

UPDATE SUMMARY

DESIGN SERVICES Contract

November 2024

1. INVITATION TO REGISTER INTEREST

| Topic/Subject | Reference (if applicable) | Description |
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| AusTender | Clause 1.6(b) | Amendment to update the contact details for the AusTender Helpdesk. |
| Evaluation of Tenders | Clause 2(b)(iv) | Amendment to provide that the Commonwealth may (in its absolute discretion) decide not to evaluate or continue to evaluate any material provided in excess of any page limit specified in a Schedule. |
| Tender Minimum Form and Content Requirements and Evaluation Criteria | Clause 2(c) | Amendments to align with the updated Design Services Contract Tender Documents minimum form and content requirements and evaluation criteria. |
| Shadow Economy Procurement Connected Policy | Clauses 3.1(b), 3.2(b) and 20, Paragraph (g) of the Registration of Interest Form and Schedule E – Statement of Tax Record | Amendments to reflect the updated Shadow Economy Procurement Connected Policy. |
| Tender Process Acknowledgement | Clause 5(d) | Amendment to clarify the Commonwealth’s right to vary, suspend, discontinue or terminate the registration of interest process at any time and for any reason. |
| Notification of Registrations of Interest | Clauses 6(a)(i)A and (ii) | Amendments to provide that Applicants will be notified in writing if their Registration of Interest is non-conforming, successful or unsuccessful, consistent with the updated Commonwealth Procurement Rules. |
| Fraud and Corruption | Clause 19.6(f) | Amendments to include known or suspected Fraud or Corruption which is occurring or has occurred in connection with the registration of interest process as a new Strategic Notice Event, consistent with the Commonwealth Fraud and Corruption Policy. |
| Environmental Sustainability | Clause 23 | Amendments to include a new clause 23 which draws the Applicant’s attention to, and sets out relevant requirements in respect of, the Environmentally Sustainable Procurement Policy, if applicable. |
| Commonwealth Supplier Code of Conduct | Paragraph (e) of the Registration of Interest Form | Amendment to include an acknowledgement from the Applicant that it will at all times act consistently with the Commonwealth Supplier Code of Conduct. |
| ESD and WOL Manager | Schedule A – Proposed Resources | Amendment to remove the requirement for Applicants to nominate an "ESD and WOL Manager", consistent with amendments to the Design Services Contract Tender Documents and Conditions of Contract. |
| General | Various | Further amendments, including minor drafting and tidy-up amendments, amendments to the naming convention for the Design Services Contract and consequential amendments. |

1. DISCLAIMER AND CONFIDENTIALITY aGREEMENT

| Topic/Subject | Reference (if applicable) | Description |
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| Tender Process Acknowledgement | Clause 4(c) | Amendment to clarify the Commonwealth’s right to vary, suspend, discontinue or terminate the Process at any time and for any reason. |
| Fraud and Corruption | Clauses 24(d), (g) and (q) | Amendments to include known or suspected Fraud or Corruption which is occurring or has occurred in connection with the Process as a new Strategic Notice Event, consistent with the Commonwealth Fraud and Corruption Policy. |
| General | Various | Further amendments, including minor drafting and tidy-up amendments, amendments to the naming convention for the Design Services Contract and consequential amendments. |

