify the Tenderer by email that the Principal (in its absolute discretion) either:
        1. agrees that the whole or any part of the matter notified contains commercial-in-confidence information (in which case the relevant matter notified and any response will not be published on AusTender or issued to all Tenderers); or
        2. does not agree that the whole or any part of the matter notified or any response should remain confidential on the basis that the request or any response contains commercial-in-confidence information.
     3. If the Tender Administrator notifies the Tenderer under paragraph (b)(ii):
        1. the Tenderer must notify the Tender Administrator by email no later than 2 days after receiving the notice if it wishes to withdraw its notice under paragraph (b); and
        2. if the Tenderer does not withdraw its notice under subparagraph (i), the Principal may (in its absolute discretion) respond to the notice in the form of addenda under paragraph (d) or as an Information Document (in which case the relevant matter notified and any response will be published on AusTender or otherwise issued to all Tenderers).
     4. The Principal may (in its absolute discretion) amend the Tender Documents at any time prior to the Closing Date and Time. All amendments to the Tender Documents will be in the form of addenda:
        1. if the Principal is using AusTender, published on AusTender (with attachments to addenda being published on AusTender or issued by the Tender Administrator by email or post, as indicated in the addendum); or
        2. if the Principal is not using AusTender, issued by the Tender Administrator by email (with attachments to addenda being issued by the Tender Administrator by email or post, as indicated in the addendum).
     5. No explanation or interpretation of the Tender Documents may be relied upon by the Tenderer unless in the form of addenda. All addenda under this paragraph (d) will become part of the Tender Documents.
     6. In the event of a discrepancy between:
        1. if the Principal is using AusTender:
           1. AusTender and the Tender Particulars, AusTender will prevail;
           2. a communication by AusTender and a communication by email or post, the communication by AusTender will prevail; and
           3. a communication by email and a communication by post, the communication by post will prevail; and
        2. if the Principal is not using AusTender, a communication by email and a communication by post, the communication by post will prevail.
  2. Industry Briefing and Tenderer Meetings

Clause 2.3 applies unless the Tender Particulars state that it does not apply.

* + 1. The Principal will conduct an industry briefing in relation to the Tender Documents, the tender process, the Services and the Works. The Tender Administrator will notify the Tenderer by email of the details of the industry briefing, including:
       1. the scheduled date, time and location for the industry briefing;
       2. the maximum number of Tenderer personnel who may attend the industry briefing;
       3. whether or not the Principal will conduct a meeting with each Tenderer;
       4. if applicable, further details of Tenderer meetings, including:
          1. the scheduled date, time and location for each Tenderer meeting;
          2. the maximum number of Tenderer personnel who may attend the Tenderer meeting; and
          3. the maximum duration for each Tenderer meeting;
       5. the time and date by which the Tenderer must notify the Tender Administrator if it wishes to attend the industry briefing (and, if applicable, any Tenderer meeting); and
       6. any other information required by the Tender Administrator.
    2. If the Tenderer wishes to attend the industry briefing (and if applicable, any Tenderer meeting), it must notify the Tender Administrator by email no later than the time and date specified in the Tender Administrator’s notice under paragraph (a), providing details of the Tenderer, the full names and addresses of all Tenderer personnel proposed to attend the industry briefing (and if applicable, any Tenderer meeting) and all other information required by the Tender Administrator in its notice under paragraph (a).
    3. The Principal may (in its absolute discretion):
       1. limit or restrict the number of Tenderer personnel; or
       2. exclude any or all Tenderer personnel from,

attending the industry briefing (and if applicable, any Tenderer meeting) for any reason, including if the Tenderer:

* + - 1. exceeds the maximum number of Tenderer personnel specified in the Tender Administrator’s notice;
      2. fails to comply with paragraph (b); or
      3. substitutes or replaces Tenderer personnel after the time and date specified in the Tender Administrator’s notice.
    1. The industry briefing (and, if applicable, any Tenderer meeting) will be conducted for the purpose of providing background information only. The Tenderer must not in any way rely upon the industry briefing (and, if applicable, any Tenderer meeting) for the purposes of preparing, amending or negotiating its Tender or entry into any contract with the Principal.
    2. The Tenderer:
       1. will not be provided with copies of the industry briefing materials (including presentations); and
       2. is not permitted to take photographs or other electronic recordings of the industry briefing (including any presentation, Site visit or inspection) (and, if applicable, any Tenderer meeting). If the Tenderer wishes to request photographs, it must submit its request under clause 2.2(a).
    3. If applicable, the purpose of a Tenderer meeting will be to provide each Tenderer with an opportunity to ask questions or make further enquiries concerning the Tender Documents. The Tenderer will not be given an opportunity to:
       1. provide the Principal with marketing material or any other promotional materials; or
       2. otherwise obtain an inappropriate competitive advantage over other Tenderers.
    4. At the time of any Tenderer meeting the Tenderer may request that any matter raised by the Tenderer during the Tenderer meeting and any response by the Principal remains confidential on the basis that the whole or any part of the matter raised contains commercial-in-confidence information. The Tenderer must provide justifications if the Tenderer makes a request under this paragraph (g).
    5. If a request is made under paragraph (g), the Principal will notify the Tenderer that the Principal (in its absolute discretion) either:
       1. agrees that the whole or any part of the matter raised contains commercial-in-confidence information (in which case the relevant matter raised and any response will not be published on AusTender or issued to all Tenderers); or
       2. does not agree that the whole or any part of the matter raised contains commercial-in-confidence information.
    6. If the Principal notifies the Tenderer under paragraph (h)(ii):
       1. the Tenderer must immediately notify the Principal if it wishes to withdraw its request under paragraph (g); and
       2. if the Tenderer does not withdraw its request under subparagraph (i), the Principal may (in its absolute discretion) disclose the matter raised and any response to the other Tenderers in the form of addenda under clause 2.2(d) or as an Information Document (in which case the relevant matter raised and any response will be published on AusTender or otherwise issued to all Tenderers).
    7. Without limiting any other provision of the Tender Conditions:
       1. subject to the Commonwealth Procurement Rules, neither the Principal nor the Tender Administrator is obliged to respond to any or all questions, enquiries or other matters notified during the industry briefing (and if applicable, any Tenderer meeting); and
       2. the Principal may (in its absolute discretion) publish or issue addenda under clause 2.2(d) or Information Documents to address any matters arising out of or in connection with the industry briefing (and if applicable, any Tenderer meeting).

1. TENDERS
   1. Conforming Tender

To lodge a conforming Tender:

* + 1. the Tender must be lodged:
       1. in the tender box located at the address set out in the Tender Particulars; and
       2. by the Closing Date and Time;
    2. the Tender must satisfy each minimum form and content requirement as follows:
       1. the Tender must remain valid for the duration of the Tender Validity Period, during which period the Tenderer cannot withdraw its Tender;
       2. if clause 24 applies, the Tenderer must complete and lodge Tender Schedule J - Statement of Tax Record; and
       3. the Tenderer must accept (without departure, qualification, amendment, limitation or exclusion) the Contract in Part 5, except to the extent provided for under clause 3.3 and set out by the Tenderer in Tender Schedule K - Alternative Proposals; and
    3. the Tenderer must at the time of lodging its Tender satisfy each condition for participation specified in the Tender Particulars (if any).
  1. Non-Conforming Tender

In lodging its Tender, the Tenderer acknowledges and agrees that:

* + 1. if it did not lodge its Tender in accordance with clause 3.1(a), the Tender will be non-conforming and will not be evaluated (or continue to be evaluated) unless the reason it was not lodged in accordance with clause 3.1(a) was solely due to mishandling by the Principal;
    2. it is responsible for lodging its Tender in accordance with clause 3.1(a) and managing all surrounding risks, including those associated with mishandling by a courier or mail service provider engaged by the Tenderer, travel arrangements and weather conditions;
    3. if the Tender does not satisfy each minimum form and content requirement specified under clause 3.1(b), then the Tender will be non-conforming and will not be evaluated (or continue to be evaluated) unless the Principal considers (in its absolute discretion) that the failure to satisfy a minimum form and content requirement was due to an unintentional error by the Tenderer and the Principal (in its absolute discretion) seeks, reviews and accepts any correction to the unintentional error; and
    4. if it does not satisfy each condition for participation specified under clause 3.1(c), then the Tender will be non-conforming and will not be evaluated (or continue to be evaluated).
  1. Alternative Proposals
     1. The Principal offers the Tenderer the opportunity to provide alternative proposals in the pursuit of greater value for money. The Tenderer should note, however, that (subject to the Principal's absolute discretion under paragraph (c)) it must lodge a fully conforming Tender which accepts without departure, qualification, amendment, limitation or exclusion the Contract in Part 5 before an alternative proposal will be considered.
     2. If the Tenderer wishes to submit any alternative proposal, it must be set out in Tender Schedule K - Alternative Proposals.
     3. If the Principal (in its absolute discretion) selects or accepts any alternative proposal, the Principal will make any necessary alterations to the Contract in Part 5.
  2. Administrative Arrangements
     1. Any enquiries must be directed to the Tender Administrator in writing.
     2. The Tenderer is requested to provide the information requested in:
        1. the Tender Schedules; and
        2. the Tender Form in Part 3, including:
           1. confirm that the Tenderer has allowed in the Tender for the requirements in all addenda published or issued under clause 2.2(d) and identify each addendum by its number and date of issue;
           2. provide, if the Tenderer is:

a person, the name in full and the address of the person;

a firm, the name in full and the address of each member of the firm and its ABN (if applicable);

a trust or operating under any other fiduciary capacity, the name in full and details of the trust or fiduciary arrangements (including a copy of the trust deed) and its ABN (if applicable); or

a corporation, the name of the corporation, the date and place of incorporation, address of its registered office, address of its principal place of business and its ACN and ABN;

* + - * 1. provide details (as applicable) concerning:

organisational structure (including by way of a current organisational chart or diagram);

any trading or business name, if different from a registered name;

related bodies corporate within the meaning of the *Corporations Act* *2001* (Cth); and

for a foreign individual, firm or corporation, details of its registration, incorporation and place of business in Australia, together with the name of any Australian representative;

* + - * 1. a street address (not a post office box) and email address for service of notices for the purpose of its Tender;
        2. details of its builder's registration or licence number; and
        3. confirmation that if it is the successful Tenderer it will at its cost be in a position to comply with obligations under the Contract in relation to DISP and will be "Defence-ready" for the purposes of the DISP.
    1. The Tenderer is requested to:
       1. execute the Tender Form by:
          1. having a person or persons with full authority to bind the Tenderer for the purposes of the Tender and the Services execute the Tender Form; or
          2. if the Tenderer consists of more than one entity, having each entity execute the Tender Form in accordance with subsubparagraph A,

and provide evidence of the full authority of the person or persons executing the Tender Form;

* + - 1. endorse the outside of each sealed package with the words set out in the Tender Particulars;
      2. submit the number of bound copies and unbound copies specified in the Tender Particulars, with one bound copy marked "Original" and each other copy marked "Copy". In the event of any discrepancies between the copies, the copy marked "Original" will prevail;
      3. unless otherwise specified, express measurements in Australian legal units of measurement;
      4. state all prices in Australian Dollars;
      5. ensure that all contents, alterations and erasures are clearly and legibly stated and initialled by the Tenderer (if applicable),

but these are not minimum form and content requirements for its Tender.

