

**COMMONWEALTH OF AUSTRALIA**

**DEPARTMENT OF DEFENCE**

TENDER DOCUMENTS

medium works CONTRACT (AUSTRALIA)

TENDER Number: *[INSERT TENDER NUMBER]*

PROJECT Number: *[INSERT PROJECT NUMBER]*

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

*[CONSTRUCT ONLY/DESIGN AND CONSTRUCT]*

***[LAST AMENDED: 21 February 2023 - 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 Contractor's Activities and the Works 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).

The Tenderer must direct all questions related to the Tender Documents or the tender process to the Tender Administrator under clause 2.2.

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 (at law or in equity):
       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 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;
    6. **Covered Procurement** has the meaning in the Judicial Review Act;
    7. **Indigenous Enterprise** means an organisation that is 50% or more Indigenous owned that is operating a business;
    8. **Indigenous Participation Plan** means a plan detailing how the Tenderer will meet the minimum mandatory requirements for the Indigenous Procurement Policy;
    9. **Indigenous Procurement Policy** means the Commonwealth's Indigenous Procurement Policy, as updated from time to time, available on the Indigenous Procurement Website;
    10. **Indigenous Procurement Website** means the website at www.niaa.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp;
    11. **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. **Joint Bid Basis** means a Tender lodged:
       1. by an incorporated or unincorporated joint venture or special purpose vehicle; or
       2. on any other basis involving more than one party if the Principal is relying upon a representation that those parties will be jointly (whether fully or partially) responsible for performing the Contractor's Activities, achieving Completion of the Works and otherwise meeting the obligations under the Contract in Part 5 if the parties are the successful Tenderers;
    2. **Judicial Review Act** means the *Government Procurement (Judicial Review) Act* *2018* (Cth);
    3. **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 Contractor's Activities, achieve Completion of the Works 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;
    4. **Personal Information** has the meaning given in the Privacy Act;
    5. **Principal** means the person set out in the Tender Particulars;
    6. **Privacy Act** **means** the *Privacy Act* *1988* (Cth);
    7. **Relevant Commonwealth Procurement Rules** has the meaning in the Judicial Review Act;
    8. **Remote Area** means an area identified on the map located on the Indigenous Procurement Website, as updated from time to time;
    9. **Remote Area Contract** has the meaning in the Indigenous Procurement Policy;
    10. **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);
        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);
    11. **Tender** means the documents lodged with the Principal pursuant to these Tender Conditions;
    12. **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 Design Documents(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 22.1 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. **WHS Accreditation Scheme Building Work** has the same meaning as section 6 of the Federal Safety Commissioner *Act 2022* (Cth);
    4. any reference to a Part is a reference to a Part of the Tender Documents; and
    5. any reference to one of the documents described in the definition of the "Tender Documents" under paragraph (y) 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 this clause 2.2, the Tenderer may request that a matter notified under this clause 2.2 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 2.2(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. ThePrincipal 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).

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.

* + 1. 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.
  1. Industry Briefing and Tenderer Meetings

This 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 Contractor's Activities 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, including Closing Date and Time, Minimum Form and Content Requirements and Conditions for Participation

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 clauses 24.3 and 24.4 apply, the Tenderer must complete and lodge Tender Schedule J - Indigenous Procurement Policy;
       3. if clause 27 applies, the Tenderer must complete and lodge Tender Schedule L - Statement of Tax Record; and
       4. 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 expressly set out by the Tenderer in Tender Schedule M - 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)(i), 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)(i) was solely due to mishandling by the Principal;
    2. it is responsible for lodging its Tender in accordance with clause 3.1(a)(i) 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 of an unintentional error; and
    4. if it does not satisfy each condition for participation specified in the Tender Particulars (if any), 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 M - 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;
           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 arrangements, 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 Contractor's Activities 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. lodge 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; and
    5. ensure 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 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 Contractor's Activities and the Works (noting that the type of information the Principal is seeking is outlined in Tender Schedule A - Workload and Proposed Resources);
       2. **task appreciation and methodology (*[INSERT]*% weighting)**. The extent to which the Tenderer has demonstrated that it:
          1. comprehends key issues and will implement appropriate solutions for the Contractor's Activities and the Works; and
          2. will implement appropriate management strategies for the Contractor's Activities and the Works, 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 - Task Appreciation and Methodology [***and Preliminary Design Solution - IF DESIGN AND CONSTRUCT METHOD ONLY***]);
       3. **previous performance (*[INSERT]*% weighting)**. The extent to which the Tenderer has demonstrated that it has the experience and ability to perform the Contractor's Activities and the Works (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 Contractor's Activities and the Works (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, the Contractor's Activities and the Works, 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. **Contract Price (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 Contract Price, 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 - Contract Price and the Commonwealth Procurement Rules compliance statement in the Tender Form in Part 3);
       7. **Indigenous Procurement Policy (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:
          1. if clauses 24.1 and 24.2 apply, that it has a satisfactory approach to delivering Indigenous employment and supplier use outcomes;
          2. if clauses 24.3 and 24.4 apply:

its commitment to increasing Indigenous participation, including:

that it has a satisfactory approach to delivering Indigenous employment and Indigenous supplier use outcomes;

that its Indigenous Participation Plan will meet the mandatory minimum requirements for the Indigenous Procurement Policy; and

its past performance and/or demonstrated commitment in relation to increasing Indigenous participation, including, where relevant, compliance with:

an Indigenous Participation Plan; and

the mandatory minimum requirements for the Indigenous Procurement Policy; and

if clause 24.5 applies, that it will ensure that the Contractor's Activities and the Works deliver significant Indigenous employment or Indigenous supplier use outcomes in the Remote Area,

and will otherwise meet its obligations under the Contract in Part 5 if it is the successful Tenderer (noting that the type of information the Principal is seeking is outlined in Tender Schedule J - Indigenous Procurement Policy);

