

## TENDER DATA REQUIREMENTS LIST

**Note to drafters: The following format is provided for guidance and may be amended as required.**

Tender Data Requirement Number	Tender Response Volume
	<b>Volume 1: Overview</b>
<b>A-1</b>	Executive Summary (Core)
<b>A-2</b>	Tenderer's Profile and Past Performance (Core)
<b>A-3</b>	Schedule of Proposed Subcontractors (Core)
<b>A-4</b>	Statement of Non-Compliance (Core)
<b>B-1</b>	Tenderer's Deed of Undertaking (Core)
	<b>Volume 2: Commercial</b>
<b>C-1</b>	Importation of Services and Export Approvals (Core)
<b>C-2</b>	Liability (Core)
<b>C-3</b>	Insurance (Core)
<b>C-4</b>	Technical Data and Software Rights (Core)
<b>C-5</b>	Economic Benefits to the Australian Economy (Optional)
	<b>Volume 3: Financial</b>
<b>D-1</b>	Tendered Pricing Information – General Requirements (Core)
<b>D-2</b>	Tendered Pricing Information – Specific Requirements (Core)
<b>D-3</b>	Adjustments (Core)
<b>D-4</b>	Performance Assessment and Performance Payments (Optional)
	<b>Volume 4: General</b>
<b>E-1</b>	Risk Assessment and Strategy (Core)
<b>E-2</b>	Defence Industry Security Program Physical and Information/Cyber Security Requirement (Optional)
<b>E-3</b>	Government Furnished Material (Optional)
<b>E-4</b>	Government Furnished Facilities (Optional)
<b>E-5</b>	Government Furnished Services (Optional)
	<b>Volume 5: Proposed Solution</b>
<b>F-1</b>	Description of Proposed Services Solution (Core)
	<b>Volume 6: Defence Industry Participation</b>
<b>G-1</b>	Defence Industry Participation Schedule Requirements (Optional)
	<b>Volume 7: Indigenous Procurement Policy</b>
<b>H-1</b>	Indigenous Procurement Policy Requirements (Core)

**ANNEX A TO ATTACHMENT A****RESPONSE VOLUME: OVERVIEW (CORE)****1. EXECUTIVE SUMMARY (CORE)**

- 1.1 Tenderers are to provide an executive summary of their tender.
- 1.2 The executive summary is to contain no pricing information.

**2. TENDERER'S PROFILE AND PAST PERFORMANCE (CORE)**

- 2.1 Tenderers are to provide the following information:
  - a. the tenderer's background and resources relevant to its ability to perform any resultant Contract; and
  - b. details of any other matters relating to commercial, technical or financial capacity that may materially affect the tenderer's ability to perform any resultant Contract, including:
    - (i) the proportionate value of any resultant Contract, if the tender was accepted, in relation to the tenderer's total income and value of work; and
    - (ii) how the tenderer would mitigate risks, including risks arising from Subcontracted work, and how the tenderer would maintain sufficient cash flow in the event of a delay to a payment under any resultant Contract for any reason.

**Note to drafters: Insert the number of contracts below, considering the applicable market size.**

- 2.2 Tenderers are to list up to [...INSERT NUMBER, EG, three...] relevant Services contracts, either current or completed in the last five years and that are:
  - a. Australian Defence contracts; or
  - b. Contracts, with other customer organisations, with comparable scope and complexity, in which the tenderer was the prime contractor or a subcontractor ('referenced contracts').

**Note to tenderers: As guidance, the summary of each referenced contract, in response to clauses 2.3 and 2.4, should not exceed three pages per contract.**

- 2.3 Tenderers are to provide the following details for each referenced contract:
  - a. contract title and number, the end customer / user organisation to which the contract relates, and details of the procurement entity (if not Defence);
  - b. for any contracts that are not Australian Defence contracts, the contact details for a manager within the contract management / customer organisation;
  - c. the company division, and their responsibility as prime contractor or as a subcontractor;
  - d. a description of the services provided, and the location and nature of the work;
  - e. the contract (or subcontract) commencement and completion dates; and
  - f. the approximate Australian dollar value of the contract or subcontract.
- 2.4 Tenderers are to provide a summary, for each referenced contract, describing how the referenced contract demonstrates that the tenderer has:
  - a. the commercial and services management capabilities necessary to address the complexities of the draft Contract; and
  - b. the service-delivery capabilities sufficient to address those Services described in the draft SOW (primarily clauses 4 to 8).
- 2.5 Tenderers are to provide a statement as to whether or not they, any of their related bodies corporate, or proposed Approved Subcontractors, have had contracts with the Commonwealth terminated early, for any reason, in the last five years. The statement is to describe the circumstances of any such terminations.
- 2.6 Tenderers are to provide a written statement as to whether or not they, and their officers, employees, agents or any proposed subcontractors, have had any non-compliances with the

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Commonwealth Supplier Code of Conduct. The statement is to include a description of the circumstances of any such non-compliance.

**Financial Statements Presubmittal Program or Approved Contractor Viability Program**

**Note to drafters: Further information on the FSPP and ACVP is available at:**

- <http://ibss/PublishedWebsite/LatestFinal/836F0CF2-84F0-43C2-8A34-6D34BD246B0D/Item/9632D046-922F-43E9-8690-FDE2EAA695B7>.

**Note to tenderers: The Financial Statements Presubmittal Program (FSPP) permits suppliers to submit tender-related financial information once per year to CASG, rather than as part of each tender. Approved Contractor Viability Program (ACVP) status prequalifies a tenderer as being financially viable for the purposes of tender evaluation. For information on the FSPP and ACVP, and registers of participating suppliers, refer to:**

- <https://www.defence.gov.au/business-industry/procurement/policies-guidelines-templates/procurement-guidance/program-guidelines> .

**Tenderers NOT participating in the FSPP or ACVP:**

2.7 Tenderers that are not participating in the FSPP (ie, not listed in the FSPP or ACVP registers as at the time of tender lodgement) are to provide the following information:

- a. the following details of the tenderer, as applicable:
  - (i) the full name of the tenderer;
  - (ii) any trading or business name;
  - (iii) if a company, the registered office, principal place of business and an outline of the company structure;
  - (iv) the date and place of incorporation;
  - (v) if an Australian company, its ACN/ARBN and its ABN as applicable;
  - (vi) for a foreign firm or company, details of its registration, incorporation and place of business in Australia, the name of any Australian representative and its ABN (if any); and
- b. copies of Annual Statement of Financial Position, Income Statement and Statement of Cash Flows, with the appropriate accompanying notes for the three previous financial years. If the tenderer is part of a group of companies, those documents or the equivalent information is to relate to the tenderer as a single entity, unless granted relief under the relevant Australian Securities and Investments Commission class order.

**Tenderers participating in the FSPP or ACVP:**

2.8 Tenderers that are participating in the FSPP (ie, listed in the FSPP or ACVP registers as at the time of tender lodgement) are to:

- a. state that they are participating in the FSPP and whether they have ACVP status; and
- b. provide the following details of the tenderer:
  - (i) the full name of the tenderer;
  - (ii) if an Australian company, its ACN/ARBN and ABN as applicable; and
  - (iii) if a foreign firm or company, details of its registration, incorporation and place of business in Australia, and the name of any Australian representative and its ABN.

**Option: Include this clause if the procurement is at or above the relevant procurement threshold, and does not meet the exemptions set out at Appendix A to the CPRs.**

**Note that if a Defence specific exemption from Division 2 of the CPRs applies, this option is still to be used.**

**Note to tenderers: In performing any resultant Contract, the tenderer is to comply with its obligations under the Workplace Gender Equality Act 2012 (Cth). Information about the**

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**coverage of the Workplace Gender Equality Procurement Principles is available from the Workplace Gender Equality Agency at:**

- <https://www.wgea.gov.au/what-we-do/compliance-reporting/wgea-procurement-principles>

- 2.9 If the tenderer is a Relevant Employer, the tenderer is to:
- provide a current letter of compliance issued by the Workplace Gender Equality Agency (WGEA) as part of its tender; or
  - advise that it is a Relevant Employer as part of its tender and provide a current letter of compliance issued by WGEA prior to executing any resultant Contract with the Commonwealth.
- 2.10 For the purposes of clause 2.9, Relevant Employer means an employer who has been a Relevant Employer under the Workplace Gender Equality Procurement Principles for a period of not less than 6 months. The Supplier will continue to be obligated as a Relevant Employer until the number of its employees falls below 80.

**Option: This clause must be used when a procurement is conducted by open tender, is subject to the CPRs and has an estimated value over \$4 million (inc GST).**

**Note to tenderers: The Shadow Economy Procurement Connected Policy obligates the Commonwealth to obtain STRs from tenderers. For information about this policy refer to:**

- <https://treasury.gov.au/policy-topics/economy/shadow-economy/procurement-connected-policy>.

