

Request for Proposal

OOS1819013

Operators Agreement for Café and Kiosk

Part A – Conditions of Proposal

Issue Date: 8 February 2019

Closing Date: 4 March 2019

Closing Time: 10:00am

Lodgement: <https://tenders.nsw.gov.au>



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CONTACT OFFICER

For the purposes of this RFP, all inquiries should be directed to the Contact Officer.

Contact Name: Travis Cogle

Contact Email: tenders@sport.nsw.gov.au

Any information given to a respondent to clarify any aspect of this RFP will also be given to all other respondents if in the opinion of the Office it would be unfair not to do so.

RFP BRIEFING

A briefing will be held on the date, time, and place below. The Contact Officer and Subject Matter Experts will be available at that time to answer any queries regarding this RFP process in general.

Attendance at the briefing is mandatory.

No more than two persons from each Respondent organisation is permitted to attend the briefing. Names of persons attending the briefing must be emailed to the Contact Officer at least one working day prior.

Location: Sydney Academy of Sport – Wakehurst Parkway Narrabeen

Date: 15 February 2019

Time: 10:00am



1 Introduction

This Request for Proposal (RFP) is issued by The Crown in right of the State of New South Wales, acting through the Office of Sport.

The Office seeks responses from suppliers who wish to supply the Goods/Services as summarised below:

Requesting Centre/Venue/Office	Sydney Academy of Sport Wakehurst Parkway Narrabeen 2010
Brief Description and Overview of Requested Goods and/or Services	The Office seeks, via this Request for Proposal to establish a suitably qualified, professional, and experienced hospitality and catering operator, to manage the operations of the onsite Café and track Kiosk located within the grounds of the Sydney Academy of Sport.
Proposed No. of Suppliers	The intention of the Office is to enter a Licenced Agreement with a sole supplier.
Proposed Agreement	Operator's Licence Agreement
Proposed Agreement Term	<input type="checkbox"/> One off Goods and Services Only <input type="checkbox"/> 1 Year <input type="checkbox"/> 2 Years <input type="checkbox"/> 3 Years <input checked="" type="checkbox"/> 4 Years <input type="checkbox"/> 5 Years

Further details of the Goods/Services required are provided in Part B – Statement of Requirements.

2 Eligibility of Response

2.1 Legal Entity of Respondent

- 2.1.1 Responses must be submitted by a legal entity or, if a joint response, by legal entities, with the capacity to enter into a binding agreement. The Office will only enter into an Agreement with such legal entity or entities.
- 2.1.2 The Office may ask a respondent to provide evidence of its legal status or capacity to enter into a binding Agreement. If responses from entities propose to contract in their capacity as trustees, such evidence may include copies of the relevant trust deeds. Any evidence requested is to be provided within 5 working days of the request.

2.2 Financial Capability of the Respondent

- 2.2.1 The Office reserves the right to reject any response if the Office judges the respondent does not have the appropriate financial or management capability or capacity.



- 2.2.2 Where the Office forms the view that the respondent does not have the appropriate management or financial capability, the Office reserves the right to make acceptance of any response conditional upon the respondent entering into a bank, parent company or personal guarantee, or an unconditional performance bond in a form satisfactory to the Office.

2.3 ABN Requirements

- 2.3.1 The Office will not enter into an Agreement with a company that does not have an Australian Business Number and is not registered for GST. Normally, respondents must be registered for GST and state their ABN in their response.
- 2.3.2 Respondents that do not have an ABN and/or are not registered for GST, such as respondents that are commencing business in Australia, may be considered at the Office's discretion if the respondent demonstrates that it will obtain an ABN and GST registration before entering into an Agreement with the Office. Such respondents must state how and when they intend to obtain an ABN and register for GST in their response.

3 Response Preparation

3.1 Respondent to inform itself

Before submitting its response, a respondent must:

- a) Examine all information relevant to the risks and contingencies and other circumstances having an effect on its Response; and
- b) Satisfy itself:
 - i) that the response is accurate, true and correct; and
 - ii) that the response is financially and practically viable for the respondent.