* + - 1. **local industry capability (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 its commitment to local industry participation and will implement appropriate solutions and management strategies to ensure that local industry is given full, fair and reasonable opportunity to participate in the delivery of the Works if it is the successful Tenderer (noting that the type of information the Principal is seeking is outlined in Tender Schedule K - Local Industry Capability Plan); and
      2. **alternative proposals** (if applicable, in the Principal's absolute discretion) **(no weighting, the Tender will be evaluated with reference to whether value for money has been demonstrated)** (noting that the type of information the Principal is seeking is outlined in Tender Schedule M - Alternative Proposals);
    1. will apply any **additional evaluation criteria** specified in the Tender Particulars;
    2. 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
    3. 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 Design Documents or that the Design Document***s*** represents a completed design of the Works which is suitable for construction purposes and the Principal, has not assumed, nor does it assume, a duty of care to the Tenderer concerning the Design Documents.
     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 contractor in:
        1. assessing the risks which it is assuming under the Contract; and
        2. ensuring that its tendered Contract Price contains allowances to protect it against any of these risks, including all those things, activities and tasks set out in the Tender Form.
     3. If a Tenderer wishes to inspect the Site and related Information Documents, it must notify the Tender Administrator by email no later than 14 days prior to the Closing Date and Time, providing details of its request.
     4. If a request is made under paragraph (c), the Tender Administrator will notify the Tenderer by email that the Principal (in its absolute discretion) either:
        1. grants permission, whether with or without such conditions and restrictions as the Principal thinks fit; or
        2. refuses permission.
2. Information Documents
   * 1. With respect to the Information Documents:
        1. the Information Documents referred to under clause 2.1(k)(i) are immediately available for the information only of the Tenderer;
        2. the Information Documents referred to under clause 2.1(k)(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. amend the Tender Documents as the Principal considers necessary or desirable to further the objective under this paragraph (a);
      1. because each Tenderer is likely to have a different approach to the lodgement of its Tender and the performance of the Contractor's Activities, 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 other Tenderers;
      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. amend the Tender Documents as the Principal considers necessary or desirable to further the objective 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)(ii), 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 Contractor's Activities 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 Contractor's Activities;
       2. acknowledges that, without limiting subparagraph (i)B, the Principal may (where it is required by law to do so or otherwise in its absolute discretion) vary, suspend or 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 under 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 clauses 2.3 or 7; 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 this 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 Contractor's obligations or liabilities under clause 5.7 of the Conditions of Contract in Part 5, the Auditor-General or other authorised persons may be nominated by the Contract Administrator under clause 5.7 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 Principal to any responsible Minister or any Ministerial adviser or assistant;
       3. disclosed by the Principal 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

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.

At the Award Date, the successful Tenderer must not:

* + 1. have a judicial decision against it (not including a decision under appeal) relating to employee entitlements; and
    2. have not paid the claim.

The Principal may request and, if so, the Tenderer must provide evidence of compliance with this clause 19.

1. sPECIFIED sUBCONTRACTORS
   * 1. The Principal may determine that a part or parts of the Contractor's Activities to be delivered under the Contract will be carried out by specified subcontractors or subconsultants.
     2. If the Tender Particulars set out details of subcontractors or subconsultants Works and specified subcontractors or subconsultants:
        1. if the Tenderer's Tender is successful, it will be required to enter into subcontracts with the specified subcontractors or subconsultants in accordance with clause 7.4 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 Contractor's Activities by the specified subcontractors or subconsultants:
           1. in its lump sum fee in Tender Schedule H - Contract Price for the amounts set out in the Tender Particulars; and
           2. in its program in Tender Schedule D - Program.
2. 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 Contractor's Activities, achieve Completion of the Works 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 22(b) or has failed to strictly comply with this clause 22; 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 subparagraph (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. LOCAL INDUSTRY CAPABILITY
   1. General
      1. Local industry participation is an expected outcome of Commonwealth expenditure. This expectancy builds on the Commonwealth Procurement Rules, which require procurement practices that do not unfairly discriminate against Small and Medium Enterprises (**SMEs**) and provide appropriate opportunities for SMEs to compete for Commonwealth funded work.
      2. A core requirement of Commonwealth procurement is for the Commonwealth to consider, in the context of determining value for money:
         1. the benefits of doing business with competitive SMEs when specifying requirements and evaluating value for money;
         2. barriers to entry that may prevent SMEs for competing (for example, costly preparation of tenders);
         3. the capabilities of SMEs and their commitment to local or regional markets; and
         4. the potential benefits of having a larger, more competitive supplier base.
      3. To ensure compliance with the relevant requirements in the Commonwealth Procurement Rules, the Contractor is required to develop a Local Industry Capability Plan. The Local Industry Capability Plan will outline the Contractor's approach to ensuring that full, fair and reasonable opportunity is afforded to local industry in the delivery of the project.
   2. Local Industry Capability Plan
      1. As part of its Tender, the Tenderer is requested to prepare, complete and lodge a draft Local Industry Participation Plan in Tender Schedule K - Local Industry Capability Plan, which includes providing details regarding:
         1. the expected total value of the subcontracts for the project and the percentage of that value that will be let to subcontractors from within the areas specified in item A;
         2. the expected total number of contracts let and the percentage of those subcontracts that will be let to subcontractors from within the areas specified in item A;
         3. the proposed local industry participation in the development (if applicable) and delivery of the Works in item B;
         4. project contestability in item C; and
         5. the Tenderer's proposed approach for implementing and reporting on the Local Industry Capability Plan in item D.
      2. The Tenderer should also note the evaluation criterion under clause 4(a)(viii).
      3. The successful Tenderer will be required to prepare a Local Industry Capability Plan and submit it to the Contract Administrator after the Award Date of the Contract. The Local Industry Capability Plan must be:
         1. based on the draft Local Industry Capability Plan provided by the successful Tenderer in its response to Tender Schedule K - Local Industry Capability Plan; and
         2. finalised in accordance with clause 8.7 of the Conditions of Contract in Part 5.
      4. The Local Industry Capability Plan must detail the Contractor's approach to the market and intended Australian engagement locally, regionally, state or territory wide and nationally for the project.
      5. For projects valued at $7.5 million and above, the Local Industry Capability Plan will be used by the Principal in considering the economic benefits to the Australian economy to be derived from the project during the term of the Contract in accordance with paragraph 4.7 of the Commonwealth Procurement Rules.
      6. During the term of the Contract:
         1. the Contractor will use the Local Industry Capability Plan to:
            1. demonstrate how local Australian industry is, or will be, engaged and provided opportunity to contribute to the delivery of Defence capability requirements;
            2. provide evidence of the local and broader Australian industry commitment, in dollar value, benefits and work package terms;
            3. deliver data on the economic benefits for the Australian industry locally, regionally, state or territory wide and nationally; and
            4. indicate how these obligations will be monitored and managed during the term of the Contract; and
         2. the Principal will use the Local Industry Capability Plan to:
            1. determine the extent of the economic benefit to the Australian economy;
            2. validate engagement and commitment to opportunities for local industry participation in the procurement or the supply chain; and
            3. identify further opportunities to support and develop Australian industry.
2. INDIGENOUS PROCUREMENT POLICY

Clauses 24.1 and 24.2 apply unless the Tender Particulars state that they do not apply.

Clauses 24.3 and 24.4 do not apply unless the Tender Particulars state that they apply.

Clause 24.5 does not apply unless the Tender Particulars state that it applies.

* 1. General - Not a High Value Contract

The Tenderer's attention is drawn to the Indigenous Procurement Policy (including the mandatory minimum requirements for the Indigenous Procurement Policy) available on the Indigenous Procurement Website. The purpose of the Indigenous Procurement Policy is to stimulate Indigenous entrepreneurship and business development and provide Indigenous Australians with more opportunities to participate in the economy. More information on Indigenous Enterprises is available at www.supplynation.org.au and in the Indigenous Procurement Policy.