- 2.11 Tenderers are to:
- provide as part of their tender any of the following STRs that are applicable to the tenderer; and
  - in accordance with clause 1.9.3 of the Conditions of Tender, obtain and hold any of the following STRs that are applicable to a relevant Subcontractor:

**Table A-1: Tenderer / Subcontractor STR requirements**

<b>If the tenderer / subcontractor (as the case may be) is:</b>	<b>STRs required:</b>
<b>(a)</b>	<b>(b)</b>
a. body corporate or natural person;	a satisfactory and valid STR in respect of that body corporate or person;
b. a partner acting for and on behalf of a partnership;	a satisfactory and valid STR: <ol style="list-style-type: none"> <li>on behalf of the partnership; and</li> <li>in respect of each partner in the partnership that will be directly involved in the delivery of any resultant Contract or Subcontract (as applicable);</li> </ol>
c. a trustee acting in its capacity as trustee of a trust;	a satisfactory and valid STR in respect of the: <ol style="list-style-type: none"> <li>trustee; and</li> <li>the trust;</li> </ol>
d. a joint venture participant;	a satisfactory and valid STR in respect of: <ol style="list-style-type: none"> <li>each participant in the joint venture; and</li> <li>if the operator of the joint venture is not a participant in the joint venture, the joint venture operator;</li> </ol>
e. a member of a Consolidated Group;	a satisfactory and valid STR in respect of: <ol style="list-style-type: none"> <li>the relevant member of the Consolidated Group; and</li> </ol>

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		(ii) the head company in the Consolidated Group;
f.	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.

2.12 If a tenderer has requested any of the STRs required under clause 2.11 but the STR has not been issued by the Australian Taxation Office prior to the Closing Time, the tenderer is to provide as part of their tender, the STR receipt issued by the Australian Taxation Office confirming that the STR was requested prior to the Closing Time.

**Option: This clause must be used when a procurement has an estimated value above \$4 million (inc GST) and is not subject to a Defence exemption under paragraph 2.6 of the CPRs.**

**Note to tenderers: The Payment Times Procurement Connected Policy imposes obligations on Commonwealth contractors with an annual income of over \$100 million to pay invoices for their subcontracts (up to \$1 million (inc GST)) within 20 days. For further information refer to:**

- <https://treasury.gov.au/small-business/payment-times-procurement-connected-policy>.

2.13 Tenderers are to include the boxes below in their tender, and identify whether or not the Tenderer is a 'Reporting Entity' for the purposes of the Payment Times Procurement Connected Policy (PT PCP) by ticking the appropriate box.

- The tenderer **is** a Reporting Entity.
- The tenderer **is not** a Reporting Entity.

**Note: A Reporting Entity means a 'Reporting Entity' within the meaning of the Payment Times Reporting Act 2020 (Cth) (PTR Act).**

**Option: For use when the Commonwealth intends to use the PEPPOL framework under any resultant Contract (refer to the link below).**

**Note to tenderers: The Commonwealth Pay On-Time Policy requires the Commonwealth to make payments within maximum payment terms, depending on the applicability of the Pan-European Public Procurement On-Line (PEPPOL) framework. Maximum payment term will be:**

- **5 days, where the Commonwealth and the Contractor both have the capability to deliver and receive electronic invoices (e-invoices) through the PEPPOL framework and have agreed to use e-invoicing; or**
- **20 days where the PEPPOL framework does not apply.**

**Further information on the Pay On-Time Policy is available at:**

- <https://www.finance.gov.au/publications/resource-management-guides/supplier-pay-time-or-pay-interest-policy-rmq-417>

2.14 Tenderers are to include the boxes below in their tender, and identify whether or not the Tenderer has the capability to use electronic invoicing through the Pan-European Public Procurement On-Line (PEPPOL) framework.

- The tenderer **does** have the capability for the PEPPOL framework to apply.
- The tenderer **does not** have the capability for the PEPPOL framework to apply.

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**Option: Include these clauses if the procurement is valued at over \$200,000 (GST Inclusive).**

**Note to tenderers: In accordance with the Buy Australian Plan and to support transparency in Australian Government procurements, tenderers for Australian Government contracts worth over \$200,000 (GST Inclusive) are required to disclose their country of tax residency. For further information, see the Department of the Treasury, Department of Finance and the Australian Tax Office:**

- <https://treasury.gov.au/policy-topics/taxation/country-tax-residency-disclosures>;
- <https://www.finance.gov.au/business/buyaustralianplan>; and
- <https://www.ato.gov.au/Business/International-tax-for-business/Working-out-your-residency/>.

**This information will not be used to exclude a tenderer from participation in the RFT process. Queries relating to the collection and use of data for an entity's country of tax residency can be directed to the Department of the Treasury at [MNETaxTransparency@treasury.gov.au](mailto:MNETaxTransparency@treasury.gov.au).**

- 2.15 Tenderers are to provide:
- a. the tenderer's country of tax residency; and
  - b. the tenderer's ultimate parent entity's country of tax residency.
- 2.16 In responding to clause 2.15, if the tenderer or the tenderer's ultimate parent entity has multiple tax residencies, each of the countries of which they are a tax resident shall be disclosed.
- 2.17 Tie-breaker rules (where an entity is considered a resident of one treaty country only for the purposes of that treaty) are not relevant in determining how to respond to clauses 2.15 and 2.16.

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## 3. SCHEDULE OF PROPOSED SUBCONTRACTORS (CORE)

Draft COC reference: clause 11.9

**Note to drafters: Amend clause 3.1 as appropriate, to reflect the options selected (if any) at clauses 3.3 and 3.4.**

- 3.1 Tenderers are to provide details, in the format at Table A-2, of all proposed Subcontractors that trigger any of the Approved Subcontractor criteria listed in clause 11.9.4 of the draft COC [**INSERT ‘, and all proposed Subcontractors that trigger the requirements of clauses 3.3 or 3.4’**], including details of any exception sought in accordance with clause 11.9.5 of the draft COC for a proposed Subcontractor at column (i) of Table A-2.
- 3.2 Of the proposed Subcontractors identified in response to the criteria listed in clause 11.9.4b and 11.9.4c of the draft COC, tenderers are to provide the details set out in clause 2.1 and clause 2.7 or 2.8 of this Annex, for the [...INSERT EG, “ten”...] proposed Subcontracts with the highest work value. If the proposed Subcontractor has not been identified at the time of tender closing, tenderers are complete the Schedule of Proposed Subcontractors with the extent of information known for the work to be Subcontracted.

**Option: Include when the Contract will be subject to the Shadow Economy Procurement Connected Policy. Delete ‘STR required’ column from Table A-2 if this option is not required.**

- 3.3 If a proposed direct Subcontractor will provide goods or services with an estimated value of over \$4 million (inc GST) under the Subcontract, the tenderer is to obtain and hold a satisfactory and valid STR from that direct Subcontractor. Tenderers are to identify any such proposed direct Subcontractors in column (g) of Table A-2.

Table A-2: Schedule of Proposed Subcontractors

Proposed Subcontractor and ABN/CAN (as applicable)	Work / Services to be subcontracted and any significant Deliverables (including technical significance)	Proposed Approved Subcontractor (draft COC clause 11.9) (yes / no)	Prescribed Activity as referenced at 11.9.4(b)(i) of the COC	Location of work to be performed (incl. postcode)	Subcontract value (\$A per annum)	STR required (Yes/No)	Reporting Entity Subcontract or PT PCP Subcontract? (identify which)	Comments
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)

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**4. STATEMENT OF NON-COMPLIANCE (CORE)**

- 4.1 If a tenderer does not fully comply with any clause of the annexes to the COT (excluding Annex B), the draft COC and attachments, or the draft SOW and annexes, it is to state its non-compliances in a Statement of Non-Compliance in the format at Table A-3. Tenderers are to include details of:
- the extent, justification and impact of non-compliance;
  - details of any proposed drafting amendments; and
  - the location in the tender where further non-compliance details and comments (if any) can be found.
- 4.2 Responses are to be in the order in which the clauses appear and refer to the relevant clause number, annex, Attachment or DID.
- 4.3 A tenderer will be deemed to be fully compliant with any clause not listed in the Statement of Non-Compliance.

