OVERvIEW (CORE)

1. EXECUTIVE SUMMARY (Core)
   1. Tenderers are to provide an executive summary of their tender.
   2. The executive summary is not to contain pricing information.
2. TENDERER’S PROFILE and Past Performance (Core)
   1. Tenderers are to provide the following information:
      1. the tenderer’s background and resources relevant to its ability to perform any resultant Contract (including design and development aspects, if applicable);
      2. 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:
         1. 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
         2. how the tenderer would mitigate risks, including those arising from subcontracted work, and how it would maintain sufficient cash flow in the event of a delay to a Milestone Payment or other payment under any resultant Contract for any reason;
      3. identification of any trust or fiduciary capacity in which the tenderer proposes to perform any resultant Contract; and
      4. particulars of any of the following if they are likely to adversely affect the tenderer’s performance of any resultant Contract: civil or criminal litigation or proceeding, actual or threatened, involving the tenderer or its directors, or any Related Bodies Corporate, or the existence of any breach or default of any agreement, order or award binding on the tenderer, or any Related Bodies Corporate, or any judgment or decision.

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

* 1. Tenderers are to list up to [...INSERT NUMBER EG, three...] relevant contracts, either current or completed in the last five years that are:
     1. Australian Defence contracts, or
     2. other contracts (including contracts under the Global Supply Chain (GSC) program) 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 referencedproject, in response to clauses 2.3 and 2.4, should not exceed three pages per contract.

* 1. Tenderers are to provide the following details for each referenced contract:
     1. contract title / project name and number, the end customer / user organisation to which the contract relates, and details of the procurement entity (if not Defence);
     2. for any contracts that are not Australian Defence contracts, the contact details for a manager within the contract management / customer organisation;
     3. the company division and their responsibility as prime contractor or as a subcontractor;
     4. a description of the services provided, and the location and nature of work;
     5. the contract (or subcontract) commencement and completion dates; and
     6. the approximate Australian dollar value of the contract or subcontract.
  2. Tenderers are to provide a summary, for each referenced contract, describing how the referenced contract demonstrates that the tenderer has:
     1. the commercial and support services management capabilities necessary to address the complexities of the draft Contract;
     2. the service-delivery capabilities (ie, for Operating Support, Engineering, Maintenance, Supply and Training support, as applicable to the draft Contract) sufficient to address the Services described in the draft SOW; and
     3. implemented an Australian Industry Capability (AIC) program (or similar obligations in a different country), describing any Industry Capabilities that were created or enhanced, the scope of Industry Capabilities sustained over a longer-term.
  3. Tenderers are to indicate if they, any of their Related Bodies Corporate, or proposed Approved Subcontractors, were a contractor or subcontractor to a project / sustainment activity that has been listed as a Project / Product of Concern in the last three years and, if so, the strategies by which performance improvements would be implemented for any resultant Contract.
  4. Tenderers are to provide a statement as to whether or not they, or any 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.
  5. 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 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: Information on the FSPP and ACVP is available at:

* <http://ibss/PublishedWebsite/LatestFinal/%7B836F0CF2-84F0-43C2-8A34-6D34BD246B0D%7D/Item/683f4f8b-b6af-4a7d-8388-ca7b493a114c>.

Note to tenderers: The Financial Statements Presubmittal Program (FSPP) permits suppliers to submit tenderer-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:

* 1. 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:
     1. the following details of the tenderer, as applicable:
        1. the full name of the tenderer;
        2. any trading or business name;
        3. if a company, the registered office, principal place of business and an outline of the company structure;
        4. the date and place of incorporation;
        5. individual shareholders holding 20 percent or more of any issued share capital;
        6. particulars of any foreign national or foreign bodies or organisations in a position to exercise or influence control over the tenderer;
        7. Related Bodies Corporate;
        8. 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
        9. if an Australian company, its ACN/ARBN and ABN as applicable; and
     2. 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:

* 1. Tenderers that are participating in the FSPP (ie, listed in the FSPP or ACVP registers as at the time of tender lodgement) are to:
     1. state that they are participating in the FSPP and whether they have ACVP status; and
     2. provide the following details of the tenderer:
        1. the full name of the tenderer;
        2. if an Australian company, its ACN/ARBN and ABN as applicable; and
        3. if 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).