* 1. Tenderer’s Response - Not a High Value Contract

The Tenderer is requested to describe in Tender Schedule J - Indigenous Procurement Policy its approach to delivering:

* + 1. Indigenous employment; and
    2. Indigenous supplier use outcomes.

The Tenderer should also note that such information is also an evaluation criterion under clause 4(a)(vii)A of the Tender Conditions.

* 1. General - High Value Contract

The Tenderer's attention is drawn to the Indigenous Procurement Policy (including the mandatory minimum requirements for the Indigenous Procurement Policy) available on the Indigenous Procurement Website. The purpose of the Indigenous Procurement Policy is to stimulate Indigenous entrepreneurship and business development and provide Indigenous Australians with more opportunities to participate in the economy. More information on Indigenous Enterprises is available at [www.supplynation.org.au](http://www.supplynation.org.au) and in the Indigenous Procurement Policy.

* 1. Tenderer's Response - High Value Contract

As part of its Tender, the Tenderer must complete and lodge Tender Schedule J - Indigenous Procurement Policy, which includes:

* + 1. signing a Declaration of Compliance (which includes providing details of its past performance) in the form set out in item A;
    2. providing an Indigenous Participation Plan in item B; and
    3. providing details of its past performance in item C.

The [Tenderer](#tenderer) should note that this is **a minimum form and content requirement** for its [Tender](#Tender) under clause 3.1(b)(ii) of the [Tender Conditions](#tenderconditions). If the Tenderer wishes to lodge its Tender on a Joint Bid Basis, it must complete and lodge the information in this Tender Schedule J - Indigenous Procurement Policy for each joint bid party (as applicable).

The Tenderer should also note the evaluation criteria under:

* + 1. clause 4(a)(vii)B.1) of the Tender Conditions; and
    2. if clause 24.5 of the Tender Conditions applies, clause 4(a)(vii)B.2), of the Tender Conditions.
  1. High Value Contract and Remote Area Contract

If the Contractor's Activities or the Works will be delivered in a Remote Area, this creates an opportunity to deliver significant Indigenous employment or Indigenous supplier use outcomes in that Remote Area.

The Tenderer should describe in its Indigenous Participation Plan how it will ensure that the Contractor's Activities and the Works deliver significant Indigenous employment or Indigenous supplier use outcomes in the Remote Area. More information on Remote Areas is available in section 4.4.1 of the Indigenous Procurement Policy, including examples of options available to ensure the Contractor's Activities and the Works will deliver significant Indigenous employment or Indigenous supplier use outcomes in the Remote Area.

The Tenderer should also note the evaluation criterion under clause 4(a)(vii)B.2).

1. wHS Accreditation Scheme

This clause 25 applies unless the Tender Particulars state that it does not apply.

The Tenderer's attention is drawn to the WHS Accreditation Scheme described in section 43 of the *Federal Safety Commissioner Act 2022* (Cth). More information on the WHS Accreditation Scheme is available at www.fsc.gov.au or by contacting the Federal Safety Commissioner on 1800 652 500.

Section 43(4) of the *Federal Safety Commissioner Act 2022* (Cth) provides that the Commonwealth must not fund WHS Accreditation Scheme Building Work unless:

* + 1. contracts for the WHS Accreditation Scheme Building Work will be entered into with builders who are accredited persons; and
    2. at the time of funding, the Commonwealth takes appropriate steps to ensure that builders will be accredited persons when they carry out the WHS Accreditation Scheme Building Work.

The Tenderer must provide in the Tender Form at section 6 evidence of its WHS Accreditation Scheme status (including whether it holds WHS Accreditation Scheme Accreditation or is in the process of applying for such accreditation).

If the Tenderer has lodged its Tender on a Joint Bid Basis, it must provide:

* + 1. details regarding which parties will carry out the WHS Accreditation Scheme Building Work;
    2. if each joint bid party will carry out WHS Accreditation Scheme Building Work, evidence of each parties accreditation under the WHS Accreditation Scheme (including any expiry dates for such accreditation); or
    3. if any WHS Accreditation Scheme Building Work will be carried out by a joint bid party that has not obtained accreditation in accordance with the WHS Accreditation Scheme, evidence that all joint bid parties operate (or will operate) under the accredited person's work health safety management system, including:
       1. copies of the written undertakings it has provided to the Federal Safety Commissioner; and
       2. any other information as requested by the Commonwealth regarding accreditation under the WHS Accreditation Scheme, applicable to the Tenderer.

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

* + 1. that it has obtained accreditation in accordance with the WHS Accreditation Scheme (including any expiry dates for such accreditation);
    2. it has taken steps to obtain accreditation in accordance with the WHS Accreditation Scheme; or
    3. regarding any other information as requested by the Commonwealth concerning accreditation under the WHS Accreditation Scheme, applicable to the Tenderer.

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 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. STATEMENT OF TAX RECORD
   * 1. Clause 27 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 L - 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 L - Statement of Tax Record;
        2. if the Tenderer has requested any of the STRs required under Tender Schedule L - 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)(iii) of the Tender Conditions.