**Note to tenderers: Failure to indicate all non-compliances in Table A-3 may constitute false, misleading or deceptive conduct for the purposes of the Australian Consumer Law (Schedule 2 of the Competition and Consumer Act 2010) or Division 137 of the Criminal Code Act 1995.**

**Table A-3: Statement of Non-Compliance**

	Clause No.	Non-Compliance	Comments	Location in Tender
Annexes (excluding Annex B) to Attachment A to the COT				
Draft COC				
Attachments to the draft COC				
Draft SOW				
Annexes to the draft SOW				
Draft Data Item Descriptions				
<b>Note to drafters: delete this row if not applicable.</b>				
Draft Detailed Service Descriptions				



**ANNEX B TO ATTACHMENT A****RESPONSE VOLUME: OVERVIEW (CORE)****TENDERER'S DEED OF UNDERTAKING (CORE)**

**Note to tenderers: Tenderers must provide a deed in the following format.**

This Deed Poll is made on the **(INSERT DATE)**

**BY:**

**(INSERT NAME, ACN/ABN and ARBN if APPLICABLE) ('Tenderer')**

**1. DECLARATIONS (CORE)**

- 1.1 This deed poll is for the benefit of the Commonwealth of Australia as represented by the Department of Defence ABN 68 706 814 312 ('Commonwealth').
- 1.2 This deed poll is provided in connection with the Request for Tender [INSERT RFT NUMBER] ('RFT') issued by the Commonwealth and the tender ('Tender') submitted by the Tenderer in response to the RFT. Terms defined in the RFT have the same meaning when used in this deed poll.
- 1.3 The Tenderer submits its Tender to provide the Services solicited by the RFT at the prices tendered and, subject to the statement of non-compliance included as part of its Tender, in accordance with the draft Contract.

**2. ACKNOWLEDGEMENTS (CORE)**

- 2.1 The Tenderer acknowledges and agrees:
  - a. to the Commonwealth's rights as set out in the RFT and this deed poll, including the Commonwealth's rights to exclude the Tender;
  - b. that the Tender has been prepared in accordance with the RFT and is accurate, complete and not misleading;
  - c. that the Commonwealth can utilise all relevant information about the Tenderer's performance on Commonwealth procurement activities;
  - d. that the Tenderer has conducted and will conduct itself during the RFT process in a manner that is at least consistent with the requirements set out in the '*Promoting Confidence in Defence Procurement Processes*' section of the Defence publication *Defence and the Private Sector – Working with Integrity* which is available at <https://www.defence.gov.au/business-industry/industry-governance/industry-regulations/defence-and-private-sector-working-integrity>;
  - e. that the Tenderer has relied entirely upon its own inquiries and inspection in preparing its Tender;
  - f. that the Tenderer has not relied on any representation, letter, document or arrangement, whether oral or in writing, or other conduct of the Commonwealth, as adding to or amending the RFT, except for any addendum issued by the Commonwealth that expressly add to or amend the RFT;
  - g. that the Tenderer does not have any judicial decisions against it (including overseas jurisdictions but excluding decisions under appeal or instances where the period for appeal or payment/settlement has not expired) relating to unpaid employee entitlements where the entitlements remain unpaid;
  - h. that Defence may provide any information collected or provided during the course of the RFT process (including regarding breaches of workplace relations law, work health and safety law or worker's compensation law) to other Commonwealth agencies or regulatory bodies; and
  - i. that Defence, as a Commonwealth agency, is subject to legislative and administrative accountability and transparency requirements of the Commonwealth, including disclosures to Ministers and other Government representatives, Parliament and its

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Committees and the publication of information in respect of the RFT process on the successful Tenderer and information on any resultant Contract on the AusTender website.

- 2.2 The Tenderer acknowledges and agrees that:
- a. the RFT and any communication or dealings of any kind in relation to the RFT (other than this deed poll) between the Commonwealth and the Tenderer, or between the Commonwealth and any other person with an interest in the RFT, do not constitute a contract between the Commonwealth and the Tenderer;
  - b. to the extent permitted by law, no binding contract (including a process contract) or other understanding on any basis whatsoever will exist between the Commonwealth and the Tenderer unless and until a Contract is signed by the Commonwealth and the Tenderer; and
  - c. to the extent permitted by law, the Commonwealth has no liability to the Tenderer, or any other person, for any compensation on any basis whatsoever in connection with the Tenderer's participation in the RFT.

**3. ACCEPTANCE (CORE)**

- 3.1 The Tender submitted by the Tenderer in response to the RFT shall remain open for the Tender Validity Period specified in the Tender Details Schedule (as extended under clause 2.8 of the Conditions of Tender, if applicable).
- 3.2 The Tenderer acknowledges and agrees that the Tender is an unconditional offer and, to the extent reasonably possible, the Tenderer will obtain any necessary Authorisations to enable it to enter into any resultant Contract on an unconditional basis.

**4. UNDERTAKINGS AND REPRESENTATIONS AND WARRANTIES (CORE)**

- 4.1 The Tenderer represents and warrants that there has not been and will not be any collusive tendering, anti-competitive conduct, or any other similar conduct (including the exchange of information with other tenderers) by it or its Related Bodies Corporate, or any officer, employee, agent or advisor of any of them, in relation to:
- a. the preparation or lodgement of tenders;
  - b. the evaluation and clarification of tenders; and
  - c. the conduct and content of negotiations, including final Contract negotiations,
- in respect of the RFT process.
- 4.2 The Tenderer represents and warrants:
- a. that the Tender has not been compiled:
    - (i) with the improper assistance of current or former Commonwealth Personnel or Defence Service Providers;
    - (ii) with the utilisation of information improperly obtained from the Commonwealth; or
    - (iii) in breach of an obligation of confidentiality to the Commonwealth;
  - b. that it and any Related Bodies Corporate, and their officers, employees, agents and advisers have and will, during the RFT process, comply with any applicable laws (including foreign anti-corruption legislation) or Commonwealth policies regarding the offering of unlawful inducements in connection with their Tender;
  - c. without limiting clause 4.2a, that it and any Related Bodies Corporate have not and will not, without prior written approval from the Commonwealth, permit any current or former Commonwealth Personnel, or Defence Service Provider to contribute to, or participate in, any process or activity relating to the preparation of the Tender or the RFT process, if:

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- (i) the person was involved at any time in the planning of the procurement to which this RFT relates, the preparation of this RFT, or the management of the RFT process; or
- (ii) the person was at any time during the 12 months immediately preceding the date of issue of the RFT involved in a Defence procurement process or activity relevant or related to the RFT; and
- d. it is aware of the provisions of the Schedule 2 to the *Competition and Consumer Act 2010* (Cth), and Division 137 of the *Criminal Code Act 1995* (Cth) and its tender does not contain any false, misleading or deceptive, claims or representations.
- 4.3 The Tenderer represents and warrants that the following is a complete list of any offences relating to bribery, misuse of public information, false accounting or corruption or attempted corruption of a public official or similar offences that would tend to undermine public trust of which the Tenderer or its Related Bodies Corporate have been convicted of during the last 7 years or of which the Tenderer or its Related Bodies Corporate are currently charged:
- [INSERT DETAILS OF ALL SUCH OFFENCES OR IF NONE EXIST INSERT THE WORDS 'NOT APPLICABLE']**
- 4.4 The Tenderer represents and warrants that if in relation to the RFT a conflict of interest exists, arises, or appears likely to arise, that the Tenderer has not previously disclosed, the Tenderer must notify the Commonwealth promptly in writing. The Tenderer agrees to take such steps as the Commonwealth may require to resolve or otherwise deal with a conflict notified under this clause or which otherwise comes to the attention of the Commonwealth during the RFT process. The Tenderer declares the following is a complete list of all current actual, potential or perceived conflict of interest:
- [INSERT DETAILS OR IF NONE EXIST INSERT 'NOT APPLICABLE']**
- 4.5 If in relation to the RFT a conflict of interest exists, arises, or appears likely to arise, that the Tenderer has not previously disclosed, the Tenderer must notify the Commonwealth promptly in writing. The Tenderer agrees to take such steps as the Commonwealth may require to resolve or otherwise deal with a conflict notified under this clause or which otherwise comes to the attention of the Commonwealth during the RFT process.
- 4.6 The Tenderer acknowledges and agrees that the Commonwealth may exclude the Tender from further consideration if in the opinion of the Commonwealth:
- the Tenderer fails to take any steps required by the Commonwealth to resolve or deal with a conflict of interest;
  - the Tenderer fails to comply in any other respect with this clause 4; or
  - any representation or warranty of the Tenderer under this clause 4 is incorrect or misleading in any material respect.
- 4.7 The Tenderer represents and warrants that none of the Tenderer, its Related Bodies Corporate, or officers of either:
- have been found in the past 3 years to have committed a material breach; or
  - are currently in material breach,
- of any law, regulation or code that would be relevant to any resultant Contract, including those in relation to employment or workplace relations (including regulations relating to ethical employment practices), WHS or the environment, other than the following:
- [INSERT DETAILS OF PREVIOUS OR CURRENT BREACHES, OR IF NONE EXIST INSERT THE WORDS 'NOT APPLICABLE']**
- and the following actions have been taken to remedy any such material breach:
- [INSERT DETAILS OF ACTION TAKEN (INCLUDING POLICIES IN PLACE) TO RESPOND TO EACH SUCH BREACH, OR IF NO BREACHES ARE LISTED ABOVE INSERT 'NOT APPLICABLE']**.
- 4.8 The Tenderer represents and warrants that, in accordance with clause 1.9.3 of the Conditions of Tender, it has obtained and holds as at the Closing Time all of the satisfactory and valid

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STRs required under Table A-1: Tenderer / Subcontractor STR requirements (or an STR receipt confirming that the STRs required under Table A-1 were requested prior to the Closing Time) of any entity that the Tenderer proposes to engage as a direct Subcontractor, where the total value of the work under the Subcontract is expected to exceed \$4 million (inc GST).