1. evaluation of tenders

***[NOTE THAT THE EVALUATION CRITERIA SPECIFIED IN THIS CLAUSE 4 MUST BE CONSISTENT WITH THE APPROVED EVALUATION PLAN. IF THERE IS ANY AMENDMENT TO THE EVALUATION CRITERIA, THIS MUST BE COMMUNICATED TO TENDERERS BY WAY OF AN ADDENDUM.]***

Tenders will be evaluated to determine the Tender which represents the best value for money to the Principal. In considering the Tender, the Principal:

* + 1. will apply the following evaluation criteria:
       1. **workload and proposed resources (*[INSERT]*% weighting)**. The extent to which the Tenderer has demonstrated that it has the availability and ability to resource the Services (noting that the type of information the Principal is seeking is outlined in Tender Schedule A - Workload and Proposed Resources);
       2. **Detailed Consultant's Activities Proposal (DCAP) and plans (*[INSERT]*% weighting)**. The extent to which the Tenderer has demonstrated that it:
          1. comprehends key issues and will implement appropriate solutions for the Services; and
          2. will implement appropriate management strategies for the Services, including methodology, quality assurance, work health and safety, site management, environmental management, time and cost control, commissioning and handover, Whole-of-Life (**WOL**) and logistics support requirements (noting that the type of information the Principal is seeking is outlined in Tender Schedule B - Detailed Consultant's Activities Proposal (**DCAP**) and Plans);
       3. **previous performance (*[INSERT]*% weighting)**. The extent to which the Tenderer has demonstrated that it has the experience and ability to perform the Services (noting that the type of information the Principal is seeking is outlined in Tender Schedule C - Previous Performance);
       4. **program (*[INSERT]*% weighting)**. The extent to which the Tenderer has demonstrated that it has satisfactorily programmed the Services (noting that the type of information the Principal is seeking is outlined in Tender Schedule D - Program);
       5. **commercial position (no weighting, the Tender will be evaluated with reference to whether value for money has been demonstrated)**. The extent to which the Tenderer has demonstrated that it has a satisfactory commercial position in respect of the Contract and the Services, which may include (in the Principal's absolute discretion):
          1. **insurance details** (noting that the type of information the Principal is seeking is outlined in Tender Schedule E - Tenderer's Insurance Details);
          2. **miscellaneous Contract Particulars**(noting that the type of information the Principal is seeking is outlined in Tender Schedule F - Miscellaneous Contract Particulars);
          3. **commercial-in-confidence information** (if any)(noting that the type of information the Principal is seeking is outlined in Tender Schedule G - Tenderer's Commercial-In-Confidence Information); and
          4. **financial standing** (noting that the type of information the Principal is seeking is outlined in Tender Schedule I - Financial Standing);
       6. **Fee (no weighting, the Tender will be evaluated with reference to whether value for money has been demonstrated)**. The extent to which the Tenderer has demonstrated that its Fee, when considered in conjunction with all other evaluation criteria and other information taken into account, constitutes value for money (noting that the type of information the Principal is seeking is outlined in Tender Schedule H - Fee); and
       7. **alternative proposals (no weighting, the Tender will be evaluated with reference to whether value for money has been demonstrated)** (if applicable, in the Principal's absolute discretion) (noting that the type of information the Principal is seeking is outlined in Tender Schedule K - Alternative Proposals);
    2. will apply any **additional evaluation criteria** specified in the Tender Particulars;
    3. may (in its absolute discretion) take into account the information which the Tenderer provides under clause 7(b) but not the information which the Tenderer provides under clause 7(a); and
    4. may (in its absolute discretion):
       1. obtain information from its own inquiries and investigations, including from referees on prior projects on which a Tenderer may have been involved (whether or not nominated by the Tenderers in its Tender); and
       2. without limiting any other right or remedy of the Principal, decide not to evaluate a Tender (or continue to evaluate a Tender) if the Tenderer has failed to comply with any of its obligations in the Tender Conditions or has otherwise acted inconsistently with the tender process.

1. tenderer's due diligence
   * 1. No representation has been or is made to the Tenderer by the Principal, the Tender Administrator, the Contract Administrator or any of their employees, agents or consultants about the accuracy, completeness or sufficiency of the Brief and the Principal has not assumed, nor does it assume, a duty of care to the Tenderer concerning the Brief.
     2. The Tenderer is required to do, and will be deemed to have done, everything that would be expected of a prudent, competent and experienced design consultant in:
        1. assessing the risks which it is assuming under the Contract; and
        2. ensuring that its tendered Fee contains allowances to protect it against any of these risks, including all those things, activities and tasks set out in the Tender Form.
     3. The Tenderer may, subject to any conditions or restrictions imposed by the Tender Administrator, inspect the Site and related Information Documents and for this purpose should contact the Tender Administrator by post or email to arrange an inspection.
2. information documents
   * 1. With respect to the Information Documents:
        1. the Information Documents referred to under clause 2.1(g)(i) are immediately available for the information only of the Tenderer;
        2. the Information Documents referred to under clause 2.1(g)(ii) may from time to time prior to the Closing Date and Time be:
           1. if the Principal is using AusTender, published on AusTender (with attachments to the Information Document published on AusTender or issued by the Tender Administrator by email or post, as indicated in the Information Document); or
           2. if the Principal is not using AusTender, issued by the Tender Administrator by email or post (with attachments to the Information Document issued by the Tender Administrator by email or post, as indicated in the Information Document),

for the information only of the Tenderer;

* + - 1. they do not form part of the Tender Documents and will not form part of the Contract in Part 5; and
      2. this clause 6 applies notwithstanding that AusTender describes such documents as "addenda" or "ATM Documents".
    1. The Tenderer:
       1. acknowledges and agrees that the Principal:
          1. if the Principal is using AusTender, published on AusTender or issued by the Tender Administrator by email or post; or
          2. if the Principal is not using AusTender, issued by the Tender Administrator by email or post,

the Disclaimer and Confidentiality Agreement;

* + - 1. warrants that:
         1. if the Principal is using AusTender, to the extent that the Tender Documents and the Information Documents:

are published on AusTender, before the Tenderer downloaded any of the Tender Documents or the Information Documents from AusTender; or

are not published on AusTender, before the Tender Administrator issued any of the Tender Documents or the Information Documents to the Tenderer by email or post; or

* + - * 1. if the Principal is not using AusTender, before the Tender Administrator issued any of the Tender Documents or the Information Documents to the Tenderer by email or post,

the Tenderer duly completed, executed and returned the Disclaimer and Confidentiality Agreement by email to the Tender Administrator; and

* + - 1. acknowledges and agrees that, if requested by the Tender Administrator by email, the Tenderer must provide to the Tender Administrator by email the names and addresses of all persons to whom the Tenderer has issued the whole or any part of the Tender Documents and Information Documents by the time and date specified in the Tender Administrator's request.

1. proposed procedure before and after closing Date AND TIME
   * 1. In lodging its Tender, the Tenderer acknowledges that:
        1. the Principal requires the lodgement of fully competitive Tenders from each Tenderer, which will generally maximise the possibility of exceptional performance by the successful Tenderer in accordance with the terms of the Tender Documents;
        2. in light of subparagraph (i), before the Closing Date and Time, the Principal may (in its absolute discretion and without being under any obligation to do so):
           1. meet separately with representatives of each Tenderer to:

obtain information in relation to, and clarify aspects of, the Tenderer's proposed Tender;

explain the intention of, and answer questions about, any aspect of the Tender Documents; and

raise and address any other issues which the Principal may (in its absolute discretion) identify;

* + - * 1. require the Tenderer, within a specified time, to provide the Principal by post or email with further information or clarification in relation to aspects of the Tenderer's proposed Tender; and
        2. request the Tender Administrator to amend the Tender Documents and otherwise issue such addenda as the Principal considers (in its absolute discretion) necessary or desirable to further the objective in subparagraph (i);
      1. because each Tenderer is likely to have a different approach to the lodgement of its Tender and the performance of the Services, the Principal may (in its absolute discretion):
         1. raise issues with a Tenderer which it does not raise with other Tenderers;
         2. raise issues with a Tenderer which improves the proposed Tender to be lodged by that Tenderer; and
         3. provide a Tenderer with opportunities to ask questions, provide information in relation to or clarify aspects of its proposed Tender, or improve its proposed Tender, which it does not provide to the other Tenderers; and
      2. the Principal is not obliged to:
         1. provide any information or explanation, answer any questions or otherwise act in any particular manner in or arising out of or in connection with any meeting convenedunder this paragraph (a); or
         2. request the Tender Administrator to amend the Tender Documents or otherwise issue any addenda arising out of or in connection with any meeting under this paragraph (a).
    1. Following the Closing Date and Time, the Principal may (in its absolute discretion) do one or more of the following from time to time with one or more Tenderers:
       1. meet with representatives of the Tenderer to obtain further information, documents or evidence in relation to, and otherwise clarify, aspects of the Tenderer's Tender;
       2. require the Tenderer to provide the Principal by post or email with further information, documents, evidence or clarification in relation to any aspect of the Tenderer's Tender; and
       3. set aside a Tender, pending negotiations with one or more preferred Tenderers under paragraph (d).
    2. The Tenderer must:
       1. attend and participate in all meetings required by the Principal under paragraph (b); and
       2. provide all information, documents, evidence or clarifications required by the Principal under paragraph (b) within the time periods and in the formats specified by the Tender Documents or as otherwise specified by the Principal.
    3. The Principal may (in its absolute discretion) by notice by post or email appoint one or more Tenderers as preferred Tenderers:
       1. with whom the Principal will enter into negotiations; and
       2. subject to the satisfaction of such conditions (if any) as may be stated in the notice, including the signing of any preferred Tenderer negotiation protocol (setting out the basis on which the Principal will negotiate with the preferred Tenderer).
    4. The appointment of a Tenderer as a preferred Tenderer under paragraph (d) is not to be taken as a representation that the Principal will award the Contract to the preferred Tenderer and does not bind the Principal to do so.
    5. Negotiations with preferred Tenderers under paragraph (d):
       1. may be conducted on any basis which the Principal (in its absolute discretion) considers will enable the Principal to improve the value for money which it would obtain from acceptance of any preferred Tenderer's Tender;
       2. without limiting subparagraph (i), may involve the amendment of any aspect of the Tender Documents (including the Contract in Part 5) or a preferred Tenderer's Tender, regardless of how substantial the amendment or the fact that the amendment is only proposed to a particular preferred Tenderer; and
       3. do not require the Principal to provide each preferred Tenderer (if more than one) with the same information, opportunity to negotiate, or proposed amendment of any aspect of the Tender Documents or the preferred Tenderer's Tender.
    6. Without limiting paragraph (h), the Principal may (in its absolute discretion) discontinue negotiations at any time and for any reason with a preferred Tenderer or appoint one or more other preferred Tenderers with which to enter into negotiations.
    7. In lodging its Tender, each Tenderer:
       1. acknowledges that, to the extent permitted by law:
          1. the Principal does not intend to create any contract or other relationship under which the Principal is legally obliged to conduct the tender process in any manner or at all and that there is in fact no such contract or other relationship in existence;
          2. there will be no procedural or substantive limitation upon the manner in which the Principal may (in its absolute discretion) conduct the tender process;
          3. the Principal does not make any warranty, guarantee or representation about a Tenderer's Tender, the Principal's requirements for the Services or the way in which it will evaluate Tenders arising out of or in connection with anything which the Principal states or does or omits to state or do in, arising out of or in connection with any meeting under paragraph (a) or (b) or any industry briefing (**Meeting Conduct**);
          4. the Principal does not owe any duty of care to the Tenderer in respect of any Meeting Conduct; and
          5. the Tenderer will not in any way rely upon any such Meeting Conduct for the purposes of preparing, amending or negotiating its Tender or entry into any contract with the Principal with regard to the Services;
       2. acknowledges that, without limiting subparagraph (i)B, the Principal may (where it is required to do so by law or otherwise in its absolute discretion) vary, suspend, discontinue or terminate the tender process at any time and for any reason;
       3. releases the Principal from all Claims in respect of any costs, expenses, losses or damages incurred or suffered as a result of or in connection with the tender process, the rejection of, failure to evaluate or failure to accept the Tenderer's Tender, any failure to comply with the Tender Documents, any Meeting Conduct or any debrief, except to the extent of any compensation awarded under the Judicial Review Act;
       4. acknowledges that the Principal is proceeding with the tender process strictly on the basis of, and in reliance upon, the acknowledgements and releases set out above; and
       5. will indemnify the Principal in respect of all claims, losses, damages, liabilities, costs and expenses of any kind suffered or incurred as a result of or in connection with any breach of any acknowledgement or release given by the Tenderer under this paragraph (h).