* + 1. If the Tenderer provides in its response to Tender Schedule L - Statement of Tax Record an STR receipt issued by the Australian Taxation Office demonstrating that any of the STRs required under Tender Schedule L - 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 L - Statement of Tax Record, which requires the Tenderer to declare that:
       1. it has complied with the requirements in Tender Schedule L - 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 subcontractor that it will engage for the Contractor's Activities or the Works 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 subcontractor that it subsequently engages for the Contractor's Activities or the Works 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(k)(i)) | ***[INSERT LIST OF DOCUMENTS COMPRISING "INFORMATION DOCUMENTS". SEE DEFINITION IN CLAUSE 2.1(k) OF THE TENDER CONDITIONS AND CLAUSE 5(c) OF THE TENDER CONDITIONS]*** | |
| **Principal:**  (Part 1, clause 2.1(p)) | ***[INSERT]*** | |
| **Tender Administrator:** (Part 1, clause 2.1(w)) | ***[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****"****]*** | |
| **Conditions for participation:** (Part 1, clause 3.1(c)) | The 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 CONDITIONS FOR PARTICIPATION IN THIS TENDER PROCESS. IF PRIOR APPROVAL IS GIVEN, INSERT THE CONDITIONS FOR PARTICIPATION AND THE FOLLOWING:***  ***The Tenderer should note that [this is a/these are] 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 condition for participation.]*** | |
| **Endorsement for Outside of Each Sealed Package:** (Part 1, clause 3.4(d)) | Attention Mailroom Manager/Tender Officer  Tender No: ***[INSERT TENDER NUMBER]*** for the Medium Works Contract for Project No: ***[INSERT PROJECT NUMBER]*** ***[INSERT PROJECT NAME AND DESCRIPTION OF WORKS, AS APPLICABLE]*** | |
| **Number of Copies of Tender to be Lodged:** (Part 1, clause 3.4(e)) | ***[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 PRINCIPAL OR THE TENDER ADMINISTRATOR WISH TO INSERT ADDITIONAL EVALUATION CRITERIA, PRIOR APPROVAL MUST BE SOUGHT FROM DPA. IF PRIOR APPROVAL IS GIVEN, 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) | ***[COMMONWEALTH TO 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 Subcontractors:** (Part 1, clause 20) | ***[IN RESPONSE OF EACH SPECIFIED SUBCONTRACTOR OR SUBCONSULTANT, INSERT DETAILS OF THE SUBCONTRACTOR/SUBCONSULTANT CONTRACTORS ACTIVITIES AND THE AMOUNT TO BE ALLOWED BY THE TENDERER IN ITS CONTRACT PRICE FOR THOSE CONTRACTOR'S ACTIVITIES]*** | |
| **Indigenous Procurement Policy:** (Part 1, clause 24) | ***[IF IPP OPTION 1 (CONTRACT IS NOT A HIGH VALUE CONTRACT), INSERT:]***  Clauses 24.1 and 24.2 apply.  ***[IF IPP OPTION 2 (CONTRACT IS A HIGH VALUE CONTRACT), INSERT:]***  Clauses 24.1 and 24.2 do not apply.  ***[IPP OPTION 1 (CONTRACT IS NOT A HIGH VALUE CONTRACT) IS THE "DEFAULT" OPTION FOR THE CONTRACT.***  ***"HIGH VALUE CONTRACT" HAS THE MEANING IN THE INDIGENOUS PROCUREMENT POLICY. BY WAY OF SUMMARY, A CONTRACT IS LIKELY TO BE A HIGH VALUE CONTRACT IF THE CONTRACTOR'S ACTIVITIES OR THE WORKS WILL BE DELIVERED IN AUSTRALIA, THE VALUE OF THE CONTRACTOR'S ACTIVITIES AND THE WORKS IS $7.5 MILLION (GST INCLUSIVE) OR MORE AND 50% OR MORE OF THE VALUE OF THE CONTRACT IS BEING SPENT IN THE BUILDING, CONSTRUCTION AND MAINTENANCE SERVICES INDUSTRY SECTOR]*** | |
| **Indigenous Procurement Policy - High Value Contract:** (Part 1, clause 24) | ***[IF IPP OPTION 1 (CONTRACT IS NOT A HIGH VALUE CONTRACT), INSERT:]***  Clauses 24.3 and 24.4 do not apply.  ***[IF IPP OPTION 2 (CONTRACT IS A HIGH VALUE CONTRACT), INSERT:]***  Clauses 24.3 and 24.4 apply.  ***[IPP OPTION 1 (CONTRACT IS NOT A HIGH VALUE CONTRACT) IS THE "DEFAULT" OPTION FOR THE CONTRACT.]*** | |
| **Indigenous Procurement Policy - Remote Area Contract** (Part 1, clause 24.5) | ***[IF IPP OPTION 1 (CONTRACT IS NOT A HIGH VALUE CONTRACT), INSERT:]***  Clause 24.5 does not apply.  ***[IPP OPTION 1 (CONTRACT IS NOT A HIGH VALUE CONTRACT) IS THE "DEFAULT" OPTION FOR THE CONTRACT]***  ***[IF THE CONTRACT IS NOT A HIGH VALUE CONTRACT, CLAUSE 24.5*** ***DOES NOT APPLY, EVEN IF IT IS IN A REMOTE AREA]***  ***[IF IPP OPTION 2 (CONTRACT IS A HIGH VALUE CONTRACT BUT IS NOT A REMOTE AREA CONTRACT), INSERT:]***  Clause 24.5 does not apply.  ***[IF IPP OPTION 3 (CONTRACT IS A HIGH VALUE CONTRACT AND A REMOTE AREA CONTRACT), INSERT:]***  Clause 24.5 does apply.  ***["REMOTE AREA" HAS THE MEANING IN THE INDIGENOUS PROCUREMENT POLICY AND IN CLAUSE 2.1 OF THE TENDER CONDITIONS]*** | |
| **WHS Accreditation Scheme:** (Part 1, clause 25) | Clause 25 ***[DOES/DOES NOT]*** apply.  (Clause 25 applies unless stated otherwise)  ***[IF THE CONTRACT INVOLVES DIRECTLY FUNDED BUILDING WORK AND IS VALUED IN EXCESS OF $4 MILLION, CLAUSE 25*** ***APPLIES]***  ***[IF THE CONTRACT DOES NOT INVOLVE DIRECTLY FUNDED BUILDING WORK OR IS VALUED AT LESS THAN $4 MILLION, CLAUSE 25 DOES NOT APPLY]*** | |
| **Statement of Tax Record**  (Part 1, clause 27) | Clause 27 ***[DOES/DOES NOT]*** apply.  (Clause 27 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]*** | |
| ***[If design and construct only:]* Preliminary Design Solution:** (Part 4, Tender Schedule B - Task Appreciation and Methodology and Preliminary Design Solution*,*item 2) | ***[INSERT LEVEL OF PRELIMINARY DESIGN SOLUTION E.g. "30% concept design". IF NOT DESIGN AND CONSTRUCT METHOD, STRIKE OUT THIS ROW]*** | |
| **Program Format:** (Part 4, Tender Schedule D - Program) | ***[Primavera Suretrak/Microsoft Project]*** or approved equivalent. | |

PART 3 - TENDER FORM

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 Contractor's Activities in accordance with the Tender Documents and the enclosed Tender Schedules.
     2. 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 tothe 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 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 Contractor's Activities or the Works (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 Contractor's Activities) may directly benefit the Australian economy.

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

1. **EVIDENCE OF ACCREDITATION UNDER THE WHS ACCREDITATION SCHEME**
   * 1. In accordance with clause 25:
        1. the Tenderer is required to provide evidence of:
           1. accreditation in accordance with the WHS Accreditation Scheme (including any expiry dates for such accreditation); or
           2. the steps taken to obtain accreditation in accordance with the WHS Accreditation Scheme.
        2. for Tenders lodged on a Joint Bid Basis the Tenderer is required to provide:
           1. where clause 25(d) applies, evidence of each parties accreditation in accordance with the WHS Accreditation Scheme (including any expiry dates for such accreditation); or
           2. where clause 25(e) applies, evidence:

that at least one party has obtained accreditation in accordance with the WHS Accreditation Scheme (including any expiry dates for such accreditation); and

of the written undertakings provided under clause 25(e)(i).

|  |
| --- |
| **[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 Contractor's Activities, achieve Completion of the Works 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 Contractor's Activities, achieve Completion of the Works 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 17.16 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 subcontractors 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 17.16 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 CARRYING OUT OF THE CONTRACTOR'S ACTIVITIES**

Describe your approach to employing and engaging Australian veterans in connection with the carrying out of the Contractor's Activities, whether directly or through the engagement of subcontractors:

|  |
| --- |
|  |

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.