**Option: Include if clauses 11.9.13 – 11.9.17 (PT PCP clauses) are included in the COC.**

**Note to tenderers: Tenderers are to include the following clause if the tenderer is a Reporting Entity and 11.9.13 – 11.9.17 have been included in the COC.**

- 4.9 The Tenderer undertakes that if, in anticipation of entering into a resultant Contract with the Commonwealth, it enters into a Reporting Entity Subcontract, the tenderer shall include in that subcontract:
- a. an obligation to comply with the Payment Times Procurement Connected Policy (PT PCP); and
  - b. using its reasonable endeavours, a requirement that if the Reporting Entity Subcontractor in turn enters into a Reporting Entity Subcontract, then that subcontract shall include:
    - (i) obligations equivalent to those in clause 4.9a; and
    - (ii) obligations equivalent to this clause 4.9b (such that the obligations in this clause 4.9b are to continue to be flowed down the supply chain to all Reporting Entity Subcontractors).

**Note to drafters: Include clauses 4.10-4.12 if the Indigenous Procurement Policy clauses are included at clause 1.7 of the COT.**

- 4.10 The Tenderer undertakes that it has or has had **[INSERT THE WORD 'NIL' IF NONE OR INSERT THE NUMBER]** contracts with the Commonwealth that included Mandatory Minimum Requirements.
- 4.11 For the contracts referred to in clause 4.10 (if any), the Tenderer declares that it has **[INSERT THE WORDS 'FULLY MET' / 'PARTIALLY MET' / 'NOT MET' / 'NOT MET' (as Nil contracts undertaken)]** the Mandatory Minimum Requirements.
- 4.12 The Tenderer represents and warrants that the Indigenous Enterprises referred to in the draft Indigenous Participation Plan submitted as part of this Tender are 50 per cent or more Indigenous owned.

## 5. SURVIVAL (CORE)

- 5.1 This deed poll survives the termination or expiry of the RFT.

## 6. GOVERNING LAW (CORE)

**Note to drafters: Prior to release of the RFT, drafters are to insert the same jurisdiction as selected under clause 12.1 of the draft COC and the Details Schedule.**

- 6.1 The laws of **[INSERT JURISDICTION]** shall apply to this deed poll and the Tenderer submits to the non-exclusive jurisdiction of the courts of that State or Territory and of any court that may hear appeals from any of those courts, for any proceedings in connection with the RFT.

## 7. TERMINATION AND AMENDMENT (CORE)

- 7.1 This deed poll shall not be unilaterally terminated or amended unless such termination or amendment is reduced to writing and agreed in writing by the Commonwealth.

## 8. CONTACT DETAILS (CORE)

- 8.1 The Tenderer's contact details for the purpose of the RFT and this deed poll are set out below.

NAME (Block Letters):

TELEPHONE NUMBER:

**ANNEX B TO ATTACHMENT A**

-----  
EMAIL ADDRESS:  
-----

***Note for Deed Signature: Guidance on executing agreements, including some statutory requirements to ensure the execution is effective, are detailed in the 'Executing Agreements Fact Sheet', found on the Commercial Division intranet page at:***

***<http://ibss/PublishedWebsite/LatestFinal/%7B836F0CF2-84F0-43C2-8A34-6D34BD246B0D%7D/Item/EBDAF9B0-2B07-45D4-BC51-67963BAA2394>***

***This guidance is developed for Commonwealth Personnel and should be used to assess the Tenderer's execution of the Deed. The Tenderer should seek its own independent legal advice on its execution of the Deed.***

**Executed as a Deed Poll**

**(INSERT APPROPRIATE TENDERER'S EXECUTION CLAUSE)**

## ANNEX C TO ATTACHMENT A

## RESPONSE VOLUME: COMMERCIAL (CORE)

## 1. IMPORTATION OF SERVICES AND EXPORT APPROVALS (CORE)

*Draft COC reference: clauses 3.4 and 3.5*

**Note to tenderers: Tenderers must inform themselves of the export control status of the tendered Services and comply with Australian and Foreign Government controls related to the export of defence and dual-use goods, including if the export is from an Australian contractor to an overseas Subcontractor or Related Body Corporate for the purposes of a contract.**

**Advice on control status of goods and services can be requested by emailing Defence Export Controls at [ExportControls@defence.gov.au](mailto:ExportControls@defence.gov.au). Further information may be found at:**

- <https://www.defence.gov.au/business-industry/export/controls>.

## 1.1 Tenderers proposing to import parts of the Services are to provide:

- an indication of what is being imported;
- evidence from the Government of the country of origin that the tenderer will be granted an Export Approval for those items if the tenderer is awarded any resultant Contract;
- identification of any specific limitations or provisos that the Government of the country of origin could reasonably be expected to place on the Export Approval with respect to individual items of tendered Services;
- details of other approvals required in addition to, or as part of, the grant of Export Approvals (eg, technical assistance agreements) and the impact to schedule of gaining such approvals; and
- details of any rejected application for, or refusal to grant, an Export Approval for merchandise similar to the Services, which may have a bearing on an application to export the Services.

## 2. LIABILITY (CORE)

*Draft COC reference: clause 10.7*

**Note to drafters: Refer to clause 10.7 of the draft COC for notes on liability risk assessments.**

**Note to tenderers: The liability caps and insurance requirements in clauses 10.7 and 9 respectively of the draft COC are based on a liability risk assessment conducted by the Commonwealth in accordance with the Defence Liability Principles and the standard Defence methodology described in the Liability Risk Assessment template; both can be accessed at:**

- <https://www.defence.gov.au/business-industry/procurement/policies-guidelines-templates/procurement-guidance/liability-risk-management>.

## 2.1 If a tenderer proposes to limit its liability on an alternative basis to that set out in clause 10.7 of the draft COC (eg, by proposing a liability limitation or exclusion additional to those set out in clause 10.7), the tenderer is to provide the following details:

- the terms of the tenderer's proposed limitation of liability, including their proposed Limitation Amount to be set out in item 14 of the Details Schedule of the draft COC;
- an explanation of why the tenderer requires a limitation of its liability regime different to that proposed in clause 10.7 of the draft COC; and
- the impact (if any) of these changes on the insurance requirements of the draft COC.

## 3. INSURANCE (CORE)

*Draft COC reference: clause 9*

**Note to tenderers: For information on ACIP and the list of companies with ACIP status, refer:**

- <https://www.defence.gov.au/business-industry/procurement/policies-guidelines-templates/procurement-guidance/acip-initiative>.

## ANNEX C TO ATTACHMENT A

**Other than in relation to ACIP approved insurance policies, the Commonwealth will require comprehensive details of insurance policies from a preferred tenderer, and reserves the right to request that additional insurance policies be obtained by a preferred tenderer based on any circumstances assessed as being relevant to the Commonwealth's risk assessments.**

- 3.1 All tenderers are to indicate in their Statement of Non-Compliance the extent to which they do not comply with the insurances required by the draft COC (provided that tenderers with ACIP status are deemed compliant in relation to the insurances that are within their ACIP approval).
- 3.2 All tenderers are to identify within the 'Specific Prices' worksheet of the Complex Services Pricing Workbook (CSERPW) submitted under TDR D, details of all costs associated with the insurance policies covered in the tenderer's insurance response.

#### 4. TECHNICAL DATA AND SOFTWARE RIGHTS (CORE)

*Draft COC reference: clause 5*

**Note to drafters: Refer to clause 5 of the draft COC regarding tailoring requirements.**

**Note to tenderers: Tenderers are required to submit a draft TDSR Schedule and ensure that any restrictions set out in their draft TDSR Schedule do not materially limit the achievement of the Commonwealth's objectives for Services, affect the Commonwealth's rights at clause 5.2 of the draft COC (otherwise than as provided for below), or the tenderer's compliance with the warranties contained in clause 5.11 of the draft COC.**

**Tenderers should familiarise themselves with the ASDEFCON Technical Data and Intellectual Property Commercial Handbook, which can be accessed at:**

- <https://www.defence.gov.au/business-industry/procurement/policies-guidelines-templates/procurement-guidance/intellectual-property-framework>.