1. acceptance of tenders
   * 1. The Principal is not bound or required to accept the lowest or any Tender.
     2. A Tenderer's Tender (as amended, if at all, under clause 7) will not be deemed to be accepted unless and until:
        1. the Formal Agreement set out in Part 5 is signed by the Tenderer and the Principal (or the Tender Administrator on behalf of the Principal); or
        2. the Principal gives the Tenderer notice by email or post:
           1. that the Tenderer's Tender (as amended, if at all, under clause 7) has been accepted; and
           2. which is titled "Letter of Acceptance under clause 8(b)(ii)",

in which case that acceptance and, therefore, the resultant Contract will be on the terms set out in the notice.

* + 1. The Tenderer acknowledges that no other document issued and no other representation made or conduct engaged in, by or on behalf of the Principal (other than as set out in paragraph (b)) will be deemed to be acceptance of a Tenderer's Tender or to create any contractual or other legal relationship between the Principal and a Tenderer or otherwise oblige the Principal to enter into a Contract with the Tenderer.

1. NOTIFICATION AND DEBRIEF
   * 1. The Principal will notify the Tenderer of the result of the tender process.
     2. If requested by the Tenderer within 14 days notification under paragraph (a), the Principal will provide a debrief at a suitable time to be determined by the Principal (in its absolute discretion) after the Award Date.
     3. The Tenderer acknowledges that the purpose of the debrief is to discuss the reasons why the Tenderer's Tender was successful or unsuccessful (as the case may be) and that neither the Principal nor the Tender Administrator is obliged to make any comparison with or provide any information about any other tenderer or tender at any debrief.
2. costs AND CLAIMS

No payment will be made by the Principal to the Tenderer or any other entity for any costs, expenses, losses or damages incurred or suffered by the Tenderer:

* + 1. in preparing a Tender;
    2. in respect of the tender process, including in relation to anything that occurs under clause (a); or
    3. any failure to comply with the Tender Documents,

except to the extent of any compensation awarded under the Judicial Review Act.

1. USE OF TENDERS

In lodging its Tender, the Tenderer acknowledges that:

* + 1. its Tender and any other documents arising out of or in connection with this tender process become the property of the Principal; and
    2. subject to the Commonwealth Procurement Rules (if applicable), the Principal may (in its absolute discretion) use, retain and copy the information contained in its Tender and any other documents arising out of or in connection with this tender process.

1. confidentiality
   1. Obligation to keep Confidential Information Confidential

The Tenderer:

* + 1. acknowledges and agrees that the Confidential Information is confidential;
    2. must not, and must ensure all persons engaged by it do not, without consent by post or email from the Principal (in its absolute discretion):
       1. copy or otherwise reproduce the Confidential Information; or
       2. disclose, use or deal with, the contents of the Confidential Information,

for any purpose other than preparing a Tender for the project or carrying out the project if its Tender is successful; and

* + 1. must ensure that the Confidential Information is kept secure and protected at all times from any unauthorised use or access.
  1. Return of Confidential Information
     1. Within 7 days of receipt of a request from the Principal by post or email, at any time the Tenderer must:
        1. subject to paragraph (b), as directed by the Principal or the Tender Administrator return all copies of the Confidential Information to the Principal; and
        2. comply with such other directions as are reasonably necessary to comply with the Tenderer's obligations under this clause 12.
     2. Where required by law, the Tenderer may keep one copy of the Confidential Information for its records.
     3. The Tenderer acknowledges and agrees that if the Tenderer has failed to comply with the obligations in this clause 12, the Principal may (in its absolute discretion) do one or more of the following:
        1. decide not to evaluate (or continue to evaluate) a Tender; or
        2. take the failure into account in assessing any future registration of interest or tender lodged by the Tenderer.
  2. Definition of Confidential Information
     1. Subject to paragraph (b), for the purposes of this clause 12, **Confidential Information** means:
        1. the Tender Documents;
        2. the Information Documents; and
        3. any document which is in any way connected with the project given to the Tenderer by the Principal (or anyone on the Principal's behalf) which by its nature is confidential or the Tenderer knows or ought to know is confidential.
     2. For the purposes of this clause 12, **Confidential Information** does not mean any document given to the Tenderer by the Principal which:
        1. is in the possession of the Tenderer without restriction in relation to its disclosure or use before the date of its receipt from the Principal;
        2. is in the public domain otherwise than due to a breach of clause 12; or
        3. has been independently developed or acquired by the Tenderer.

1. commonwealth policies

The Tenderer acknowledges that the Principal is and will be subject to a number of Commonwealth requirements and policies, which support internal and external scrutiny of Commonwealth tendering and contracting processes and the objectives of transparency, accountability and value-for-money, including requirements to:

* + 1. publish details of agency agreements, Commonwealth contracts, amendments and variations to any agreement or contract and standing offers with an estimated value of $10,000 or more on AusTender (the Commonwealth's business opportunity website located at www.tenders.gov.au);
    2. report and post on the internet a list of contracts valued at $100,000 or more and identify confidentiality requirements in accordance with the Senate Order on Department and Agency Contracts; and
    3. report and post on the internet information about its contracts in other ways pursuant to its other reporting and disclosure obligations, including annual reporting requirements and disclosure to any House or Committee of the Parliament of the Commonwealth of Australia.

1. Australian National Audit Office
   * 1. The Tenderer's attention is drawn to the *Auditor-General Act 1997* (Cth), which provides the Auditor-General or an authorised person with certain rights to have access to information, documents and records.
     2. Without limiting the Contract Administrator's rights, or the Consultant's obligations or liabilities under clause 5.12 of the Conditions of Contract in Part 5, the Auditor-General or other authorised persons may be nominated by the Contract Administrator under clause 5.12 of the Conditions of Contract in Part 5 for the purpose of exercising their rights under the *Auditor-General Act 1997* (Cth).
2. COMPLAINTS
   1. General Complaints

If the Tenderer wishes to make a complaint in relation to this tender process:

* + 1. subject to paragraph (b), the Tenderer should submit the complaint in writing to the email address set out in the Tender Particulars; or
    2. if the Tenderer has reason to believe that the complaint satisfies the requirements of the Judicial Review Act, the Tenderer may submit the complaint under the process set out in clause 15.2.
  1. Complaints under the *Government Procurement (Judicial Review) Act* *2018*
     1. Clause 15.2 only applies if this tender process is a Covered Procurement for the purposes of the Judicial Review Act.
     2. The Judicial Review Act establishes a statutory framework for suppliers to make complaints about non-compliance with specific provisions of the Commonwealth Procurement Rules in respect of Covered Procurements.
     3. If this clause 15.2 applies and the Tenderer has reason to believe that:
        1. the Commonwealth or an official of the Commonwealth has engaged, is engaging or is proposing to engage in any conduct in contravention of the Relevant Commonwealth Procurement Rules in relation to this tender process; and
        2. the interests of the Tenderer are affected by the conduct,

the Tenderer may submit a complaint about the conduct in writing to the email address set out in the Tender Particulars.

* + 1. Where requested by the Principal, the Tenderer must do all things reasonably necessary to cooperate with the Principal (including providing information or answering questions) in the investigation and attempted resolution of any complaint in respect of this tender process under this clause 15.2.
    2. A public interest certificate under the Judicial Review Act in relation to the tender process:
       1. is in force if stated in the Tender Particulars as being in force; or
       2. may otherwise be issued by the Commonwealth at any time during the tender process (including after any complaint has been made by a Tenderer under this clause 15.2), in which case the Tender Administrator will notify all Tenderers of the issue of the public interest certificate by notice:
          1. if the Principal is using AusTender, published on AusTender; or
          2. if the Principal is not using AusTender, by email or post.
    3. Without limiting the operation of the Judicial Review Act, if a Tenderer makes a complaint under this clause 15.2 and at the time of the complaint no public interest certificate is in force in relation to this tender process, the Principal may suspend this tender process in accordance with section 20 of the Judicial Review Act by notice to all Tenderers:
       1. if the Principal is using AusTender, published on AusTender; or
       2. if the Principal is not using AusTender, by email or post.

1. Freedom of Information
   * 1. The *Freedom of Information Act* *1982* (Cth) (**FOI Act**) gives members of the public rights of access to official documents of the Commonwealth Government and its agencies. The FOI Act extends, as far as possible, rights to access information (generally documents) in the possession of the Commonwealth Government, limited only by considerations for the protection of essential public interest and of the private and business affairs of entities in respect of whom information is collected and held by departments and public authorities.
     2. Commonwealth requirements and policies will require certain identifying details of the Contract in Part 5 to be made available to the public via the internet.
2. tenderer's commercial-in-confidence information
   * 1. Subject to paragraph (c), the Principal must keep confidential any information provided to the Principal by a Tenderer after the Award Date when:
        1. a request (with justification) to keep specific information confidential is included in Tender Schedule G - Tenderer's Commercial-In-Confidence Information;
        2. the Principal agrees (in its absolute discretion) that such information is commercial-in-confidence information; and
        3. the Principal notifies the Tenderer by post or email of its agreement under subparagraph (ii),

(**Commercial-in-Confidence Information**).