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

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** | **CONTRACT PRICE REMAINING** | **KEY START AND COMPLETION DATES** | **KEY DISCIPLINES/ TRADES** |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

**POTENTIAL FUTURE WORKLOAD**

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

**2. PROPOSED RESOURCES (INCLUDING CONTRACTOR'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 Contractor's Activities and the Works, including:

* + 1. the Contractor's Representative;
    2. the key people for the roles described 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 Contractor's Activities and the Works.

A project specific organisational chart and curricula vitae of each key person 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).

**3. PROPOSED SUBCONTRACTORS, CONSULTANTS AND MATERIAL SUPPLIERS**

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 subcontractors, consultants and material suppliers to whom it proposes to subcontract this work; and
    2. curricula vitae of each key person from each:
       1. subcontractor ***[strike through if not applicable]***;
       2. consultant ***[strike through if not applicable]***;
       3. material supplier ***[strike through if not applicable]***; and
       4. ***[insert subcontractor trades if any - otherwise strike through if not applicable].***

including details of the relevant projects worked on in the last 5 years and client contact referee details (with current telephone numbers).

|  |  |
| --- | --- |
| **WORK TO BE SUBCONTRACTED** | **NAME OF PROPOSED SUBCONTRACTOR / CONSULTANT / MATERIAL SUPPLIER** |
|  |  |

TENDER SCHEDULE B - task appreciation and methodology*[AND PRELIMINARY DESIGN SOLUTION - IF DESIGN AND CONSTRUCT METHOD OnLY]*

**1. TASK APPRECIATION AND METHODOLOGY**

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 in clauses 8.7 and 22.1 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 prepare and submit:

* + 1. a brief narrative setting out its understanding of the nature and scope of the Contractor's Activities and the Works;
    2. its approach to:
       1. site management including:
          1. the logistics support requirements of the project, as well as identifying potential logistics issues and solutions to these problems);
          2. procedures for site access, ensuring security measures are in place, vehicle and traffic management, noise management and site office requirements; and
          3. your proposed approach to working hours and staff accommodation;
       2. environmental management including:
          1. waste management (and waste water runoff) and debris control at the Site; and
          2. managing any dangerous or prohibited substances, material or goods at the Site (including spills); and
          3. heritage and artefacts discovered at the Site;
       3. commissioning and handover; and
       4. work health and safety,

noting that plans for each of these are to be developed for the purposes of clause 8.7 of the Conditions of Contract in Part 5;

* + 1. a statement demonstrating the Tenderer's capacity to manage the Contractor's Activities in a manner which ensures the Contractor and the Contractor's Activities comply with the requirements of clause 8.9 of the Conditions of Contract, including the Contractor's approach to the preparation and ongoing review of a Work Health and Safety Plan;
    2. its approach to ensuring the security of Confidential Information and Sensitive and Classified Information, in accordance with the Contract if it is the successful Tenderer;
    3. approach to obtaining all necessary Commonwealth, State, Territory and local certificates, permits and Approvals for the Works;
    4. a brief narrative describing its understanding of specific problems which may arise and any potential solutions for those problems; and
    5. a brief narrative describing its understanding of the logistics support requirements of the project, as well as identifying potential logistics issues and solutions to these problems.

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 task appreciation and methodology is focused on the Contractor's Activities and the Works described in the Contract in Part 5.

**2. PRELIMINARY DESIGN SOLUTION *[DESIGN & CONSTRUCT METHOD ONLY. IF CONSTRUCT ONLY, STRIKE OUT THIS ITEM]***

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 prepare and provide a preliminary design solution for the Works to the level specified in the Tender Particulars. The Tenderer should note that:

* + 1. subject to paragraph (b), the preliminary design solution provided by the successful Tenderer will form part of the design to be prepared by the Contractor under clause 5.1 of the Conditions of Contract in Part 5; and
    2. the Principal reserves the right to negotiate the preliminary design solution provided by the Tenderer before entering into any Contract with the successful Tenderer.

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 Works 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. details of any calls on security;
    8. a referee from both the client and its lead consultant (if any) on the project (with current telephone numbers);
    9. 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
    10. 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 9.2of 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, documentation and / if design and construct only]*** construction activities, including off‑site activities and key dates.

The program should also:

* + 1. allow for all necessary reviews, consents and approvals;
    2. clearly show commencement dates, mobilisation periods, staging and sequencing (if any), the critical path, completion dates and proposed resources to carry out the program;
    3. be in a format compatible with the software specified in the Tender Particulars; and
    4. otherwise satisfy the requirements for the program described in the Contract in Part 5.

The program should be based on achieving Completion of the Works or each Sectionby 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 clause9.2 of the Conditions of Contract in Part 5.

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 4.3 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 | |  |  |  |  |  |  |
| Construction Risks Insurance: | Material Damage |  |  |  |  |  |  |
| Defects Maintenance |  |  |  |  |  |  |
| Legal Liability |  |  |  |  |  |  |
| Public Liability Insurance | |  |  |  |  |  |  |
| Professional Indemnity Insurance/Errors and Omissions Insurance ***[design and construct only - otherwise strike out this row]*** | |  |  |  |  |  |  |
| Other Insurances:  ***[INSERT ANY OTHER INSURANCES REQUIRED - OTHERWISE INSERT "NOT APPLICABLE"]*** | |  |  |  |  |  |  |

***[ENSURE THAT ABOVE INSURANCES CORRESPOND WITH THOSE SET OUT IN THE CONTRACT PARTICULARS]***

For Construction Risks Insurance ***[and]*** Public Liability Insurance ***[and Professional Indemnity Insurance/Errors and Omissions Insurance - if design and construct only]***, Workers Compensation Insurance and Employees 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).

|  |  |  |
| --- | --- | --- |
| **\*Agreed damages:** (Clause 9.6) | $**[INSERT]** for each day for which an extension of time is granted due to a breach of contract by the [Principal](#Commonwealth) | |
| **Address and email address for the giving or serving of notices upon the Contractor:** (Clause 16.1) | **[INSERT]** | |
| **\*Date for Completion:** (Clause 22.1) | For the [Works](#Works) is **[INSERT]** weeks/days after the Award Date | |
| For each Section is: | |
| [**Section**](#Stage) | [**Date for Completion**](#DateforCompletion) |
| ***[INSERT]*** | **[INSERT]** weeks/days after the Award Date |
| ***[INSERT]*** | **[INSERT]** weeks/days after the Award Date |
| ***[INSERT]*** | **[INSERT]** weeks/days after the Award Date |
| ***[INSERT]*** | **[INSERT]** weeks/days after the Award Date |
| **Contractor's Executive Negotiator:** (Clause 22.1) | **[INSERT]**  (The Tenderer is requested to note that this should not be the same person as the Contractor's Representative nominated in Tender Schedule A - Workload and Proposed Resources.) | |

***[\* INDICATES DELETE/STRIKE OUT 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 18 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.