1. TENDER DOCUMENTS

| Topic/Subject | Reference (if applicable) | Description |
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| AusTender | Clause 1.2(b) | Amendment to update the contact details for the AusTender Helpdesk. |
| Environmental Sustainability | Clauses 3.1(b)(iv), 4(a)(x) and 29, Tender Particulars, Tender Schedule K - Environmentally Sustainable Procurement and various consequential | Amendments to:   * include a new evaluation criterion and Tender Schedule K titled "Environmentally Sustainable Procurement" consistent with the Department of Climate Change, Energy, the Environment and Water’s "Environmentally Sustainable Procurement Policy"; * provide that the completion and lodgement of part of Tender Schedule K - Environmentally Sustainable Procurement is a minimum form and content requirement for Tenders, if applicable; * include a new clause 29 which draws the Tenderer’s attention to, and sets out relevant requirements in respect of, the Environmentally Sustainable Procurement Policy; and * consequential amendments to defined terms, including to insert a definition for "Environmental Sustainability Principles" and to remove references to the ESD and WOL Manager. |
| Shadow Economy Procurement Connected Policy | Clauses 3.3(b) and 27 and Tender Schedule I – Statement of Tax Record | Amendments to reflect the updated Shadow Economy Procurement Connected Policy. |
| Evaluation of Tenders | Clause 4(d)(iv) | Amendment to provide that the Commonwealth may (in its absolute discretion) decide not to evaluate or continue to evaluate any material provided in excess of any page limit specified in a Tender Schedule. |
| Tender Process Acknowledgement | Clause 7.3(b) | Amendment to clarify the Commonwealth’s right to vary, suspend or discontinue or terminate the tender process at any time and for any reason. |
| Notification of Tenders | Clauses 9(a)(i) and (ii)B | Amendments to provide that Tenderers will be notified in writing if their Tender is non-conforming or otherwise unsuccessful, consistent with the updated Commonwealth Procurement Rules. |
| Statutory Declaration | (Previous) Statutory Declaration in the Tender Form, sections 1(f) and 12 of the Tender Form and various consequential | Amendments to:   * remove the Statutory Declaration previously included in Part 3 of the Tender Documents with consequential amendments throughout the Tender Conditions; and * streamline the declarations previously given under the Statutory Declaration and in certain Tender Schedules in a new section 1(f) and 12 of the Tender Form. |
| Commonwealth Supplier Code of Conduct | Section 11 of the Tender Form | Amendments to refer the Tenderer to, and for the Tenderer to agree that it will at all times act consistently with, the Commonwealth Supplier Code of Conduct. |
| Quality Plan | Tender Schedule A - Draft Project Plans | Amendment to request that the Tenderer provide details of its quality assurance procedure, system or framework in its response to Tender Schedule A - Draft Project Plans. |
| Indigenous Procurement Policy | Paragraph (c) and item C of Tender Schedule J - Indigenous Procurement Policy | Amendments to Tender Schedule J - Indigenous Procurement Policy to require the Tenderer to lodge details of its intended approach to Indigenous industry engagement, including Indigenous subconsultants. |
| General | Various | Further amendments, including minor drafting and tidy-up amendments, amendments to the naming convention for the Design Services Contract and consequential amendments. |

1. CONTRACT

| Topic/Subject | Reference (if applicable) | Description |
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| Environmental Sustainability | Clauses 1.1, 15 and 16.18, Annexure 6 - Supplier Environmental Sustainability Plan and various consequential | Amendments to:   * delete the ESD and WOL Plan and its associated requirements and definitions, including to delete references to the ESD and WOL Manager and to remove the ESD requirements from clause 15 so that it relates to whole of life only; * re-name the Environmental Management Plan to the "Environmental Management and Sustainability Plan" and include a requirement that the Environmental Management and Sustainability Plan address all matters in the Smart Infrastructure Handbook and the Sustainable Procurement Guide; and * insert a new clause 16.18 and corresponding Contract Particular which provides that the Consultant must, if clause 16.18 applies, comply with, and periodically report against, its Supplier Environmental Sustainability Plan annexed at Annexure 6,   consistent with the requirements of the Environmentally Sustainable Procurement Policy. |
| Fraud and Corruption | Clauses 1.1, 5.7 and 19.5 | Amendments to:   * include known or suspected Fraud or Corruption which is occurring or has occurred in connection with the Contract or the Services as a new Strategic Notice Event; and * streamline the Consultant’s obligations in respect of Fraud and Corruption, including to replace the previous "Fraud Control" provision with a new Strategic Notice Event and a new clause 19.5 which sets out additional obligations with which the Consultant must comply in respect of known or suspected Fraud or Corruption,   consistent with the Commonwealth Fraud and Corruption Policy. |
| Shadow Economy Procurement Connected Policy | Clause 16.14 | Amendments to reflect the updated Shadow Economy Procurement Connected Policy. |
| Commonwealth Supplier Code of Conduct | Clause 16.17 | Amendment to include requirements in respect of, and require that the Consultant comply with, the Commonwealth Supplier Code of Conduct, consistent with the updated Commonwealth Procurement Rules. |
| General | Various | Further amendments, including minor drafting and tidy-up amendments, amendments to the naming convention for the Design Services Contract and consequential amendments. |

**DISCLAIMER:**

The summary is not intended to be a substitute for legal advice or for reading the actual documents, and nothing in the summary will alter or affect the respective rights, obligations and liabilities of the parties under any document or contract. The summary is provided for information only and no responsibility will be taken by the Commonwealth of Australia or its advisers for its contents, use or any reliance upon it.