* + 1. The Principal will notify the Tenderer by post or email if it does not agree that such information is commercial-in-confidence information.
    2. The Principal's obligation under paragraph (a) does not apply if the Commercial-in-Confidence Information is:
       1. disclosed by the Principal to its legal or other advisers, or to its officers, employees, contractors or agents by virtue of or in connection with evaluation of the Tender;
       2. disclosed by the Commonwealth to any responsible Minister or any Ministerial adviser or assistant;
       3. disclosed by the Commonwealth to any House or Committee of the Parliament of the Commonwealth of Australia;
       4. disclosed to any Commonwealth department, agency or authority by virtue of or in connection with its functions, or statutory or portfolio responsibilities;
       5. authorised or required by law to be disclosed; or
       6. in the public domain otherwise than due to a breach of paragraph (a).

1. PROTECTION OF PERSONAL INFORMATION
   * 1. The Tenderer agrees, when doing any act or engaging in any practice for the purposes of lodging a Tender under these Tender Conditions, to comply with the Australian Privacy Principles, as if the Tenderer were an agency as defined in the Privacy Act.
     2. The Tenderer acknowledges that, in addition to the requirements of this clause 18, the Tenderer may also be obliged to comply with other obligations in relation to the handling of Personal Information, such as the Australian Privacy Principles or other Statutory Requirements.
     3. This clause survives the expiration or earlier termination of the tender process for the Contract in Part 5.
2. EMPLOYEE ENTITLEMENTS
   * 1. The Tenderer should note that it is a requirement of the Commonwealth Procurement Rules that the Principal must not enter into a contract with a Tenderer who has a judicial decision (being a decision of any court, tribunal or other body with authority to make a decision or determination which is binding on the Tenderer) against it (not including a decision under appeal) relating to employee entitlements and has not paid the claim.
     2. At the Award Date, the successful Tenderer must not:
        1. have a judicial decision against them (not including a decision under appeal) relating to employee entitlements; and
        2. have not paid the claim.
     3. The Principal may request and, if so, the Tenderer must provide evidence of compliance with this clause 19.
3. FINANCIAL VIABILITY

At any time before the Award Date, the Tender Administrator may (in its absolute discretion) notify the Tenderer by email that the Principal requires the Tenderer to provide to the Tender Administrator by email by the time and date specified in the notice, any of the following information or documents:

* + 1. a duly executed solvency statement in the form attached to the Tender Administrator's notice;
    2. audited Annual Financial Reports for the last three financial years;
    3. if the Tenderer is a company and forms part of a corporate group, details of the structure of the corporate group, including whether or not there are any deeds of cross-guarantee in place;
    4. details of any pending, threatened or actual litigation, arbitration or other forms of dispute resolution involving the Tenderer;
    5. details of all securities provided by the Tenderer (including details of the type of security, the issuer of the security, details as to whom the security has been provided, the assets secured and the amounts secured); and
    6. any additional financial information or documents specified in the notice,

for the purpose of assessing whether or not the Tenderer has the necessary financial viability to perform the Services and otherwise meet its obligations under the Contract if it is the successful Tenderer.

1. MATERIAL CHANGE OR STRATEGIC INTEREST ISSUE
   * 1. The Tenderer warrants that, at the time of lodging its Tender, it is not aware of any Material Change or Strategic Interest Issue, in relation to the Tenderer.
     2. If, at any time after lodging its Tender, the Tenderer becomes aware of any Material Change or Strategic Interest Issue, the Tenderer must immediately notify the Tender Administrator by email, providing details of:
        1. the Material Change or Strategic Interest Issue; and
        2. the steps which the Tenderer has taken (or will take) to prevent, end, avoid, mitigate, resolve or otherwise manage the risk of any adverse effect of the Material Change or Strategic Interest Issue on the interests of the Principal.
     3. If:
        1. the Tenderer notifies the Tender Administrator under paragraph (b) or has failed to strictly comply with clause 21; or
        2. the Principal otherwise considers (in its absolute discretion) that there exists (or is likely to exist) a Material Change or Strategic Interest Issue in relation to the Tenderer,

the Principal may (in its absolute discretion) do any one or more of the following:

* + - 1. notify the Tenderer by email or post that it is required to meet with the Principal or provide further information, documents or evidence in relation to, and otherwise clarify, the:
         1. nature and extent of the Material Change or Strategic Interest Issue; and
         2. steps which the Tenderer has taken (or will take) to prevent, end, avoid, mitigate, resolve or otherwise manage the risk of any adverse effect of the Material Change or Strategic Interest Issue on the interests of the Principal,

by the time and date specified in the notice; or

* + - 1. regardless of whether or not the Principal has notified the Tenderer under subsubparagraph (iii) notify the Tenderer by email or post that the Tenderer:
         1. is specifically excluded from participating in the tender process and its Tender will not be evaluated (or continue to be evaluated); or
         2. may continue to participate in the tender process, whether with or without such conditions as the Principal thinks fit (in its absolute discretion) including the Tenderer:

implementing any separation arrangements (for the purpose of preventing, ending, avoiding, mitigating, resolving or otherwise managing any Material Change or Strategic Interest Issue); or

completing, duly executing and returning to the Tender Administrator by email a deed in a form approved by the Principal,

by the time and date specified in the notice.

1. workplace gender equality

The *Workplace Gender Equality Act 2012* (Cth) (**WGE Act**) requires private sector employers of 100 or more employees (or employers of 80 or more employees where the employer used to be covered by the WGE Act), and higher education institutions, to prepare, submit to the Workplace Gender Equality Agency and otherwise make available (in accordance with the WGE Act) public reports in relation to gender equality indicators, and to comply with the minimum standards determined by the Workplace Gender Equality Agency within relevant time periods specified in the WGE Act. The Australian Government has adopted a policy of not purchasing goods or services from suppliers who do not comply with their obligations, if any, under the WGE Act.

At the Award Date, the successful Tenderer must comply with the WGE Act if it applies to the successful Tenderer.

At any time before the Award Date, the Principal may (in its absolute discretion) request that the Tenderer provide to the Tender Administrator by post or email:

* + 1. a statutory declaration by one of its officers that the WGE Act does not apply to the Tenderer; or
    2. if the WGE Act applies to the Tenderer, a letter or such other evidence in writing confirming that the Tenderer is not named by the Workplace Gender Equality Agency as an employer not currently complying with the WGE Act.

1. specified Subconsultants
   * 1. The Principal may determine that a part or parts of the Services to be delivered under the Contract will be carried out by specified subconsultants.
     2. If the Tender Particulars set out details of subconsultant Services and specified subconsultants:
        1. if the Tenderer's Tender is successful, it will be required to enter into subcontracts with the specified subconsultants in accordance with clause 1.9 of the Conditions of Contract in Part 5 in the amounts set out in the Tender Particulars; and
        2. the Tenderer should make adequate allowance for the performance of the subconsultant Services by the specified subconsultants:
           1. in its lump sum Fee in Tender Schedule H - Fee for the amounts set out in the Tender Particulars; and
           2. in its program in Tender Schedule D - Program.
2. STATEMENT OF TAX RECORD
   * 1. Clause 24 applies unless the Tender Particulars state that it does not apply.
     2. The Tenderer’s attention is drawn to the Shadow Economy Procurement Connected Policy, which imposes obligations on the Commonwealth to obtain from Tenderers satisfactory and valid STRs. More information about the requirements arising under the Shadow Economy Procurement Connected Policy is available from the Department of Treasury at https://treasury.gov.au/policy-topics/economy/black-economy/procurement-connected-policy.
     3. As part of its tender, the Tenderer must complete and lodge Tender Schedule J - Statement of Tax Record, which includes:
        1. subject to subparagraph (ii), providing all of the satisfactory and valid STRs required from the Tenderer under Tender Schedule J - Statement of Tax Record;
        2. if the Tenderer has requested any of the STRs required under Tender Schedule J - Statement Of Tax Record but the STR has not been issued by the Australian Taxation Office prior to the Closing Date and Time, providing a STR receipt issued by the Australian Taxation Office demonstrating that the STR was requested from the Australian Taxation Office prior to the Closing Date and Time; and
        3. signing a Declaration in the form set out in item B.

**The Tenderer should note that this is a minimum form and content requirement for its Tender under clause 3.1(b)(ii) of the Tender Conditions.**

* + 1. If the Tender provides in its response to Tender Schedule J - Statement of Tax Record an STR receipt issued by the Australian Taxation Office demonstrating that any of the STRs required under Tender Schedule J - Statement of Tax Record were requested from the Australian Taxation Office prior to the Closing Date and Time, then:
       1. the Tenderer must provide all of the required satisfactory and valid STRs to the Tender Administrator by email within 4 business days after the Closing Date and Time; and
       2. if the Tenderer does not provide all of the required satisfactory and valid STRs to the Tender Administrator by email within 4 business days after the Closing Date and Time, the Principal may (in its absolute discretion) decide not to evaluate (or continue to evaluate) the Tender.
    2. The Tenderer's attention is also drawn to the Declaration in item B of Tender Schedule J - Statement Of Tax Record, which requires the Tenderer to declare that:
       1. it has complied with the requirements in Tender Schedule J - Statement Of Tax Record to provide and attach each of the required valid and satisfactory STRs (or to provide and attach a receipt issued by the Australian Taxation Office demonstrating that any relevant STRs were requested from the Australian Taxation Office prior to the Closing Date and Time);
       2. it has obtained and holds valid and satisfactory STRs for each subconsultant that it will engage for the Services under a subcontract with an expected value of over $4 million (GST inclusive), if known as at the Closing Date and Time; and
       3. if it is the successful Tenderer, it will ensure that any subconsultant that it subsequently engages for the Services under a subcontract with an expected value of over $4 million (GST inclusive) provides it with a valid and satisfactory STR prior to entering into the relevant subcontract.
    3. For the purposes of the Tender Documents, an STR is taken to be:
       1. **satisfactory** if the STR states that the entity has met the conditions, as set out in the Shadow Economy Procurement Connected Policy, of having a satisfactory engagement with the Australian tax system;
       2. **valid** if the STR has not expired as at the date on which the STR is required to be provided or held;
       3. **business day** meansa day other than a Saturday, Sunday or a public holiday in the Australian Capital Territory; and
       4. **Statement of Tax Record** or **STR** has the meaning given in the Shadow Economy Procurement Connected Policy.