The Principal reserves the right to negotiate the information provided by any Tenderer in this Tender Schedule G - Tenderer's Commercial-In-Confidence Information with a view to amending the terms of the Contract (including the Contract Particulars) before entering into any Contract with the successful Tenderer.

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 Contractor 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 (if 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 - CONTRACT PRICE

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 - Contract Price.

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 11.15 of the Conditions of Contract in Part 5).

The Tenderer should note that provisional sum amounts included in the Contract Price should only relate to those items identified as Provisional Sum Work (see clause 7.5 of the Conditions of Contract in Part 5).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* + 1. **Lump Sum**

**$[INSERT]** (GST exclusive).

* + 1. **Breakdown of Lump Sum and Monthly Cash Flow**

***[INSERT TABLE SHOWING BREAKDOWN OF BUILDING ELEMENTS, STAGES, TRADES ETC. IF THERE IS PROVISIONAL SUM WORK, INCLUDE PROVISIONAL SUM WORK AND AMOUNT FOR PROVISIONAL SUM WORK SET OUT IN THE CONTRACT PARTICULARS.***

***THESE EXAMPLES ARE INTENDED TO BE A STARTING POINT ONLY. THE PRINCIPAL AND THE TENDER ADMINISTRATOR MUST CONSIDER AND DEVELOP AN APPROPRIATE BREAKDOWN LIST HAVING REGARD TO:***

***(A) THE WORKS AND THE PROJECT; AND***

***(B) THE OPERATION OF CLAUSE 7.6(f)(iii) OF THE CONDITIONS OF CONTRACT IN PART 5 WHICH LINKS TO CLAUSE 7.6(d)(i)B OF THE CONDITIONS OF CONTRACT IN PART 5 IN RESPECT OF THE CONTRACTOR’S ENTITLEMENT (IF ANY) FOLLOWING A PANDEMIC ADJUSTMENT EVENT. IN PARTICULAR, CONSIDERATION SHOULD BE GIVEN TO INCLUDING A REQUIREMENT FOR TENDERERS TO DETAIL IN THIS TABLE UNFIXED GOODS AND MATERIALS REQUIRED FOR THE WORKS WHERE THOSE UNFIXED GOODS OR MATERIALS ARE TO BE SOURCED OUTSIDE OF THE STATE OR TERRITORY IN WHICH THE SITE(S) IS LOCATED.]***

The breakdown:

* + - 1. is for tender evaluation purposes;
      2. will also be used, in part, for the purposes of assessing the Contractor’s entitlement (if any) and the adjustment to the Contract Price (if any) under clause 7.6(d)(i)B and (ii) of the Conditions of Contract in Part 5, as contemplated in clause 7.6(f)(iii) of the Conditions of Contract in Part 5; and
      3. will not limit or affect the scope of the Contractor's Activities, the Works or the Contract in Part 5.

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 Contractor's Activities, the Works or the Contract in Part 5.

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

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

***[IF A TABLE OF VARIATION RATES AND PRICES FOR POTENTIAL VARIATION ITEMS/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".]***

* + 1. **Proposed progress payments for the Contract Price**

***[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 Contractor's Activities, the Works or the Contract in Part 5.

***[ALTERNATIVELY, 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 Contract Price based on the milestones set out in the Conditions of Contract in Part 5 and as follows:

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

The Tenderer should note that any proposed additional milestones should be significant milestones which represent the completion of a discrete activity and (without limitation) should not be based on monthly instalments against existing milestones.

The Tenderer should note that the Principal reserves the right to negotiate the proposed progress payments of the Contract Price and any proposed additional milestone submitted by the Tenderer with a view to amending the proposed progress payments of the Contract Price and any proposed additional milestones before entering into any Contract with the successful Tenderer.

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 -   
indigenous procurement policy

***[IF IPP OPTION 1 (CONTRACT IS NOT A HIGH VALUE CONTRACT), INSERT:]***

The Tenderer's attention is drawn to clauses 24, 24.1 and 24.2 of the Tender Conditions.

To assist the Tenderer to demonstrate its ability to satisfy the evaluation criterion described under clause 4(a)(vii)A of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to describe its approach to delivering Indigenous employment and Indigenous supplier use outcomes.

If the Tenderer wishes to lodge its Tender on a Joint Bid Basis, it is requested to provide any information in this Tender Schedule J - Indigenous Procurement Policy which it considers relevant to proposed joint bid arrangements (as applicable).

***[IF IPP OPTION 2 (CONTRACT IS A HIGH VALUE CONTRACT) OR IPP OPTION 3 (CONTRACT IS A HIGH VALUE CONTRACT AND A REMOTE AREA CONTRACT), INSERT:]***

The Tenderer's attention is drawn to clauses 3.1(b)(ii), 24, 24.3 and 24.4 of the Tender Conditions. The Tenderer should also note the evaluation criteria under clause 4(a)(vii)B.1) of the Tender Conditions and, if clause 24.5 of the Tender Conditions applies, clause 4(a)(vii)B.2) of the Tender Conditions.

**The Tenderer must complete and lodge Tender Schedule J - Indigenous Procurement Policy, which includes:**

* + 1. **signing a Declaration of Compliance (which includes providing details of its past performance) in the form set out in item A below;**
    2. **providing an Indigenous Participation Plan in item B below; and**
    3. **providing details of its past performance in item C below.**

**The** [**Tenderer**](#tenderer) **should note that this is a minimum form and content requirement for its** [**Tender**](#Tender) **under clause 3.1(b)(ii) of the** [**Tender Conditions**](#tenderconditions)**. If the Tenderer wishes to lodge its Tender on a Joint Bid Basis, it must complete and lodge the information in this Tender Schedule J - Indigenous Procurement Policy for each joint bid party (as applicable).**

A DECLARATION OF COMPLIANCE

Declaration of Compliance with the [Indigenous Procurement Policy](#IndigenousProcurementPolicy)

***[INSERT ATM ID, PROJECT NUMBER, PROJECT NAME AND DESCRIPTION OF WORKS, AS APPLICABLE]***

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

The Tenderer declares the following:

1. the Tenderer has or has had **[INSERT NUMBER/NIL]** contracts with the Commonwealth which included the mandatory minimum requirements for the Indigenous Procurement Policy; **[and]**
2. with respect to the contracts identified under paragraph 1, the Tenderer has **[FULLY MET/PARTIALLY MET/NOT MET/NOT APPLICABLE AS NIL CONTRACTS UNDERTAKEN]** the mandatory minimum requirements for the Indigenous Procurement Policy; **[and]**
3. the Indigenous Enterprises referred to in the Indigenous Participation Plan in item B below are 50% or more Indigenous owned; **[and]**
4. **[IF THE TENDERER IS AN INCORPORATED JOINT VENTURE, IF THE JOINT VENTURE IS AT LEAST 25% INDIGENOUS OWNED, INSERT: the Tenderer is a joint venture that is 25% or more Indigenous owned.]**

**[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 MUST ENSURE THAT THE DECLARATION OF COMPLIANCE IS COMPLETE, ACCURATE, DULY EXECUTED AND VALID]

B INDIGENOUS PARTICIPATION PLAN

The Tenderer's attention is drawn to the definition of Indigenous Participation Plan under clause 22.1 and clause 17.2 of the Conditions of Contract in Part 5.