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| 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 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>   1. If the tenderer is a Relevant Employer, the tenderer is to:      1. provide a current letter of compliance issued by the Workplace Gender Equality Agency (WGEA) as part of its tender; or      2. 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. For the purposes of clause 2.10, 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. |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 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>.   1. Tenderers are to:      1. provide as part of their tender any of the following STRs that are applicable to the tenderer; and      2. 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   |  |  | | --- | --- | | If the tenderer / subcontractor (as the case may be) is: | STRs required: | | (a) | (b) | | * 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:   * + 1. on behalf of the partnership; and     2. 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:   * + 1. trustee; and     2. the trust; | | * 1. a joint venture participant; | a satisfactory and valid STR in respect of:   * + 1. each participant in the joint venture; and     2. 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:   * + 1. the relevant member of the Consolidated Group; and     2. the head company in the Consolidated Group; | | * 1. a member of a GST Group; | a satisfactory and valid STR in respect of the:   * + 1. the GST Group member; and     2. the GST Group representative. |  * 1. If a tenderer has requested any of the STRs required under clause 2.12 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. |

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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 procurement, 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/businesses-and-organisations/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).   * 1. Tenderers are to provide:      1. the tenderer’s country of tax residency; and      2. the tenderer’s ultimate parent entity’s country of tax residency.   2. In responding to clause 2.14, 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.   3. 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 2.14 and 2.15. |

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| 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 under 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>.   1. 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). |

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| Option: For use when the Commonwealth intends to use the Pan-European Public Procurement On-Line (PEPPOL) framework under any resultant Contract.  Note to drafters: This clause only applies if the PEPPOL framework will be used for any resultant Contract. If the Commonwealth Pay On-Time Policy does not apply (refer to the link below), the PEPPOL framework and this clause should be removed prior to RFT release.  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-rmg-417>   1. 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. |

1. SCHEDULE OF Proposed SUBCONTRACTORS (Core)

Draft COC reference: clause 11.9

* 1. Tenderers are to provide the details in the format at Table A-2 of all proposed Subcontractors that trigger any of the criteria listed in clause 11.9.3 of the draft COC, including details of any exception sought in accordance with clause 11.9.5 of the draft COC for a proposed Subcontractor.

Note to drafters: Insert a number in the clause below that represents a reasonable portion of overall draft Contract scope and risk.

* 1. Of the proposed Subcontractors identified in response to the criteria listed in clauses 11.9.3b to 11.9.3e of the draft COC, tenderers are to provide the details set out in clauses 2.1a, 2.1b and 2.8 or 2.9 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.
  2. If a proposed Subcontractor, under the Subcontract, meets the criteria listed at clause 11.9.3c or 11.9.4 of the draft COC, tenderers are to indicate in Table A-2 that an Approved Subcontractor Deed will be required from the Subcontractor in accordance with clause 11.9.13 of the draft COC.

Note to drafters: This clause 3.4 must be used when a procurement is subject to the Shadow Economy Procurement Connected Policy.

* 1. 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 (i) of Table A-2.

Table A-2: Schedule of Proposed Subcontractors

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Proposed Subcontractor and ABN/ACN  (if applicable) | Work to be Subcontracted  (including technical significance) | CWBS reference  (if applicable) | AIA references  (if applicable) | Equipment / Services | Location of work to be performed  (incl. postcode) | Approved Subcontractor Deed required  (Yes/No)  (see clause 11.9 of draft COC) | 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) | (j) | (k) |
|  | 1. [ANZ Subcontractors] | | | | | | | | | |
|  |  |  |  |  |  |  |  |  |  |  |
|  | 1. [Overseas Subcontractors] | | | | | | | | | |
|  |  |  |  |  |  |  |  |  |  |  |

1. STATEMENT OF NON-COMPLIANCE (Core)
   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, the draft SOW and annexes, the draft Data Item Descriptions and the draft Detailed Service Descriptions, 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:
      1. the extent of, justification for and impact of non-compliance;
      2. details of any proposed drafting amendments; and
      3. the location in the tender where further non-compliance details and comments (if any) can be found.
   2. Responses are to be in the order in which the clauses appear and refer to the relevant clause number, annex, attachment, DID or DSD.
   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 |
| 1. Annexes (excluding Annex B) to Attachment A to the COT |  |  |  |  |
| 1. Draft COC |  |  |  |  |
| 1. Attachments to the draft COC |  |  |  |  |
| 1. Draft SOW |  |  |  |  |
| 1. Annexes to the Draft SOW |  |  |  |  |
| 1. Draft Data Item Descriptions |  |  |  |  |
| 1. Draft Detailed Service Descriptions |  |  |  |  |