PART 2 - TENDER PARTICULARS

TENDER PARTICULARS

|  |  |  |
| --- | --- | --- |
| **Closing Date and Time:** (Part 1, clause 2.1(e)) | 12.00 noon (local time at the location of the tender box) on ***[INSERT CLOSING DATE]*** | |
| **Information Documents:** (Part 1, clause 2.1(g)) | ***[INSERT LIST OF DOCUMENTS COMPRISING "INFORMATION DOCUMENTS"]*** | |
| **Principal:** (Part 1, clause 2.1(k)) | ***[INSERT]*** | |
| **Tender Administrator:** (Part 1, clause 2.1(p)) | ***[INSERT NAME]*** | |
| **Address and email of Tender Administrator:** (Part 1, clause 2.2) | ***[INSERT POSTAL ADDRESS AND EMAIL ADDRESS AND TENDER NUMBER]*** | |
| **Industry briefing:** (Part 1, clause 2.3) | Clause 2.3 ***[DOES/DOES NOT]*** apply.  (Clause 2.3 applies unless stated otherwise) | |
| **Location of Tender Box:** (Part 1, clause 3.1(a)(i)) | ***[INSERT LOCATION OF TENDER BOX eg "19th Chief Engineer Works, Royal Australian Engineers, 373A Avoca Street, RANDWICK NSW 2031"]*** | |
| **Additional Conditions for Participation:** (Part 1, clause 3.1(c)) | The additional conditions for participation applicable to this tender process are that the Tenderer must:  None stated.  ***["None stated" IS THE DEFAULT POSITION. IF THE PRINCIPAL OR TENDER ADMINISTRATOR WISH TO INSERT ADDITIONAL CONDITIONS FOR PARTICIPATION IN THIS TENDER PROCESS. IF PRIOR APPROVAL IS GIVEN, INSERT THE ADDITIONAL CONDITIONS FOR PARTICIPATION AND THE FOLLOWING:***  ***The Tenderer should note that [this is an/these are] additional condition/s for participation in this tender process under clause*** ***3.1(c) of the Tender Conditions and it is requested to lodge information in its Tender demonstrating that it meets each additional condition for participation.]*** | |
| **Endorsement for Outside of Each Sealed Package:** (Part 1, clause 3.4(c)(ii)) | Attention: Mailroom Manager/Tender Officer  Tender No: ***[INSERT TENDER NUMBER]*** for the Design Services Contract for Project No: ***[INSERT PROJECT NUMBER]*** ***[INSERT PROJECT NAME AND DESCRIPTION OF WORKS AND SERVICES, AS APPLICABLE]*** | |
| **Number of Copies of Tender to be Lodged:** (Part 1, clause 3.4(c)(iii)) | ***[INSERT]*** bound copies and ***[INSERT]*** unbound copies. | |
| **Additional Evaluation Criteria:** (Part 1, clause 4(b)) | None stated.  ***["None stated" IS THE DEFAULT POSITION. IF THE TENDER ADMINISTRATOR WISHES TO INSERT ADDITIONAL EVALUATION CRITERIA, INSERT ADDITIONAL EVALUATION CRITERIA AND THE FOLLOWING:***  ***The Tenderer should note that [this is an/these are] additional evaluation criterion/a in this tender process under clause 4(b) of the Tender Conditions and that it should attach information in its Tender demonstrating that it satisfies each additional criteria.***  ***IF ADDITIONAL EVALUATION CRITERIA IS INSERTED, ANY WEIGHTING PLACED ON THE EVALUATION CRITERIA MUST ALSO BE SPECIFIED. IF THERE IS NO APPLICABLE WEIGHTING, INSERT:***  ***There is no weighting for [this/these] additional evaluation [criterion/criteria]. The Tender will be evaluated with reference to [whether or not this evaluation criteria is met/whether value for money is achieved].]*** | |
| **Email address for submitting general complaints:** (Part 1, clause 15.1) | ***[INSERT EMAIL ADDRESS]*** | |
| **Complaints under the Judicial Review Act:** (Part 1, clause 15.2) | **Email address for submitting complaints under the Judicial Review Act:** (Part 1, clause 15.2(c)) | ***[IF THE TENDER PROCESS IS A COVERED PROCUREMENT INSERT:]***  procurement.complaints@defence.gov.au  ***[IF THE TENDER PROCESS IS NOT A COVERED PROCUREMENT INSERT:]***  Not Applicable  ***[DELETE WHICHEVER OPTION DOES NOT APPLY. A TENDER PROCESS WILL BE A COVERED PROCUREMENT FOR THE PURPOSES OF THE JUDICIAL REVIEW ACT IF THE RULES IN DIVISION 1 AND DIVISION 2 OF THE COMMONWEALTH PROCUREMENT RULES APPLY TO THE TENDER PROCESS.]*** |
| **Public interest certificate:** (Part 1, clause 15.2(e)(i)) | ***[IF THE TENDER PROCESS IS A COVERED PROCUREMENT INSERT:]***  As at the date of the release of the Tender Documents, a public interest certificate ***[HAS/HAS NOT]*** been issued.  ***[IF THE TENDER PROCESS IS NOT A COVERED PROCUREMENT INSERT:]***  Not Applicable  ***[DELETE WHICHEVER OPTION DOES NOT APPLY. A TENDER PROCESS WILL BE A COVERED PROCUREMENT FOR THE PURPOSES OF THE JUDICIAL REVIEW ACT IF THE RULES IN DIVISION 1 AND DIVISION 2 OF THE COMMONWEALTH PROCUREMENT RULES APPLY TO THE PROCUREMENT.]*** |
| **Specified subconsultants:**  (Part 1, clause 23) | ***[IN RESPECT OF EACH SPECIFIED SUBCONSULTANT, INSERT DETAILS OF THE SUBCONSULTANT SERVICES AND THE AMOUNT TO BE ALLOWED BY THE TENDERER IN ITS LUMP SUM FEE FOR THOSE SERVICES]*** | |
| **Statement of Tax Record**  (Part 1, clause 24) | Clause 24 ***[DOES/DOES NOT]*** apply.  (Clause 24 applies unless stated otherwise)  ***[DELETE WHICHEVER OPTION DOES NOT APPLY. THIS CLAUSE WILL APPLY WHEN THE PROCUREMENT HAS AN ESTIMATED VALUE OVER $4 MILLION (GST INCLUSIVE).]*** | |
| **Key People:** (Part 4, Tender Schedule A - Workload and Proposed Resources, item 2(b)) | ***[INSERT DESCRIPTION OF KEY POSITIONS/ROLES]*** | |
| **Level of Preliminary Design Solution required in DCAP:** (Part 4, Tender Schedule B - Detailed Consultant's Activities Proposal (DCAP) and Plans, Attachment to Tender Schedule A DCAP Outline, item 1(a)) | ***[INSERT]*** | |
| **Program Format:** (Part 4, Tender Schedule D - Program) | ***[Primavera Suretrak/Microsoft Project]***or approved equivalent*.* | |

PART 3 - TENDER FORM

TENDER FORM

[NOTE TO TENDERERS: IN ACCORDANCE WITH CLAUSE 3.4(b) OF THE TENDER CONDITIONS THE TENDERER IS REQUESTED TO COMPLETE AND LODGE THIS TENDER FORM WITH ITS TENDER]

Tender Form

To: ***[INSERT NAME OF THE PRINCIPAL]*** (**Principal**)

By: **[INSERT NAME OF TENDERER INCLUDING ABN]**

**Project: [INSERT NAME OF PROJECT]**

1. **THE OFFER**
   * 1. We tender to perform the Services in accordance with the Tender Documents and the enclosed Tender Schedules.
     2. We undertake, if this Tender is accepted, to immediately commence the Services and to carry them out in accordance with the Tender Documents.
     3. In consideration of the Principal promising to pay us the sum of One Dollar ($1.00), we agree to be bound by this Tender for the duration of the Tender Validity Period and that this Tender may be accepted by the Principal at any time before the expiration of that period.
2. **UNACCEPTABLE TENDERING PRACTICES**
   * 1. Unacceptable tendering practices, such as collusive bidding, remove the competitive aspect of the procurement process and mean the Principal is not likely to get best value for money. Some types of unacceptable tendering practices are where individuals or companies agree to fix prices at a certain level, refrain from tendering in certain situations, take turns at submitting the "low bid", or divide the market (geographically or by product).
     2. We warrant that we have not nor will we engage in unacceptable tendering practices including:
        1. Collusive Tendering
           1. Neither the Tenderer nor any of its servants or agents had knowledge of the tender price for the Project of any other tenderer prior to the Tenderer lodging its Tender for the Project.
           2. Neither the Tenderer nor any of its servants or agents disclosed the tender price for the Project submitted by the Tenderer to any other tenderer who lodged a tender for the Project or to any other person or organisation prior to the close of tenders.
        2. Cover Bidding
           1. Neither the Tenderer nor any of its servants or agents provided information to any other tenderer, person or organisation, to assist another tenderer for the Project to prepare a tender known in the building and construction industry as a cover bid, whereby the Tenderer was of the opinion or belief that another tenderer did not intend to genuinely compete for the contract.
           2. The Tenderer is genuinely competing for the contract and its Tender is not a cover bid.
        3. Industry Association Agreements

Prior to the Tenderer lodging its Tender for the Project, neither the Tenderer nor any of its servants or agents entered into any contract, agreement, arrangement or understanding, other than as disclosed to the Principal, 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 Tender.

* + - 1. Unsuccessful Tenderers' Fees

Prior to the Tenderer lodging its Tender for the Project neither the Tenderer nor any of its servants or agents 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 any other tenderer who unsuccessfully tendered for the Tender.

* + - 1. Improper Assistance

Neither the Tenderer nor any of its servants or agents has prepared the Tender:

* + - * 1. with the improper assistance of employees of the Principal;
        2. with information improperly obtained from the Principal; and
        3. with the improper assistance of any officer, employee, agent or adviser of the Tenderer's who was:

an employee of, service provider to or otherwise engaged by, the Principal at any time during the six months immediately preceding the date of issue of the Tender Documents;

if the Principal is the Commonwealth, an employee of, service provider to or otherwise engaged by, the Department of Defence at any time during the six months immediately preceding the date of issue of the Tender Documents;

involved in the planning or performance of the project to which the tender process relates at any time during the 12 months immediately preceding the date of issue of the Tender Documents; or

involved in the management of the tender process or preparation of the Tender Documents at any time.

* + - 1. Statutory Requirements

Neither the Tenderer nor any of its servants or agents prepared its Tender in breach of or otherwise inconsistently with any Statutory Requirement or a Commonwealth policy regarding the offering of unlawful inducements in connection with the preparation of a Tender or during a tender process.

* + - 1. Conflict of Interest

Neither the Tenderer nor any of its servants or agents has placed itself in a position that may or does give rise to an actual, potential or perceived conflict of interest between the interests of the Principal and the Tenderer during this tender process.

1. **ADDENDA**

We have allowed in our Tender for the requirements contained in all addenda issued to us under clause 2.2(d) of the Tender Conditions and identify each addendum by its number and date of issue as follows:

Number **[INSERT]** Dated **[INSERT]**

Number **[INSERT]**  Dated **[INSERT]**

1. **DETAILS OF TENDERER**

**[INSERT ALL DETAILS REQUIRED BY CLAUSE 3.4(b)(ii) OF THE TENDER CONDITIONS HERE REGARDING ORGANISATIONAL STRUCTURE, TRADING AND BUSINESS NAMES, RELATED BODIES CORPORATE, AUSTRALIAN CONTACTS, STREET ADDRESS AND EMAIL ADDRESS AND BUILDER'S REGISTRATION OR LICENCE NUMBER]**

1. **CPR COMPLIANCE STATEMENT**

We provide the following details.