The Tenderer's Indigenous Participation Plan provided in this item B should address:

* + 1. the Tenderer's commitment to Indigenous participation, including the Tenderer's approach to delivering Indigenous employment or Indigenous supplier use outcomes. The Tenderer should also note that there are examples of the activities that a Tenderer can take to demonstrate its commitment to increasing Indigenous participation in section 4.7.1 of the Indigenous Procurement Policy;
    2. how the Tenderer intends on meeting the mandatory minimum requirements for the Indigenous Procurement Policy. These requirements are described in the Indigenous Procurement Policy and the Tenderer should note that these can be met at either the contract-based level or the organisation-based level and can be met directly or through the use of subcontracts, as described in the Indigenous Procurement Policy. For the purpose of the mandatory minimum requirements for the Indigenous Procurement Policy, the Tenderer should assume that the "Initial Term" is the period from the Award Date to the end of the last Defects Liability Period;
    3. the Tenderer's current rate of Indigenous employment and Indigenous supplier use as at the Closing Date and Time; and
    4. if clause 24.5 of the Tender Conditions applies, how the Tenderer will ensure that the Contractor's Activities and the Works deliver significant Indigenous employment and supplier use employment outcomes in that Remote Area. The Tenderer should note that more information on Remote Areas is available in section 4.4.1 of the Indigenous Procurement Policy.

The Tenderer should also note that:

* + 1. subject to paragraph (f), the Indigenous Participation Plan lodged by the successful Tenderer will become the Indigenous Participation Plan for the purpose of clause 22.1 and clause 17.2 of the Conditions of Contract in Part 5; and
    2. the Principal reserves the right to negotiate the Indigenous Participation Plan lodged by the Tenderer, with a view to amending the Indigenous Participation Plan before entering into any Contract with the successful Tenderer.

***Indigenous Participation Plan***

***[INSERT ATM ID, PROJECT NUMBER, PROJECT NAME AND DESCRIPTION OF WORKS, AS APPLICABLE]***

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

1. We are committed to Indigenous participation and our approach to delivering Indigenous employment and Indigenous supplier use outcomes is as follows:

**[INSERT DETAILS]**; and

1. We will meet the mandatory minimum requirements for the Indigenous Procurement Policy:

**❑ AT THE CONTRACT-BASED LEVEL** as follows:

* + 1. at least **[INSERT]**% of our full time equivalent Australian-based workforce deployed in the Contractor's Activities and the Works must be Indigenous Australians over the Initial Term (on average); and
    2. at least **[INSERT]**% of the Contract Price will be subcontracted to Indigenous Enterprises over the Initial Term (on average).

**OR**

**❑ AT THE ORGANISATION-BASED LEVEL** as follows:

* + 1. at least **[INSERT]**% of our full time equivalent Australian-based workforce must be Indigenous Australians over the Initial Term (on average); and
    2. at least **[INSERT]**% of the value of our Australian supply chain will be subcontracted to Indigenous Enterprises over the Initial Term (on average).

1. To meet the mandatory minimum requirements for the Indigenous Procurement Policy, we will undertake the following:

**[INSERT DETAILS, INCLUDING DETAILS OF CURRENT AUSTRALIAN-BASED WORKFORCE, SUPPLY CHAIN AND HOW THE TENDERER WILL MEET THE MANDATORY MINIMUM REQUIREMENTS AT EITHER THE CONTRACT BASED LEVEL OR THE ORGANISATIONAL-BASED LEVEL. THE TENDERER SHOULD ENSURE THAT IT INCLUDES ITS APPROACH TO ACHIEVING THE MANDATORY MINIMUM REQUIREMENTS OVER THE INITIAL TERM (ON AVERAGE)]**.

1. We will meet the mandatory minimum requirements for the Indigenous Procurement Policy:

**❑ DIRECTLY ❑ THROUGH SUBCONTRACTS**

as follows:

**[INSERT APPROACH TO MEETING MANDATORY MINIMUM REQUIREMENTS OF THE INDIGENOUS PROCUREMENT POLICY DIRECTLY OR THROUGH SUBCONTRACTS]**.

1. Our rate of Indigenous supplier use as at the Closing Date and Time is:

**[INSERT DETAILS]**.

1. Our rate of Indigenous employment as at the Closing Date and Time is:

**[INSERT DETAILS]**.

1. If clause 24.5 of the Tender Conditions applies, we will ensure the Contractor's Activities and the Works deliver significant Indigenous employment and Indigenous supplier use outcomes in the Remote Area as follows:

**[INSERT DETAILS]**.

C PAST PERFORMANCE

The Tenderer's attention is drawn to clause 4(a)(vii)B.1)c) of the Tender Conditions.

The Tenderer must lodge details of its past performance in increasing Indigenous participation, including, where relevant, compliance with:

* + 1. any Indigenous Participation Plan as follows:

**[INSERT DETAILS].**

* + 1. without limiting the Declaration of Compliance in item A above, the mandatory minimum requirements for the Indigenous Procurement Policy as follows:

**[INSERT DETAILS].**

tender schedule K - local industry capability plan

The Tenderer's attention is drawn to clause 23 of the Tender Conditions, the definition of Local Industry Capability Plan in clause 22.1 of the Conditions of Contract and clause 8.7 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)(viii) of the Tender Conditions and to assist the Principal in evaluating its Tender, the Tenderer is requested to prepare and lodge a draft Local Industry Capability Plan by completing the information requested in items A to D of this Tender Schedule K - Local Industry Capability Plan below.

In accordance with clause 8.7 of the Conditions of Contract in Part 5, the successful Tenderer will be required to prepare a Local Industry Capability Plan and submit it to the Contract Administrator after the Award Date of the Contract. The Local Industry Capability Plan must be:

* + 1. based on the draft Local Industry Capability Plan provided in its response to this Tender Schedule K - Local Industry Capability Plan; and
    2. finalised in accordance with clause 8.7 of the Conditions of Contract in Part 5.

The Local Industry Capability Plan must detail the Tenderer's approach to the market and intended Australian industry engagement locally, regionally, state or territory wide and nationally for the project.