- 4.1 Tenderers are to provide a draft TDSR Schedule in the form of Attachment D to the draft COC by specifying any:
- for Annex A of Attachment D - proposed restrictions that will apply to the Commonwealth's right to sublicense specified TD and Software under clause 5.2.2b(v) of the draft COC; and
  - for Annex B of Attachment D – any TD or Software that is proposed to be Commonwealth TD or Commonwealth Software, or any proposed changes to any restrictions on Commonwealth TD or Commonwealth Software included in Attachment D as part of the RFT.

#### 5. ECONOMIC BENEFIT TO THE AUSTRALIAN ECONOMY (OPTIONAL)

**Note to drafters: This clause must be used if the expected value of any resultant Contract is above \$1 million (including GST), for the Initial Term.**

**Note to tenderers: For an explanation of economic benefits, refer to the Department of Finance:**

- [https://www.finance.gov.au/sites/default/files/2024-07/consideration-of-broader-economic-benefits-in-procurement\\_july-2024.pdf](https://www.finance.gov.au/sites/default/files/2024-07/consideration-of-broader-economic-benefits-in-procurement_july-2024.pdf)

- 5.1 Tenderers are to provide details of the direct economic benefits that any resultant Contract would achieve for the Australian economy.

## ANNEX D TO ATTACHMENT A

## RESPONSE VOLUME: FINANCIAL (CORE)

## 1. TENDERED PRICING INFORMATION – GENERAL REQUIREMENTS (CORE)

*Draft COC reference: clause 7, Attachment B*

**Note to tenderers: The 'Complex Services Pricing Workbook' (CSERPW) collects financial information for tenders, informs the calculation of the DIP Activity Value (if applicable), and is in the format suitable for Annexes to Attachment B of any resultant Contract. Further guidance refer to the CSERPW Guide.**

**Note to drafters: Update the CSERPW to support this Annex. Amend the list under clause 1.1 for the draft Contract; for example, if Milestones will not be included.**

- 1.1 Tenderers are to complete and submit tender pricing information within the Microsoft Excel® Workbook titled 'Complex Services Pricing Workbook' (CSERPW), including the following worksheets:
  - a. Recurring Services worksheets;
  - b. Task Priced Services;
  - c. S&Q Services;
  - d. Milestone Schedule;
  - e. Schedules of Rates (including the Schedule of Margins, Labour Rates, Material and Other Direct Cost worksheets);
  - f. Specific Prices;
  - g. Adjustments;
  - h. Payment Schedule; and
  - i. if additional currencies are required, the Constants worksheet.
- 1.2 Prices for tendered Services are to be stated in Australian dollars except for any portion of the Services to be imported from overseas, which is to be stated in foreign currency. All prices tendered are to be in Base Date dollars (noting that prices under any resultant Contract will be subject to periodic adjustment in accordance with clause 7.3 of the COC).
- 1.3 Tendered prices (and rates for ad hoc Services) are to be inclusive of all costs (and fees, including profit) of complying with the draft Contract and associated with the Services and carrying out all matters and doing all things necessary for the due and proper performance and completion of the proposed Contract. Tenderers are not to include contingency for exchange rate fluctuations in their tendered price.
- 1.4 Tenderers are required to submit tender prices inclusive of all overseas taxes and charges, and all Australian (Federal, State and Local Government) taxes including GST, duties and charges that are applicable at the Base Date. For Services (including deliverables) on which GST will be payable, the tenderer is to indicate the amount of GST to be applied.



## ANNEX D TO ATTACHMENT A

**Note to tenderers: The DefenceCost Principles can be found here:**

- <https://www.defence.gov.au/business-industry/procurement/policies-guidelines-templates/procurement-guidance/cost-principles>

**Note to Drafters: In accordance with Chapter 2 of the Defence Cost Principles V3.0, there are some cases where exceptions to the Defence Cost Principles may apply.**

**For guidance in relation to application of the Defence Cost Principles, refer to Commercial and Financial Analysis Directorate at:**

- <http://ibss/PublishedWebsite/LatestFinal/836F0CF2-84F0-43C2-8A34-6D34BD246B0D/Item/4DF33272-EE23-45FF-B074-FBD845E9FDC7>

**or by email at:**

[casq.cfa@dpe.protected.mil.au](mailto:casq.cfa@dpe.protected.mil.au)

**Where the Defence Cost Principles are not applicable, drafters should ensure that the pricing response requirements of the RFT ensure sufficient transparency of pricing in order to evaluate and establish value for money.**

1.5 Tenderers are to apply:

**Option: Include this clause if the Defence Cost Principals are being used to develop the tendered pricing for this procurement and any exception under Chapter 2 of the Defence Cost Principles does not apply.**

- a. the Defence Cost Principles when preparing tendered prices; and

## 2. TENDERED PRICING INFORMATION – SPECIFIC REQUIREMENTS (CORE)

*Draft COC reference: clause 7 and Attachment B*

**Note to drafters: If the Commonwealth will not consider a Mobilisation Payment, replace clause 2.1 with 'Not used' and delete the note to tenderers.**

**Note to tenderers: A Mobilisation Payment may be considered if the tenderer demonstrates that it represents value for money to the Commonwealth (eg, to establish new support infrastructure). If a Mobilisation Payment is considered appropriate, a Bank Guarantee in accordance with clause 7.4 of the draft COC will be required.**

2.1 **Mobilisation Payment.** If a tenderer seeks Mobilisation Payment(s) for any resultant Contract, they are to state the amount, purpose(s), and date of the proposed Mobilisation Payment.

**Note to drafters: Include Commonwealth-specified Milestones in the 'Milestone Schedule' worksheet of the CSERPW. If Milestones will not be included in any resultant Contract, then the clauses below may be replaced with 'Not used' and the note to tenderers deleted.**

**Note to tenderers: Subject to negotiations, the preferred tenderer's Milestone Schedule details will be included at Annex A to Attachment B to the COC. If a Milestone identifies the start of a pricing period (eg, for Ramp Up stages) for Recurring Services, ensure consistency between the Milestone criteria and the requirements for commencing those Recurring Services.**

2.2 **Milestones and Milestone Payments.** When preparing the 'Milestone Schedule' worksheet tenderers are to include:

- a. the amount of each proposed Milestone Payment for the identified Milestones, or a zero amount (eg for the commencement of a new period of Recurring Services Fees); and
- b. any other proposed Milestones and their corresponding details, including payments.

2.3 When responding to clause 2.2, tenderers are to:

- a. if a proposed Milestone date is not specified or not considered suitable, identify and provide an explanation for a preferred date for achieving the Milestone; and

## ANNEX D TO ATTACHMENT A

- b. if a Milestone designates the start of a Recurring Services Fee period (eg, a stage in the ramp up of Recurring Services), detail (or cross-reference) the Milestone entry and exit criteria that account for the change in Recurring Services.

**Note to tenderers: A Recurring Services worksheet is required for each payment period, including for stage in the ramp up of Services, in the Initial Term (eg, after an initial period, worksheets may be aligned with financial years. The CSERPW Guide discusses a Contract Work Breakdown Structure (CWBS) that may assist when preparing the CSERPW 'Menu' and 'Recurring Services' worksheets.**

- 2.4 **Recurring Services.** When defining the Recurring Services Fees, tenderers are to:
- a. apply a pricing structure that is consistent with the scope of the required Services and which presents a sensible breakdown of the work activities (eg, with logical groupings of activities that make up the Services);
  - b. demonstrate that the full scope of the Recurring Services have been captured; and
  - c. insert additional worksheets, if required, to define additional (annual or other) pricing periods for the Initial Term, additional years, different stages, when the range and scale of Services change etc.

**Note to drafters: Include option A for contracts with a DIP program (refer to Annex G) or option B for contracts without a DIP program. If the contract is likely to exceed \$20 million (refer Annex G), then drafters should seek further advice from Non Materiel Procurement Branch (NMPB) at [defence.procurement@defence.gov.au](mailto:defence.procurement@defence.gov.au).**

**Note to tenderers: Limiting the detailed pricing to a number of proposed Approved Subcontracts does not limit any other tender data requirement; however, it assists the Commonwealth to assess DIP Activity Values and work-related risks. Additional detail, for other proposed Approved Subcontracts, may be sought during contract negotiations for any resultant Contract.**

**Option A: For contracts expected to be above \$4m.**

- 2.5 When identifying 'Direct Costs (annual basis)' for Approved Subcontractor pricing within the CSERPW 'Recurring Services' worksheets, tenderers are to:
- a. identify the three proposed Approved Subcontracts with the highest expected value, or all proposed Approved Subcontracts if there are less than three;
  - b. for the proposed Approved Subcontracts identified in accordance with subclause 2.5a, include a breakdown of Subcontract prices (ie, direct costs to the Contractor under any resultant Contract) into 'labour', 'materials' and 'other direct costs', as applicable; and
  - c. for any other proposed Approved Subcontractors (ie, not identified under subclause 2.5a), include pricing within the non-Approved Subcontract Prices column.