* + 1. Below is a list of the Australian standards which are applicable to the Services (or the relevant international standard, in the absence of an applicable Australian standard).

|  |
| --- |
| **[INSERT]** |

* + 1. Our capability to meet the applicable Australian standard (as identified in paragraph (a)), is demonstrated below.

|  |
| --- |
| **[INSERT]** |

* + 1. Our practices regarding labour regulations and ethical employment practices are described below.

|  |
| --- |
| **[INSERT]** |

* + 1. An outline of how the project (and the Tenderer's approach to performance of the Services) may directly benefit the Australian economy.

|  |
| --- |
| **[INSERT]** |

1. **DEFENCE INDUSTRY SECURITY PROGRAM**

The Tenderer confirms that if it is the successful Tenderer it will be in a position to comply with its obligations under the Contract relating to the DISP, including to obtain and thereafter maintain for the term of the Contract the level of DISP membership specified in the Contract Particulars (if any) and to comply with any other direction or requirement of the Contract Administrator in relation to the DISP.

1. **FINANCIAL VIABILITY**

The Tenderer declares that, subject to any disclosures made below:

* + 1. it has the necessary financial viability to perform the Services, achieve Completion and otherwise meet its obligations under the Contract in Part 5 if it is the successful Tenderer; and
    2. it is not subject to any current or impending legal action (either formal legal proceedings or other dispute resolution process such as arbitration or expert determination) or notification of such legal action, which could impact on the financial viability of the Tenderer or its ability to perform the Services, achieve Completion and otherwise meet its obligations under the Contract in Part 5 if it is the successful Tenderer.

|  |
| --- |
|  |

1. **MODERN SLAVERY**

The Tenderer is referred to clause 13.13 of the Conditions of Contract in Part 5.

The Tenderer is requested to provide details of:

* + 1. any procedures or policies the Tenderer has in place to identify, assess and address risks of modern slavery in its operations and supply chains including (if applicable) any due diligence the Tenderer performs to assess the risks of modern slavery, such as screening of prospective subconsultants and suppliers;
    2. if the Tenderer does not have any such procedures or policies in place, what the Tenderer is doing, or plans to do, to manage modern slavery risks in its operations and supply chains; and
    3. any other steps the Tenderer will take to ensure compliance with clause 13.13 of the Conditions of Contract in Part 5 if it is the successful Tenderer.

|  |
| --- |
|  |

1. **PAYMENT TIMES PROCUREMENT CONNECTED POLICY**

The Tenderer is referred to the definition of "Reporting Entity" in the *Payment Times Reporting Act 2020* (Cth).

The Tenderer is requested to identify, by ticking the relevant box below, whether or not it is a Reporting Entity for the purposes of the Payment Times Procurement Connected Policy (being the procurement connected policy available at https://treasury.gov.au/publication/p2021-183909).

**❑** The Tenderer **is** a Reporting Entity; or

**❑** The Tenderer **is not** a Reporting Entity.

1. **VETERAN PARTICIPATION IN THE DELIVERY OF THE SERVICES**

Describe your approach to employing and engaging Australian veterans in connection with the delivery of the Services, whether directly or through the engagement of subconsultants:

|  |
| --- |
|  |

1. **EXECUTION OF THE TENDER FORM**

In accordance with clause 3.4(c)(i) the Tenderer is requested to provide evidence of the full authority of the person or persons executing the Tender Form.

|  |
| --- |
|  |

DATED this day of 20

**[COMPLETE ONE OF THE FOLLOWING SIGNING BLOCKS, OR INSERT AS APPROPRIATE, THEN DELETE THOSE NOT USED - SEE CLAUSE 3.4(c)(i) OF TENDER CONDITIONS AND INSERT ALL FURTHER DETAILS REQUIRED HERE]**

|  |  |  |
| --- | --- | --- |
| **SIGNED** by **[INSERT NAME AND POSITION OF SIGNATORY]** for and on behalf of the Tenderer in the presence of:  Witness:………………………………….…..  Print name and position:  ………............................................ | ) ) ) ) | ……………………………………………….. |

**[OR]**

I **[INSERT NAME OF SIGNATORY]**warrant that I hold the position of **[INSERT]** in the Tenderer and am duly authorised to sign this Tender for and on behalf of the Tenderer:

………............................................

PART 4 - TENDER SCHEDULES

TENDER SCHEDULE A - WORKLOAD AND PROPOSED RESOURCES

1. **WORKLOAD**

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(i) of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to provide details of its current and potential future workload (including those contracts for which tenders have been lodged but not yet accepted or rejected) in table format as set out below.

**CURRENT WORKLOAD**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **PROJECT AND LOCATION** | **CLIENT** | **CONTRACT PRICE/FEE** | **CONTRACT PRICE/FEE REMAINING** | **KEY START AND COMPLETION DATES** | **KEY DISCIPLINES** |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

**POTENTIAL FUTURE WORKLOAD**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **PROJECT AND LOCATION** | **CLIENT** | **APPROX VALUE** | **KEY AWARD, START AND COMPLETION DATES** | **KEY DISCIPLINES** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

1. **PROPOSED RESOURCES (INCLUDING CONSULTANT'S REPRESENTATIVE AND KEY PEOPLE)**

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(i) of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to provide details of its proposed resources for the Services, including:

* + 1. the Consultant's Representative;
    2. the key people for the roles specified in the Tender Particulars; and
    3. in respect of each of (a) and (b) above, their respective roles and the percentage of time each of the above persons would be dedicated to the Services.

A project specific organisational chart and curricula vitae of each key person for the roles specified in the Tender Particulars should also be submitted. Curricula vitae should include details of all relevant projects worked on in the last 5 years (including roles on those projects similar to those roles proposed for this project) and client referee contact details (with current telephone numbers).

1. **PROPOSED SUBCONSULTANTS**

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(i) of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to provide:

* + 1. details of the work which it proposes to subcontract together with a list of the proposed subconsultants for the Services; and
    2. curricula vitae of each key person from each subconsultant, including details of the relevant projects worked on in the last 5 years and client referee contact details (with current telephone numbers).

|  |  |
| --- | --- |
| **WORK TO BE SUBCONTRACTED** | **NAME OF PROPOSED SUBCONSULTANT** |
|  |  |

TENDER SCHEDULE B - DETAILED CONSULTANT'S ACTIVITIES PROPOSAL (DCAP) AND PLANS

1. **DCAP**

Tenderers are referred to:

* + 1. clause 5.10 of the Conditions of Contract in Part 5; and
    2. the definition of DCAP in clause 18.1 of the Conditions of Contract in Part 5.

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(ii) of the Tender Conditions, and to assist the Principal in evaluating its Tender, the Tenderer is requested to:

* + 1. complete each item in the DCAP outline attached to this Tender Schedule B - Detailed Consultant's Activities Proposal (**DCAP**) and Plans; and
    2. include in the DCAP such additional items as the Tenderer considers necessary,

to clearly demonstrate:

* + 1. the Tenderer's detailed understanding of what the Contract requires the Tenderer to do in respect of all material aspects of the Services; and
    2. all material aspects of the way in which the Tenderer proposes to perform the Services which could distinguish the Tenderer's approach from that of other Tenderers.

The Tenderer should note that:

* + 1. subject to paragraph (h), the DCAP submitted by the successful Tenderer will become the DCAP for the purposes of clause 5.10 of the Conditions of Contract in Part 5; and
    2. the Principal reserves the right to negotiate the DCAP submitted by any Tenderer, with a view to amending the terms of the DCAP, before entering into any Contract with the successful Tenderer.

1. **PROJECT PLANS APPROACH**

The Tenderer's attention is drawn to the definitions of Site Management Plan, Environmental Management Plan, Commissioning and Handover Plan, Work Health and Safety Plan and Project Plans under clauses 18.1 and 6.4 of the Conditions of Contract in Part 5.

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described in clause 4(a)(ii) of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to prepare and submit its current corporate approach to:

* + 1. site management;
    2. environmental management;
    3. commissioning and handover; and
    4. work health and safety,

noting that plans for each of these are to be developed under clause 6.4 of the Conditions of Contract in Part 5.

The Tenderer should note that:

* + 1. subject to paragraph (f), the Tenderer's approach to the Project Plans submitted by the successful Tenderer will become the approach for the purposes of clause 6.4(a)(ii)A of the Conditions of Contract in Part 5; and
    2. the Principal reserves the right to negotiate the Tenderer's approach to the Project Plans, with a view to amending the Tenderer's approach, before entering into any Contract with the successful Tenderer.

The Tenderer is requested to ensure that its approach to the Project Plans are focused on the Services described in the Contract in Part 5.

ATTACHMENT TO TENDER SCHEDULE B - DCAP OUTLINE

1. **SPECIFIC ITEMS IDENTIFIED BY THE PRINCIPAL:**
   * 1. Preliminary design solutions, to the level specified in the Tender Particulars (if any).
     2. Approach to designing the Works, carrying out the Services and preparing all Design Documentation, including:
        1. conducting site investigations and other risk reduction studies;
        2. co-ordination of and consultation with stakeholders and user groups;
        3. advising on available methods of design and construction of the Works and possible alternative materials;
        4. providing the analysis, detailed recommendations, alternatives and breakdowns to be included in the Design Documentation, together with identification of any opportunities for cost savings, opportunities for investment of cost savings and maximising value for money for the Principal;
        5. management and co-ordination of the roles and responsibilities of Key People, subconsultants and all other resources of the Consultant in producing the Design Documentation, including the co-ordination and integration across design disciplines;
        6. conducting design reviews and addressing matters raised in design reviews. At minimum, design reviews should be carried out prior to the completion of the ***[INSERT NAME OF RELEVANT MILESTONES, AS APPROPRIATE IN ACCORDANCE WITH THE CONDITIONS OF CONTRACT AND THE SCOPE OF THE SERVICES]***;
        7. conducting value management reviews and addressing matters raised in value management reviews. At minimum, value management reviews should be carried out prior to the completion of the ***[INSERT NAME OF RELEVANT MILESTONES, AS APPROPRIATE IN ACCORDANCE WITH THE CONDITIONS OF CONTRACT AND THE SCOPE OF THE SERVICES]***;
        8. avoiding discrepancies, ambiguities, errors and omissions in the Design Documentation used for the purposes of the Construction Contract (including the completion of Design Documentation for "tender issue" and for "construction issue", the process for ensuring consistency with the terms of the Construction Contract and details of any proposed peer reviews);
        9. achieving WOL Objectives and ESD Principles;
        10. ensuring compliance (including by all subconsultants) with all Statutory Requirements including in respect of:
            1. protecting the Environment; and
            2. work health and safety (including those elements of the WHS Legislation concerning or in any way related to design and designers);
        11. addressing "safe design" principles;
        12. quality assurance;
        13. addressing the logistics support requirements of the project, as well as identifying potential logistics issues and identifying to these problems; and
        14. ensuring the Design Documentation incorporates design solutions that provide appropriate opportunities for local industry to participate in the delivery of the Works and the Project.

(It is expected that the Tenderer's response to this item will form a large component of the DCAP.)