A EXPECTED ECONOMIC IMPACT OF THE WORKS

The Tenderer is requested to provide the following information:

1. For the purposes of Tender Schedule K - Local Industry Capability Plan, specify the Tenderer's interpretation of each of local, regional, state or territory wide and national:

[**INSERT**]

1. Indicate the total value of subcontracts and the percentage of that total contract value that will be let via sub-contracts with industry participants:

(a) locally

(b) regionally

(c) state or territory wide

(d) nationally

1. Indicate the total number of subcontracts and the percentage of sub-contracts which will be let to industry participants:
   * 1. locally
     2. regionally
     3. state or territory wide
     4. nationally
2. Estimate the employment numbers, work package or trade types and industry sectors that will apply during the term of the Contract:

**[INSERT]**

1. What is the total size of the local subcontractor work capacity?

**[INSERT]**

1. What is the current and 12 month forecast workload for this local subcontractor industry?

**[INSERT]**

1. Detail how you have considered the limits of local capacity and in estimating your local engagement:

**[INSERT]**

1. Provide details of other qualitative and quantitative benefits expected to be generated in Australia through the Works or more broadly through the Tenderer's business (e.g. research and development related activities and investments, the transfer of technology to local business, strategic alliances developed through the project with local industry that may create links to global supply chains, regional development activities, community support initiatives, and environmental programs):

**[INSERT]**

B PROPOSED LOCAL INDUSTRY PARTICIPATION IN THE DEVELOPMENT (IF APPLICABLE) AND DELIVERY OF THE WORKS

The Tenderer is requested to provide the following information:

1. Describe the mechanisms that will be used to ensure that local industry will be given full, fair and reasonable opportunity to participate in the delivery of the Works:

**[INSERT]**

1. Describe how local Small to Medium Enterprises (**SMEs**) will be encouraged to participate in the procurement activities in relation to the Works, for example:
   * 1. the communication strategies that will be used to alert local industry of project opportunities:

**[INSERT]**

* + 1. the proposed approach to a local supply chain, including the process for refreshing and updating preferred supplier lists:

**[INSERT]**

* + 1. the opportunities for local industry, not currently within the supply chain or a preferred supplier list, to submit subcontract tenders for the Works:

**[INSERT]**

* + 1. the process for assessing potential local businesses:

**[INSERT]**

* + 1. the mechanisms to ensure that the obligation to provide full, fair and reasonable opportunity is passed on to relevant subcontractors, including subcontractors that are involved in awarding contracts to lower tiered businesses:

**[INSERT]**

* + 1. the weighting to be given to tenders from the subcontractors who employ trainees and apprentices as a high proportion of their workforce:

**[INSERT]**

1. Will feedback be offered to unsuccessful subcontract tenderers for the Works?

**[YES/NO]**

If yes, describe the process for offering feedback to unsuccessful subcontract tenderers for the Works:

**[INSERT]**

C PROJECT CONTESTABILITY

The Tenderer is requested to provide the following information:

1. Estimate in Australian dollars the overall industry participation outcomes expected during the Works in the table below:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **PROJECT PHASE** | **LOCAL** | **REGIONAL** | **STATE OR TERRITORY** | **NATIONALLY** |  |
| ***[FOR DESIGN AND CONSTRUCT ONLY:]***  **DESIGN** | **$[INSERT]** | **$[INSERT]** | **$[INSERT]** | **$[INSERT]** |  |
| **CONSTRUCTION** | **$[INSERT]** | **$[INSERT]** | **$[INSERT]** | **$[INSERT]** |  |
| **TOTAL VALUE $** | | | | | **$[INSERT]** |

1. List any goods or services required for the Works which are anticipated to be sourced overseas, or goods or services to be sourced locally with imported content, over the value set out in paragraph 1 of this item C in the table below:

|  |  |  |  |
| --- | --- | --- | --- |
| **PACKAGE/ CONTRACT DESCRIPTION** | **ESTIMATED VALUE** | **REASONS FOR OVERSEAS SOURCE/ IMPORTED CONTENT** | **HAS THE LOCAL MARKET BEEN TESTED? IS THE TENDERER SATISFIED THAT THERE IS NO COMPETITIVE LOCAL SOURCE?** |
| **[INSERT]** | **$[INSERT]** | **[INSERT]** | **[INSERT]** |
| **[INSERT]** | **$[INSERT]** | **[INSERT]** | **[INSERT]** |
| **TOTAL $ AUD** | **$[INSERT]** | **[INSERT]** | **[INSERT]** |

D IMPLEMENTATION AND REPORTING

The Tenderer is requested to provide the following information:

1. Provide the contact details of the key person responsible for implementing and reporting on the Local Industry Capability Plan:

**[INSERT]**

1. Where will the workplace of the key person responsible for implementing and reporting on the Local Industry Capability Plan be?

**[INSERT]**

1. If the key person responsible for implementing and reporting on the Local Industry Capability Plan is not based within 50km of the site, detail how they will perform this duty remotely:

**[INSERT]**

The Principal must be notified in writing if the key person specified as the point of contact in the Local Industry Capability Plan changes before or after the Award Date.

1. The successful Tenderer will be required to report to the Principal on the implementation of the Local Industry Capability Plan every six months from the date the Local Industry Capability Plan is finalised in accordance with clause 8.7 of the Conditions of Contract. The Tenderer is requested to:
   * 1. Provide details of the proposed approach to monitoring and reporting on the implementation of the Local Industry Capability Plan over the term of the Contract:

**[INSERT]**

* + 1. Provide a reporting schedule:

[**INSERT**]

tender schedule L – STATEMENT OF TAX RECORD

The Tenderer’s attention is drawn to clause 17.14 of the Conditions of Contract in Part 5 and clause 27 of the Tender Conditions. As noted in clause 27 of the Tender Conditions, this Tender Schedule L – Statement of Tax Record only applies if clause 27 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 L - Statement of Tax Record. This is a minimum form and content requirement under clause 3.1(b)(iii) 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 |

2. 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.

3. The Tenderer is requested to note that, in accordance with clause 27(d) of the Tender Conditions, if the Tenderer provides and attaches to its response to this Tender Schedule L - Statement of Tax Record an STR receipt issued by the Australian Taxation Office demonstrating that any of the STRs required under this Tender Schedule L – 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 WORKS, 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 L - 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 subcontractor that it will engage for the Contractor's Activities or the Works 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 subcontractor that it subsequently engages for the Contractor's Activities or the Works 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 M - 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 M - Alternative Proposals.

The Principal offers the Tenderer the opportunity to provide alternative proposals in pursuit of greater value for money. The Tenderer should note that (subject to the Principal's absolute discretion under clause 3.2 of the Tender Conditions), it must lodge a conforming Tender before an alternative proposal will be considered.

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)(ix) 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).

Without limiting clause 7 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.

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