**Option B: For contracts expected to be under \$4m.**

- 2.6 When identifying pricing within the CSERPW, as required by clause 2.4, tenderers:
- a. are to identify proposed Subcontractors in the 'Subcontractors' worksheet;
  - b. may provide pricing for all Subcontractors within the 'non-Approved Subcontract Cost' columns in the 'Recurring Services' worksheets, including pricing details for any proposed Approved Subcontractors; and
  - c. for the 'Recurring Services' worksheets, are not required to break down direct costs into 'labour', 'materials' and 'other direct costs' but may instead use the 'Direct costs (annual basis)' columns that best describe the nature of each direct cost in the pricing breakdown structure.

- 2.7 **S&Q Services.** When defining labour rates for S&Q Services, tenderers are to:

## ANNEX D TO ATTACHMENT A

- a. identify the labour categories and skill levels that may carry out S&Q Services described in the draft SOW and provide hourly rates for both normal time and other time; and
- b. define 'normal time' and 'other time' for the purposes of the labour rates used for S&Q Services (eg, normal time is 8 hrs/day any Working Day between 07:00 – 19:00).

**Note to drafters: Insert a threshold amount in the note to tenderers below.**

**Note to tenderers: Lower mark-ups are expected on high-value Contractor-purchased Materials, Subcontracts and Other Direct Costs. Mark-up rates on purchases over [INSERT AMOUNT] will be negotiated.**

- 2.8 When defining the mark-ups for materials, Subcontracts and Other Direct Costs for S&Q Services, tenderers are to explain the basis for the mark-ups, including in comparison to the margins used for Recurring Services.

### 3. ADJUSTMENTS (CORE)

*Draft COC reference: clause 7.3*

**Note to drafters: Confirm with Commercial and Financial Analysis (CFA) that suitable and current foreign exchange rates are included in the CSERPW 'Constants' worksheet.**

**Note to tenderers: If payments for any resultant Contract include significant amounts in foreign currencies, Defence policy is to pay those amounts in source currency (to avoid contingency and currency hedging – see the 'Australian Government foreign exchange risk management – guidelines for entities – Resource Management Guide (RMG) 120'):**

- <https://www.finance.gov.au/government/managing-commonwealth-resources/managing-risk-internal-accountability/foreign-exchange-risk-management>;

**If foreign currency amounts are not significant (eg, less than A\$1 million), any resultant Contract may be written in Australian dollars with added provisions for exchange rate adjustments.**

**Foreign exchange rates not listed in the CSERPW may be added to the 'Constants' worksheet.**

- 3.1 Tenderers are to provide the following information which will be necessary in the event that any resultant Contract is written in Australian dollars for a portion of the payments that are subject to adjustment for exchange rate fluctuations:
- a. percentage of the tendered price (inclusive of all duties and charges) that is proposed to be subject to adjustment for exchange rate fluctuations (per currency, if applicable);
  - b. exchange rate for which the tendered price is based: \$A1 = (foreign currency); and
  - c. name and address of the bank or financial institution whose rates were used in tender preparation or are proposed to apply to any resultant Contract, including reasoning, if different or additional to those included in the 'Constants' worksheet of the CSERPW.

### 4. PERFORMANCE ASSESSMENT AND PERFORMANCE PAYMENTS (OPTIONAL)

*Draft COC reference: Annex G to Attachment B*

**Note to drafters: If Annex G to Attachment B will not be included in the draft Contract, delete the clauses below and annotate the heading as 'Not used'.**

**Note to tenderers: The Commonwealth has included Performance Assessment and Performance Payment provisions at Annex G to Attachment B of the draft Contract.**

**In regards to clause 4.2, as an example, a more efficient measurement process for the same Services and KPI, does not require an alternative proposal.**

- 4.1 Tenderers may propose changes to performance assessments and payments including, for example, changes to methods for measuring Key Performance Indicators (KPIs), alternative KPIs (if consistent with Contract objectives), or the amounts allocated to KPIs (weightings).
- 4.2 If proposing, in response to clause 4.1, a change that would have a material effect on the Services under any resultant Contract, the tenderer is to submit an alternative proposal in accordance with clause 2.15 of the COT.

## ANNEX E TO ATTACHMENT A

## RESPONSE VOLUME: GENERAL (CORE)

## 1. RISK ASSESSMENT AND RISK REGISTER (CORE)

- 1.1 Tenderers are to provide a draft risk register for the performance of any resultant Contract, which:
- a. identifies the risks associated with the tendered proposal, including technical, commercial, legal, financial, operational and schedule risks, and risks relating to health, safety and the Environment;
  - b. categorises those risks according to the likelihood and consequence of their occurrence; and
  - c. in relation to each risk identified (in response to clause 1.1a), indicates how the tenderer proposes to reduce, accept or otherwise manage that risk.

## 2. DEFENCE INDUSTRY SECURITY PROGRAM PHYSICAL AND INFORMATION / CYBER SECURITY REQUIREMENTS (OPTIONAL)

*Draft COC reference: clause 11.10*

**Note to drafters: Include this clause if DISP membership at Level 1 is required in the draft COC for the Physical Security and/or Information / cyber security elements. If the RFT is to include classified information, drafters should consult their Security Officer.**

**Note to tenderers: Refer to the Details Schedule in the draft COC for the DISP membership level, Physical Security, Information / Cyber Security, and COMSEC requirements for any resultant Contract. Also refer to the Security Classification and Categorisation Guide attached to the draft Contract or contact the Contact Officer listed in the Tender Details Schedule.**

- 2.1 Tenderers are to provide the following details for all premises proposed to be used for the storage of classified documents, classified assets, or the housing of ICT systems for the processing of data, up to and including the Physical Security and Information / Cyber Security DISP membership levels identified in the Details Schedule in the draft COC:
- a. physical address of facility;
  - b. facility accreditation(s) held (type and level), when granted and by whom; and
  - c. ICT system accreditation(s) held (type and level), when granted and by whom.
- 2.2 If appropriate DISP membership levels are not held, tenderers are to indicate their willingness to undergo the process to obtain the requisite DISP membership or if unable to obtain DISP membership because it is not an Australian company, the tenderer is to advise:
- a. of the applicable Security of Information Agreement or Arrangement (SIA); and
  - b. how they would meet requirements equivalent to the DISP membership requirements of the draft Contract, and any risks associated with contract execution or management.
- 2.3 Tenderers are to provide the information in relation to 2.1 and 2.2 in relation to all Subcontractors who will require access to security classified information.

ANNEX E TO ATTACHMENT A

3. GOVERNMENT FURNISHED MATERIAL (OPTIONAL)

Draft COC reference: clause 3.6

**Note to drafters: Develop Attachment G to the draft COC to enable tenderers to transfer GFM details to the tender response format. Also refer to CASG Safety Management System (CASSafe) regarding the Requirement: ‘Supply safe plant, substances, structures and radiation sources’.**

**Note to tenderers: Government Furnished Material (GFM) that is ‘mandated’ or is otherwise offered is listed in Attachment G to the draft COC. Additional GFM may be proposed by tenderers for any resultant Contract. Refer to the CSERPW for ‘Specific Prices’ to be tendered if GFM is not made available.**

3.1 Tenderers are to provide the requested detail in accordance with the GFM Tender Response Format at Table E-1 below. Details for the required GFM (including all ‘mandated’ GFM) may be transferred from Attachment G to the draft contract, into the tenderer’s response.

3.2 If tenderers propose changes to the quantities, dates, locations or time periods proposed in Attachment G, these changes should be clearly identified in the tender response (ie, columns c to f of Table E-1: GFM Tender Response Format).

Table E-1: GFM Tender Response Format

Item description	Reference / part number	Quantity	Delivery date and location	Return date and location	Time Period for Inspection	Technical Data and Software Restrictions (if applicable)	Tenderer to own new IP (Y/N) and reason if ‘Y’	Export restrictions (if applicable)	Comments / Intended Purpose
a	b	c	d	e	f	g	h	i	j
<b>Commonwealth Mandated GFM: GFE</b>									
<b>Commonwealth Mandated GFM: GFD</b>									
<b>Non-mandated GFM: GFI</b>									
<b>All other non-mandated GFM</b>									

## ANNEX E TO ATTACHMENT A

**Notes for Table E-1**

- a. **Item Description:** A description of the item of GFM.
- b. **Reference / Part Number:** A reference, part number, document number, or other identifier that clearly identifies the item of GFM.
- c. **Quantity:** The quantity of the item of GFM to be delivered (or made available) by the Commonwealth.
- d. **Delivery Date and Location:** The date on and location at which the item of GFM is to be delivered (or made available) by the Commonwealth.
- e. **Return Date and Location:** The date on and location at which the item of GFM is to be returned to the Commonwealth.
- f. **Time Period for Inspection:** The period within which the item is to be inspected and the Commonwealth notified (refer clause 3.10.1 of the SOW).
- g. **Technical Data and Software Restrictions:** Indicate any TD or Software restrictions in addition to those granted under clause 5.4 of the COC.
- h. **Tenderer to own new IP:** A declaration of whether new IP created under any resultant Contract, in respect of the item of GFM, is to be owned by the Tenderer (or a nominee) pursuant to clause 5.1.4 of the COC. Tenderers are to provide justification for any proposed ownership of IP in GFM (eg, 'Y – P owned by [name of Subcontractor / nominee]').
- i. **Export Approval Restrictions:** Any restrictions derived from Export Approvals to which an item of GFM is subject (if applicable).
- j. **Comments / Intended Purpose:** The purpose for the item of GFM and any comments supplementary to the information under columns (a) to (j).