* + 1. Approach to programming, including management and co-ordination of the roles and responsibilities of Key People, subconsultants and all other resources of the Consultant in producing and revising the program.
    2. Approach to responding to requests for information from the Contract Administrator and others, during any tender process for the Construction Contract and after the Award Date of the Construction Contract.
    3. If the Services are divided into phases, approach to commencing and conducting negotiations with the Principal with respect to the relevant Fee.
    4. Approach to management and co-ordination between different geographical locations (if applicable).
    5. Approach to co-ordination with and co-operation with other relevant projects. ***[STRIKE THROUGH IF NOT REQUIRED]***

1. **ADDITIONAL ITEMS IDENTIFIED BY THE TENDERER:**

**[INSERT]**

TENDER SCHEDULE C - PREVIOUS PERFORMANCE

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(iii) of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to provide details of its previous performance in respect of projects that are relevant to the Services of different values including those set out below and all projects completed in the past 12 months. Such details should include:

* + 1. the agreed contract sum and date for completion;
    2. the end contract sum and date of completion (and reasons for differences to the agreed contract sum and date for completion (if any);
    3. the number (and value) of variations and extensions of time, and reasons for each variation and extension of time;
    4. details of any claims (other than for progress payments) over $50,000 made by either party to the contract;
    5. any activities that provided value added options and innovations to the client, detailing any long-term benefits;
    6. examples of any problems experienced during the project and solutions implemented to resolve the problem;
    7. a referee from both the client and its lead consultant (if any) on the project (with current telephone numbers);
    8. the nature and extent of involvement of any proposed resources identified for this project in Item 2 and Item 3 of Tender Schedule A - Workload and Proposed Resources; and
    9. examples of past performance in relation to works, trades and any specialist skill sets relevant to the project.

***[CONSIDER AND AMEND THE VALUES AND NUMBER OF PROJECTS SET OUT BELOW HAVING REGARD TO THE ESTIMATED VALUE OF THE PROJECT WHICH IS THE SUBJECT OF THE TENDER DOCUMENTS]***

**Projects**

**$0 - $250,000**

Up to ***[3 PROJECTS]***

**$250,000 - $1M**

Up to ***[3 PROJECTS]***

**$1M - $3M**

Up to ***[3 PROJECTS]***

**Over $3M**

Up to ***[2 PROJECTS]***

TENDER SCHEDULE D - PROGRAM

The Tenderer's attention is drawn to clause 7.2 of the Conditions of Contract in Part 5.

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(iv) of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to provide a detailed program showing its order of work, periods for carrying out all design and documentation activities and key dates.

The program should also:

* + 1. allow for all necessary reviews, consents and approvals;
    2. be in a format compatible with the software described in the Tender Particulars; and
    3. otherwise satisfy the requirements for the program described in the Contract in Part 5.

The program should be based on achieving Completion of each Milestone by the relevant Date for Completion.

The Tenderer should note that the program referred to in this Tender Schedule D - Program will not form part of the Contract but will, subject to any negotiation of that program prior to the Award Date, form the basis of the initial program provided by the successful Tenderer under clause 7.2 of the Conditions of Contract in Part 5.

The Tenderer's attention is also drawn to clause 23 of the Tender Conditions and clause 1.9 of the Conditions of Contract in Part 5. The Tenderer should make adequate allowance in its program for the performance of all Agreed Subconsultant Services (if any) by Agreed Subconsultants.

TENDER SCHEDULE E - TENDERER'S INSURANCE DETAILS

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(v)A of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to provide details of the insurances which it has or proposes to put in place for the purposes of the Contract in Part 5.

The Tenderer's attention is drawn to clause 4.1 of the Conditions of Contract in Part 5.

The Principal reserves the right to negotiate the levels of insurance required before entering into any Contract with the successful Tenderer.

Such details should include:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **INSURANCE TYPE** | **INSURANCE COMPANY** | **POLICY NO** | **EXTENT OF COVER** | | **DEDUCTIBLE $** | **POLICY PERIOD** |
| **PER OCCURRENCE/CLAIM  $** | **AGGREGATE $** |  |  |
| Other than where the Tenderer is self-insured (see below) Workers Compensation Insurance |  |  |  |  |  |  |
| Employees Liability Insurance |  |  |  |  |  |  |
| Public Liability Insurance |  |  |  |  |  |  |
| Professional Indemnity Insurance |  |  |  |  |  |  |
| Other Insurances:  ***[INSERT ANY***  ***OTHER***  ***INSURANCES***  ***REQUIRED -***  ***OTHERWISE***  ***INSERT "NOT***  ***APPLICABLE"]*** |  |  |  |  |  |  |

**[*INSERT OTHERS REQUIRED UNDER CLAUSE 4.1(a)(iv) OF CONDITIONS OF CONTRACT IN PART 5*]**

For Public Liability Insurance, Professional Indemnity Insurance, Workers Compensation Insurance, and Employee's Liability Insurance, the Tenderer may be requested to provide evidence of insurances to the satisfaction of the Tender Administrator.

TENDER SCHEDULE F - MISCELLANEOUS CONTRACT PARTICULARS

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(v)B of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to submit the following information for the purposes of the Contract Particulars in Part 5.

The Tenderer should ensure that the information provided in this Tender Schedule F - Miscellaneous Contract Particulars is consistent with information given in other parts of its Tender (as applicable).

|  |  |  |
| --- | --- | --- |
| **\*Date for Completion of Milestones:**  (Clause 1.1) | **Milestone** | **Date for Completion** |
| ***[INSERT MILESTONE FROM CONTRACT PARTICULARS]*** | **[INSERT]** |
| ***[INSERT MILESTONE FROM CONTRACT PARTICULARS]*** | **[INSERT]** |
| ***[INSERT MILESTONE FROM CONTRACT PARTICULARS]*** | **[INSERT]** |
| ***[INSERT MILESTONE FROM CONTRACT PARTICULARS]*** | **[INSERT]** |
| ***[INSERT MILESTONE FROM CONTRACT PARTICULARS]*** | **[INSERT]** |
| ***[INSERT MILESTONE FROM CONTRACT PARTICULARS]*** | **[INSERT]** |
| **Consultant's Executive Negotiator:** (Clause 1.1) | **[INSERT]**  (The Tenderer is requested to note that this should not be the same person as the Consultant's Representative nominated in Tender Schedule A - Workload and Proposed Resources.) | |
| **\*Services which may be let to one of the named subconsultants:**  (Clause 2.9(a)(i)A) | **Services** | **Subconsultants** |
| **[INSERT]** | **[INSERT]** |
| **Address and email for the giving or serving of notices, upon the Consultant:** (Clause 13.7(b)(i)) | **[INSERT]** | |

***[\* INDICATES DELETE/STRIKE THROUGH IF NOT TO BE TENDERED]***

TENDER SCHEDULE G - TENDERER'S COMMERCIAL-IN-CONFIDENCE INFORMATION

The Tenderer's attention is drawn to clause 17 of the Tender Conditions and clause 14 of the Conditions of Contract in Part 5 and the Commonwealth's policy on the identification of Commercial-in-Confidence Information (including the requirements set out in paragraph (c)).

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(v)C of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer:

* + 1. may identify any specific information provided by the Tenderer to the Principal that it wishes the Principal to keep confidential; and
    2. must provide justification, in accordance with paragraph (c), why the information identified under paragraph (a) should be kept confidential.

The Tenderer is referred to the Commonwealth's guidance on the identification of Commercial-in-Confidence Information available at https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules/accountability-transparency

The Tenderer should note that the Commonwealth policy principles of transparency and accountability promote the disclosure of contractual information to the maximum extent and that a Tenderer's information is only kept confidential where there are sound reasons for doing so.

Without limiting the Principal's absolute discretion under clause 17(a)(ii) of the Tender Conditions, the Tenderer is requested to note that:

* + 1. information must have all of the following characteristics before it may be considered to be Commercial-in-Confidence Information:
       1. the information to be protected must be specifically identified;
       2. the information must be commercially sensitive and not already in the public domain;
       3. disclosure would cause unreasonable detriment to the owner of the information or another party; and
       4. the information was provided with an express or implied understanding that it would remain confidential;
    2. without limiting paragraph (c)¸ the following types of information in, or in relation to, contracts would generally not be considered Commercial-in-Confidence Information:
       1. performance and financial guarantees;
       2. indemnities;
       3. the price of an individual item, or groups of items of goods or services;
       4. rebate, liquidated damages and service credit clauses;
       5. performance measures applicable to the Contract;
       6. clauses which describe how Intellectual Property Rights are to be dealt with;
       7. payment arrangements; and
       8. the performance of the Consultant against the requirements of the Contract and agreed assessment criteria; and
    3. the following types of information may (in the Principal's absolute discretion) meet the criteria of being protected as Commercial-in-Confidence Information:
       1. trade secrets;
       2. proprietary information (this could be information about how a particular technical or business solution is to be provided);
       3. internal costing information or information about profit margins; and
       4. pricing structures (where this information would reveal whether there was a profit or loss on the supply of a particular good or service).

Details of any specific information that the Tenderer wishes the Principal to keep confidential should be provided in table format as set out below.

|  |  |  |
| --- | --- | --- |
| **SPECIFIC INFORMATION** | **JUSTIFICATION** | **PERIOD OF CONFIDENTIALITY** |
| **[INSERT (IF APPLICABLE)]** | **[INSERT (IF APPLICABLE)]** | **[INSERT (IF APPLICABLE)]** |

TENDER SCHEDULE H - FEE

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(vi) of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to submit the information described in this Tender Schedule H - Fee.

The Tenderer should note that all amounts submitted are not and will not be subject to rise and fall and should be GST-exclusive (see clause 9.13of the Conditions of Contract in Part 5).

* + 1. **Lump Sum**

|  |  |
| --- | --- |
| **FEE** | **$[INSERT]** (GST exclusive) |

The Tenderer's attention is drawn to clause 23 of the Tender Conditions and clause 1.9 of the Conditions of Contract in Part 5. The Tenderer should note that the lump sum Fee should include an adequate allowance for the Agreed Subconsultant Services (if any) to be carried out by the Agreed Subconsultants set out in the Tender Particulars.

* + 1. **Breakdown of Lump Sum**

***[INSERT TABLE SHOWING BREAKDOWN OF ELEMENTS, MILESTONES, PARTS, DISCIPLINES, AGREED SUBCONSULTANT SERVICES (IF ANY) AND DISBURSEMENTS. THE PRINCIPAL AND THE TENDER ADMINISTRATOR MUST CONSIDER AND DEVELOP AN APPROPRIATE BREAKDOWN LIST HAVING REGARD TO:***

1. ***THE WORKS AND THE PROJECT; AND***
2. ***THE OPERATION OF CLAUSE 1.14(f)(ii) OF THE CONDITIONS OF CONTRACT IN PART 5 IN RESPECT OF THE EVALUATION OF THE CONSULTANT’S ENTITLEMENT (IF ANY) FOLLOWING A PANDEMIC ADJUSTMENT EVENT.]***

This breakdown:

* + - 1. is for tender evaluation purposes;
      2. will also be used, in part, for the purposes of assessing the Consultant’s entitlement, if any, under clause 1.14(d)(i)B of the Conditions of Contract in Part 5, as contemplated in clause 1.14(f)(ii) of the Conditions of Contract in Part 5; and
      3. will not limit or affect the scope of the Services or the Contract in Part 5.

***[IF NO BREAKDOWN IS REQUIRED, INSERT "Not Applicable".]***

* + 1. **Proposed progress payments for the Fee**

***[IF PAYMENT CLAIMS AND PAYMENTS ARE TO BE BASED ON COMPLETION OF MILESTONES, INSERT THE FOLLOWING:]***

The Tenderer is requested to provide a breakdown of proposed progress payments for the Fee based on the Milestones set out in the Conditions of Contract in Part 5 and as follows:

|  |  |
| --- | --- |
| **MILESTONE** | **AMOUNT** |
| ***[INSERT MILESTONES FROM CONTRACT PARTICULARS]*** | **$[INSERT]** |
| ***[INSERT MILESTONES FROM CONTRACT PARTICULARS]*** | **$[INSERT]** |
| **[TENDERER TO INSERT PROPOSED ADDITIONAL MILESTONES, IF ANY]** | **$[INSERT]** |
| **FEE** | **$[INSERT]** (GST exclusive) |

***[IF PAYMENT CLAIMS AND PAYMENTS ARE TO BE BASED ON A SPECIFIED DAY OF THE MONTH, INSERT THE FOLLOWING:]***

The Tenderer is requested to provide an anticipated monthly cash flow. This cash flow is for tender evaluation purposes and will not limit or affect the scope of the Services or the Contract in Part 5.

* + 1. **Table of Variation Rates and Prices**

***[IF A TABLE OF VARIATION RATES AND PRICES FOR POTENTIAL VARIATION ITEMS/SERVICES/GOODS/MATERIALS APPLIES, INSERT TABLE WHICH IDENTIFIES THE ITEM FOR WHICH RATES ARE REQUESTED HERE.]***

***[IF A TABLE OF VARIATION RATES AND PRICES DOES NOT APPLY, INSERT "Not Applicable".]***

***[NOTE THAT SPECIAL CONDITIONS WILL BE REQUIRED TO ADDRESS ANY "TENDER OPTIONS" TO BE PRICED (E.G. ADDITIONAL ELEMENTS OF THE SERVICES NOT INCLUDED AT THE TIME OF TENDER BUT WHICH MAY BE REQUIRED TO BE PRICED NOW FOR FURTHER CONSIDERATION BY THE PRINCIPAL EITHER BEFORE OR AFTER THE AWARD DATE).]***

TENDER SCHEDULE I - FINANCIAL STANDING

To assist the Tenderer to demonstrate its ability to satisfy the criteria described under clause 4(a)(v)D of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to provide details of its financial standing in order to demonstrate its financial viability and capability to undertake the project.

The Tenderer should submit at least three years of historical information in the form of either audited (where available) or unaudited annual reports together with all notes to the accounts which should as a minimum include a statement of:

* + 1. assets;
    2. liabilities;
    3. profit and loss;
    4. net equity position;
    5. debts; and
    6. annual gross turnover.

TENDER SCHEDULE J - STATEMENT OF TAX RECORD

The Tenderer’s attention is drawn to clause 13.11 of the Conditions of Contract in Part 5 and clause 24 of the Tender Conditions. As noted in clause 24 of the Tender Conditions, this Tender Schedule J – Statement of Tax Record only applies if clause 24 of the Tender Conditions applies.

The Tenderer’s attention is drawn to the Shadow Economy Procurement Connected Policy, which imposes obligations on the Commonwealth to obtain from tenderers satisfactory and valid STRs. More information about the requirements arising under the Shadow Economy Procurement Connected Policy is available from the Department of Treasury at https://treasury.gov.au/policy-topics/economy/black-economy/procurement-connected-policy.

**The Tenderer must complete and lodge Tender Schedule J - Statement of Tax Record. This is a minimum form and content requirement under clause 3.1(b)(ii) of the Tender Conditions.**

**A. STATEMENT OF TAX RECORD**

1. Subject to paragraph 2 below, the Tenderer is to provide and attach each of the valid and satisfactory STRs referred to in the table below as applicable to the Tenderer.

|  |  |
| --- | --- |
| **If the Tenderer is:** | **STRs required:** |
| * + - 1. a body corporate or natural person | a satisfactory and valid STR in respect of that body corporate or person |
| * + - 1. a partner acting for and on behalf of a partnership | a satisfactory and valid STR:  (i) on behalf of the partnership; and  (ii) in respect of each partner in the partnership that will be directly involved in the delivery of any resultant contract or subcontract (as applicable |
| * + - 1. a trustee acting in its capacity as trustee of a trust | a satisfactory and valid STR in respect of the:  (i) trustee; and  (ii) the trust |
| * + - 1. a joint venture participant | a satisfactory and valid STR in respect of:  (i) each participant in the joint venture; and  (ii) if the operator of the joint venture is not a participant in the joint venture, the joint venture operator |
| * + - 1. a member of a Consolidated Group | a satisfactory and valid STR in respect of:  (i) the relevant member of the Consolidated Group; and  (ii) the head company in the Consolidated Group |
| * + - 1. a member of a GST Group | a satisfactory and valid STR in respect of the:  (i) the GST Group member; and  (ii) the GST Group representative |

1. If the Tenderer has requested any of the STRs required under paragraph 1 above but the STR has not been issued by the Australian Taxation Office prior to the Closing Date and Time, the Tenderer must provide and attach the STR receipt issued by the Australian Taxation Office demonstrating that the STR was requested from the Australian Taxation Office prior to the Closing Date and Time.
2. The Tenderer is requested to note that, in accordance with clause 24(d) of the Tender Conditions, if the Tenderer provides and attaches in its response to this Tender Schedule J - Statement of Tax Record an STR receipt issued by the Australian Taxation Office demonstrating that any of the STRs required under this Tender Schedule J – Statement of Tax Record were requested from the Australian Taxation Office prior to the Closing Date and Time, then:
   * 1. the Tenderer must provide all of the required satisfactory and valid STRs to the Tender Administrator by email within 4 business days after the Closing Date and Time; and
     2. if the Tenderer does not provide all of the required satisfactory and valid STRs to the Tender Administrator by email within 4 business days after the Closing Date and Time, the Principal may (in its absolute discretion) decide not to evaluate (or continue to evaluate) the Tender.

**B. DECLARATION**

***[INSERT TENDER NUMBER, PROJECT NUMBER, PROJECT NAME AND DESCRIPTION OF SERVICES, AS APPLICABLE]***

**[INSERT NAME OF TENDERER, ABN AND ACN, AS APPLICABLE]** (**Tenderer**)

The Tenderer declares that:

1. it has complied with the requirements in item A of Tender Schedule J - Statement of Tax Record to provide and attach:
   * 1. each of the valid and satisfactory STRs referred to in the table in paragraph 1 of item A as applicable to the Tenderer; or
     2. if the Tenderer has requested any of the STRs required under paragraph 1 of item A but the STR has not been issued by the Australian Taxation Office prior to the Closing Date and Time, each STR receipt issued by the Australian Taxation Office demonstrating that the relevant STRs were requested from the Australian Taxation Office prior to the Closing Date and Time;
2. it has obtained and holds valid and satisfactory STRs for each subconsultant that it will engage for the Services under a subcontract with an expected value of over $4 million (GST inclusive), if known as at the Closing Date and Time; and
3. if it is the successful Tenderer, it will ensure that any subconsultant that it subsequently engages for the Services under a subcontract with an expected value of over $4 million (GST inclusive) provides it with a valid and satisfactory STR prior to entering into the relevant subcontract.

**[INSERT DATE]**

**[S 127 OF CORPORATIONS ACT]**

|  |  |  |  |
| --- | --- | --- | --- |
| **Declared and executed** by **[INSERT NAME]** in accordance with section 127 of the *Corporations Act* *2001* (Cth): |  |  |  |
|  |  |  |  |
| Signature of director |  |  | Signature of company secretary/director ***[delete position as appropriate]*** |
|  |  |  |  |
| Full name of director who states that they are a director of **[INSERT NAME]** |  |  | Full name of company secretary/director ***[delete position as appropriate]*** who states that they are a company secretary/director ***[delete position as appropriate]*** of **[INSERT NAME]** |

[OR - AUTHORISED SIGNATORY OF COMPANY]

|  |  |  |  |
| --- | --- | --- | --- |
| **Declared and signed** for and on behalf of **[INSERT NAME]** by its authorised signatory in the presence of: |  |  |  |
|  |  |  |  |
| Signature of witness |  |  | Signature of authorised signatory |
|  |  |  |  |
| Full name of witness |  |  | Full name of authorised signatory |

[THESE ARE EXAMPLE EXECUTION CLAUSES ONLY. INSERT APPROPRIATE EXECUTION CLAUSE FOR TENDERER]

[THE [TENDERER](#tenderer) MUST ENSURE THAT THE DECLARATION IS COMPLETE, ACCURATE, DULY EXECUTED AND VALID]

TENDER SCHEDULE k - ALTERNATIVE PROPOSALS

The Tenderer should provide a Tender that accepts (without departure, qualification, amendment, limitation or exclusion) the Contract in Part 5, except to the extent provided for under clause 3.3 of the Tender Conditions and expressly set out by the Tenderer in this Tender Schedule K - Alternative Proposals.

Without limiting clause 7(a) of the Tender Conditions, the Principal may (in its absolute discretion) require the Tenderer, within a specified time and in a specific format to provide the Principal with further information or clarification in relation to any aspect of a Tenderer's alternative proposal.

The Tenderer must demonstrate how an alternative proposal will achieve greater value for money.

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(vii) of the Tender Conditions and to assist the Principal in evaluating an alternative proposal, the Tenderer must provide a brief explanation of each alternative proposal and provide supporting evidence (for example, details of the alternative, technical descriptions, costing information, program information, technical specifications, testing information, data and any other relevant information).

Any decision by the Principal regarding any alternative proposal will be final. The Tenderer lodges its Tender on the basis that it will make no, and the Principal will not be liable upon, any claim by the Tenderer arising out of or in any way in connection with any decision by the Principal in respect of any alternative proposal.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **CONTRACT** | | | | | | | | | | |
| **CLAUSE** | **ALTERNATIVE** | | **EFFECT ON PRICING** | | **EFFECT ON PROGRAM** | **SUPPORTING INFORMATION** | **EFFECT ON OTHER TENDER SCHEDULES (IF ANY)** | | **VALUE FOR MONEY** | |
|  |  | |  | |  |  |  | |  | |
| **OTHER** | | | | | | | | | | |
| **REFERENCE** | | **ALTERNATIVE** | | **EFFECT ON PRICING** | **EFFECT ON PROGRAM** | **SUPPORTING INFORMATION** | | **EFFECT ON OTHER TENDER SCHEDULES (IF ANY)** | | **VALUE FOR MONEY** |
|  | |  | |  |  |  | |  | |  |

PART 5 - CONTRACT