## ANNEX E TO ATTACHMENT A

## 4. GOVERNMENT FURNISHED FACILITIES (OPTIONAL)

*Draft COC reference: clause 3.7 and Attachment K*

*Draft SOW reference: clauses 3.17 and 8.5*

**Note to drafters: Include this clause if clause 3.7 is included in the draft COC. If GFF will not be offered the following clauses can be deleted and the heading annotated with 'Not used'.**

**Note to tenderers: All Government Furnished Facilities (GFF) mandated or proposed by the Commonwealth (if any) is detailed in Attachment K to the draft Contract. Refer to the 'Specific Prices' worksheet of the CSERPW for Specific Prices to be tendered if GFF is not made available.**

**Option: For when the Commonwealth will allow tenderers to propose additional GFF.**

**Additional GFF may be proposed by tenderers for the purposes of any resultant Contract.**

- 4.1 Tenderers are to summarise the proposed use of the GFF and any specific GFF Licensed Areas, describe any assumptions made in relation to their tender, and identify any other arrangements required, relevant to use of that GFF.
- 4.2 Tenderers are to state their compliance with the dates and time periods proposed by the Commonwealth in Attachment K to the draft Contract, or provide an alternative proposal.

## 5. GOVERNMENT FURNISHED SERVICES (OPTIONAL)

*Draft COC reference: clause 3.9 and Attachment G*

**Note to drafters: Include this clause if clause 3.9 has been included in the draft COC.**

**Note to tenderers: All Government Furnished Services (GFS) mandated or proposed by the Commonwealth (if any) are detailed in Attachment G to the draft COC. Refer to the 'Specific Prices' worksheet of the CSERPW for Specific Prices to be tendered if GFS is not made available.**

**Option: For when the Commonwealth will allow tenderers to propose additional GFS.**

**Additional GFS may be proposed by tenderers for the purposes of any resultant Contract.**

- 5.1 Tenderers are to summarise the proposed use of Government Furnished Services (GFS), any relevant assumptions (eg, cost, schedule), and any other arrangements relevant to the tender.
- 5.2 Tenderers are to state their compliance with the dates and time periods proposed by the Commonwealth in Attachment G to the draft Contract, or provide an alternative proposal.

## ANNEX F TO ATTACHMENT A

## RESPONSE VOLUME: PROPOSED SERVICES SOLUTION (CORE)

## 1. DESCRIPTION OF PROPOSED SERVICES SOLUTION (CORE)

**Note to drafters: Amend clauses to address the specific needs of the draft Contract.**

**Note to drafters: In the note to tenderers, identify a maximum number of pages for the summary, to suit the scale and complexity of the draft Contract.**

**Note to tenderers: The recommended number of pages for summary in response to clause 1.1 is [...INSERT EG. two, three...] pages.**

- 1.1 Tenderers are to provide a summary of their proposal that:
- a. describes how the tenderer would provide the overall scope of the Services; and
  - b. assists the Commonwealth to understand the proposal, and identifies:
    - (i) any pre-requisites or initiatives required to enable the Services to be provided (eg, acquiring new resources or establishing agreements with other entities);
    - (ii) any significant assumptions underpinning the proposal (including in respect of Commonwealth roles and actions); and
    - (iii) any significant constraints or limitations with the proposal (eg, with respect to the availability of any essential resources).
- 1.2 Tenderers are to identify and provide a brief description of their organisation's business units, including any Subcontractors, that would be responsible for providing the requested Services.

**Note to drafters: Amend reference to SOW clauses 4 to 7 to suit the tailoring of the draft SOW.**

- 1.3 For each of the major categories of Services, as required by clauses 4 to 7 of the draft SOW, the tenderers are to describe for any resultant Contract, as applicable:
- a. the business units, their roles and sites (locations) proposed for the provision of the major Services and, if applicable, how their roles vary for different parts of the Services;
  - b. the proposed interfaces with the Commonwealth (including individual Defence units, if applicable), to enable the provision of Services to be co-ordinated;
  - c. how the work will be managed, including how the work will be allocated, controlled and co-ordinated between different business units, including any Subcontractors;
  - d. whether or not the physical resources to provide the Services (other than personnel) currently exist and if they require further development, modification and/or expansion;
  - e. any significant certifications or other Authorisations required to provide the Services, and whether the tenderer has, or has the ability to obtain, these Authorisations; and
  - f. the information management systems to be used for each of the major Services (including any Defence information systems mandated by the draft SOW).

**Note to tenderers: The Commonwealth seeks assurance that the successful tenderer can obtain capable staff, especially those with 'key skills' that are uncommon or where there is a shortage.**

- 1.4 Tenderers are to identify the key skill(s) that they consider necessary for the provision of the Services including, for each skill identified, a description of:
- a. the roles and responsibilities of persons with those skills;
  - b. the qualifications, training and essential experience of persons in those roles; and
  - c. the tenderer's approach to obtain and retain personnel with the skills identified.



## ANNEX F TO ATTACHMENT A

**Option: For when Key Persons are to be managed under a resultant Contract.**

- 1.5 Tenderers are to identify the Key Staff Positions that will be filled under any resultant Contract, by persons with the attributes identified under clause 1.4b.
- 1.6 Tenderers are to identify the numbers of their staff in the tenderer's organisation, including proposed Subcontractors, having the attributes required for each of the Key Staff Positions.

**Option: If the scope of the Services is likely to require the Contractor to bring Technical Data to any resultant Contract that is significant in terms of scope or Technical Data rights.**

- 1.7 Tenderers are to provide a list of any Technical Data that they would bring to any resultant Contract, and identify for each item:
- a. the name or title, reference number and other identifying attributes;
  - b. applicable products or processes to which the Technical Data applies;
  - c. the source, if not the Contractor;
  - d. restrictions on the Use and sublicensing of the item including, if applicable, a cross reference to the tendered response to TDR C-4, Technical Data and Software Rights.

**Option: If the scope of the Services is likely to require the Contractor to bring Software to any resultant Contract that is significant in terms of scope or Software rights.**

- 1.8 Tenderers are to identify any Software that it would provide or otherwise require the Commonwealth to use for any resultant Contract, and identify for each item of Software:
- a. the name or title, version number and any other identifying attributes;
  - b. the purpose and intended use;
  - c. the owner or licensor;
  - d. restrictions on Commonwealth Use and sublicensing including, if applicable, a cross-reference to the tender response to TDR C-4, Technical Data and Software Rights; and
  - e. any security classification applicable to the data and use of the Software.

## ANNEX G TO ATTACHMENT A

## RESPONSE VOLUME: DEFENCE INDUSTRY PARTICIPATION (OPTIONAL)

*Draft COC reference: clause 4*

## DEFENCE INDUSTRY PARTICIPATION (OPTIONAL)

**Note to drafters: This annex applies if the expected value of any resultant Contract is at or above \$4 million and less than \$20 million for the Initial Term, and an exemption does not apply.**

**If a DIP program is not required, the following clauses can be deleted and the heading annotated with 'Not used'.**

**Note to tenderers: The Defence Industry Participation (DIP) Schedule forms part of any resultant Contract. For further information on the Defence Policy for Industry Participation refer to:**

- <https://www.defence.gov.au/business-industry/programs/defence-policy-industry-participation>.

**1. DEFENCE INDUSTRY PARTICIPATION SCHEDULE REQUIREMENTS****1.1 Tenderers are to:**

- provide a draft Defence Industry Participation (DIP) Schedule in the format of Table G-1;
- describe their approach to maximising participation of competitive Australian Industry, including local businesses, in their supply chain for the provision of the Services; and

**Note to tenderers: Defence encourages contractors located in Australia to maximise the use of 'local businesses' (particularly in regional or remote areas), including through subcontracting processes that offer opportunities for competitive businesses based or primarily located in the area of a Defence base.**

**In response to clause 1.1c, the tenderer is to define 'local business' in terms of criteria, which may include a range from a Defence base or an identifiable region within which a company resides or has a major presence. The criteria may vary by location or the type of work. Subject to negotiations, the definition of 'Local Business' will be included in the Glossary of any resultant Contract.**

- describe how the tenderer proposes to define 'local business', and how the tenderer will determine whether a service provider or supplier meets this definition.

## ANNEX G TO ATTACHMENT A

**Note to tenderers: The DIP Schedule response will, subject to any negotiated changes, be transferred to Attachment J of any resultant Contract.**

Table G-1: Defence Industry Participation Schedule

Number	DIP Activity Description	Company Name and ACN/ABN/NZBN	DIP Activity Value	Location (including Postcode)	SME (Y/N)	Local Business (Y/N and Brief Justification)	Veterans (Y/N)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
01							
02							
03							

**Notes for Table G-1: In preparing the DIP Schedule, the scope of work should be divided into separate lines to describe each activity. Table details:**

- a. Identification number for each entry.
- b. Description of the Activity / Services performed. A separate DIP activity description (and line) is required for each work package and company.
- c. Name of the Australian Entity (ie, Contractor or Subcontractor in Australia and New Zealand) undertaking the activity ('various' is not acceptable). Include the Australian Business Number (ABN) or Australian Company Number (ACN), or the New Zealand Business Number (NZBN), as applicable.
- d. The planned expenditure with Australian Industry for the DIP activity (excluding Task-Priced Services), over the Term of the Contract. The DIP activity value is to be based upon the combined value of all the cost elements associated with that DIP activity. The cost elements include any labour, materials, other direct costs, Subcontract prices, overheads and profits associated with the DIP activity. Subcontract prices under \$1m (inclusive of GST), unless the tenderer chooses to develop a more detailed cost-breakdown, may be deemed as follows:
  - for the hire of personnel within ANZ: 100% DIP Activity Value;
  - for the purchase / licensing of IT equipment and packaged software used within ANZ: 30% DIP Activity Value; and
  - for all other Subcontracts with Subcontractors located within ANZ: 50% DIP Activity Value.
- e. Set out the location (including postcode) where the majority of the work for the identified activity will be performed.
- f. Set out whether the entity performing the activity is a Small to Medium Enterprise.

**Note to tenderers: For the purpose of the tender, the definition of 'Local Business' is to be based on the tenderer's response to clause 1.1c.**

- g. Identify if the entity is a 'Local Business' as defined in the Glossary, and provide a brief justification for this designation.
- h. Veterans. Has the organisation signed the Veterans Employment Commitment (yes/no)? (refer: <https://www.veteransemployment.gov.au/>).

## ANNEX H TO ATTACHMENT A

## RESPONSE VOLUME: INDIGENOUS PROCUREMENT POLICY (OPTIONAL)

**Note to drafters:** *This Annex is to be included when the procurement is subject to the Indigenous Procurement Policy (IPP) and Mandatory Minimum Requirements (MMRs) for Indigenous participation apply. Refer to COT clause 1.7 for more details on when the IPP and MMRs apply.*

**For further information on what elements should be included within an Indigenous Participation Plan, drafters should refer to the 'Developing and Evaluating an Indigenous Participation Plan Guidance Document' at:**

- <https://www.defence.gov.au/business-industry/procurement/selling-to-defence/encouraging-indigenous-business>.

**Note to tenderers:** *An Indigenous Enterprise is an organisation that is 50 per cent or more Indigenous owned that is operating as a business. [Supply Nation](#) is a membership body that validates and promotes Indigenous Enterprises.*

**For further information on what elements should be included within an Indigenous Participation Plan, tenderers should refer to the 'Developing and Evaluating an Indigenous Participation Plan Guidance Document' at:**

- <https://www.defence.gov.au/business-industry/procurement/selling-to-defence/encouraging-indigenous-business>.

## 1 INDIGENOUS PROCUREMENT POLICY REQUIREMENTS

- 1.1 Tenderers are to provide a draft Indigenous Participation Plan in the form of Schedule 1 to this Annex H to Attachment A to the Conditions of Tender. The successful Tenderer's Indigenous Participation Plan will form part of any resultant Contract.

## ANNEX H TO ATTACHMENT A

## SCHEDULE 1 – INDIGENOUS PARTICIPATION PLAN

**Note to tenderers: The Indigenous Participation Plan should demonstrate:**

- a. *how the tenderer intends on meeting the Mandatory Minimum Requirements (MMRs) for the Indigenous Procurement Policy;*
- b. *the tenderer's current rate of Indigenous employment and Indigenous supplier use;*
- c. *the tenderer's commitment to Indigenous participation; and*
- d. *if any part of the Contract will be delivered in a Remote Area, how the tenderer will ensure that its provision of Goods and/or Services will deliver significant Indigenous employment or Indigenous supplier use outcomes in that Remote Area.*

**Some examples of the activities an organisation can take to demonstrate its commitment to Indigenous participation are set out in the Indigenous Procurement Policy which can be found at:**

- <https://www.niaa.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp>.

- 1.2 This Indigenous Participation Plan is part of the Tender submission in response to **[INSERT RFT NUMBER]** (RFT).
- 1.3 If selected as the successful Contractor following evaluation of Tenders received in response to the RFT, **[INSERT COMPANY NAME]** will meet the Mandatory Minimum Requirements for the purposes of the Indigenous Procurement Policy at:

**Option A: To be used when the contractor will meet the MMRs at the contract based level.**

**Note to tenderers: To meet the MMRs at the contract based level, by the end of the Initial Term of the Contract at least one of the following targets must be achieved:**

- a. *at least 4 per cent of the full time equivalent Australian-based workforce deployed on the contracted project must be Indigenous Australians, on average over the Initial Term of the Contract;*
- b. *at least 4 per cent of the value of the work performed under the Contract must be subcontracted to Indigenous Enterprises over the Initial Term of the Contract; or*
- c. *a minimum percentage of the full time equivalent Australian-based workforce deployed on the contracted project on average over the initial term of the contract must be Indigenous Australians, and a minimum percentage of the value of the work performed under the Contract must be subcontracted to Indigenous enterprises, so that both minimum percentages add up to at least 4 per cent, over the Initial Term of the Contract.*

- a. the contract based level, at least:
  - (i) **[INSERT EXACT PERCENTAGE]**% of **[INSERT COMPANY NAME]**'s full time equivalent Australian-based workforce deployed on the contracted project must be Indigenous Australians over the Initial Term; and
  - (ii) **[INSERT EXACT PERCENTAGE]**% of the value of the work performed under the Contract will be subcontracted to Indigenous Enterprises over the Initial Term.

## ANNEX H TO ATTACHMENT A

**Option B: To be used when the contractor will meet the MMRs at the organisation based level.**

**Note to tenderers: To meet the MMRs at the organisation based level, by the end of the Initial Term of the Contract, at least one of the following targets must be achieved:**

- a. at least 3 per cent of the full time equivalent Australian-based workforce of the Contractor must be Indigenous Australians, on average over the Initial Term of the Contract;
- b. at least 3 per cent of the value of the Contractor's Australian supply chain must be subcontracted to Indigenous Enterprises, over the Initial Term of the Contract; or
- c. a minimum percentage of the full time equivalent Australian-based workforce must be Indigenous Australians on average of the initial term of the contract, and a minimum percentage of the value of the Contractor's supply chain must be subcontracted to Indigenous enterprises, such that both minimum percentages add up to at least 3 per cent over the Initial Term of the Contract.

b. at the organisation based level, at least:

- (i) [INSERT EXACT PERCENTAGE]% of [INSERT COMPANY NAME]'s full time equivalent Australian-based workforce will be Indigenous Australians over the Initial Term; and
- (ii) [INSERT EXACT PERCENTAGE]% of the value of [INSERT COMPANY NAME]'s Australian supply chain will be subcontracted to Indigenous Enterprises over the Initial Term.

**Note to tenderers: Tenderer to insert details of how the MMRs will be met. This may include details of the tenderer's current workforce / supply chain at either / both the contract / organisation level and how the proposed percentages to meet the MMRs will be achieved.**

- 1.4 To meet the Mandatory Minimum Requirements for the purposes of the Indigenous Procurement Policy, [INSERT COMPANY NAME] will undertake the following: [INSERT RESPONSE]
- 1.5 [INSERT COMPANY NAME]'s rate of Indigenous employment and Indigenous supplier use as at [INSERT TENDER CLOSING DATE] is [INSERT RESPONSE].
- 1.6 [INSERT COMPANY NAME] demonstrates its commitment to Indigenous participation as follows: [INSERT RESPONSE].
- 1.7 [INSERT COMPANY NAME] will meet the Mandatory Minimum Requirements directly; or through subcontracts using the following approach: [INSERT RESPONSE].

**Option: To be used where a component of any resultant Contract will be delivered in a Remote Area.**

- 1.8 [INSERT COMPANY NAME] proposes to ensure the Contract will deliver a significant Indigenous employment or Indigenous supplier use outcome in that Remote Area as follows: [INSERT RESPONSE]