4 Response Process

4.1 Contact Officer

- 4.1.1 Respondents should refer all requests for information or advice regarding this RFP to the Contact Officer as per PART A of the RFP:
- 4.1.2 Any information given to a respondent to clarify any aspect of this RFP will also be given to all other respondents via the issuing of an addenda, if in the Office's opinion the information would unfairly favour the inquiring respondent over other respondents.

4.2 Conformity of Responses

- 4.2.1 The Office seeks Conforming responses.
- 4.2.2 Non-Conforming responses may be excluded from the RFP process without further consideration at the Office's discretion.

4.3 Alternative Responses

- 4.3.1 Respondents may, if they choose, submit an Alternative Response. Alternative Responses will only be considered if submitted in conjunction with a Conforming Response. An Alternative Response must be clearly marked "Alternative Response".

4.4 Prescribed Form of Response



- 4.4.1 The Response, including any Alternative Response, must comprise a completed PART C and any attachments to PART C, as may be necessary. Any attachments should be labelled to identify those section of the RFP to which they relate.

4.5 Submission of Responses

- 4.5.1 Responses and other information provided in the response are to be in writing and in English. References to costs or prices must be in Australian dollars.
- 4.5.2 Respondents must complete all of PART C of the RFP, as directed and must not amend any of the questions provided.
- 4.5.3 Respondents should notify the Contact Officer in writing on or before the closing date and closing time if they find any discrepancy, error or omission in this RFP.
- 4.5.4 All responses must be provided electronically, in either Microsoft Word or PDF forms.
- 4.5.5 When submitting an electronic response with supporting items:
- a) The complete response, including the supporting items must be submitted by the closing date and closing time, and
 - b) Supporting items provided by the respondent in support of its response but excluding printed material, should be clearly designated as supporting items to the RFP to which they relate.
- 4.5.6 Respondents must ensure that all Excel or Word attachments can be opened and viewed by Microsoft Excel 2010 or Microsoft Word 2010.
- 4.5.7 It is recommended that electronic files be kept as small as practical and the lodgement files below 5 MB, as the limitations of the Internet and communications may affect the successful transmittal and receipt of large files.

4.6 Response Lodgement

- 4.6.1 Responses must be fully received by the Closing Date and Closing Time as per this PART A.
- 4.6.2 A Response must be lodged via the location provided in this PART A.

4.7 Electronic Responses

- 4.7.1 A response submitted electronically will be treated in accordance with the Electronic Transactions Act 2000 (NSW), and given the appropriate level of confidentiality, probity and attention.
- 4.7.2 Signatures are not required for an electronic response. A respondent must ensure that a response is authorised by the person or persons who may do so on behalf of the respondent and appropriately identify the person and indicate the person's approval of the information communicated.
- 4.7.3 Electronically submitted responses may be made corrupt or incomplete, for example by computer viruses. The Office may decline to consider for acceptance a response that cannot be effectively evaluated because it is incomplete or corrupt. Respondents must note that:
- a) To reduce the likelihood of viruses, a respondent must not include any macros, applets, or executable code or files in a response, and
 - b) Electronically submitted files are free from viruses by checking the files with an up to date virus-checking program before submission.



The Office will not be responsible in any way for any loss, damage or corruption of electronically submitted responses.

4.7.4 Responses must be fully received by the Closing Date and Closing Time.

4.7.5 Respondents may break down the lodgement of large responses into smaller packages if clearly identified e.g. package 1 of 3; 2 of 3; 3 of 3.

4.7.6 If a respondent provides multiple lodgements, the latest response received will be the response to be evaluated unless the respondent provides clear directions to whether the lodgement is:

- a) an alternative response;
- b) supporting information;
- c) a further part of a response that has had previous lodgement.

4.8 Late Responses

4.8.1 Late responses will not be considered, except where the Office is satisfied that the integrity and competitiveness of the process is not compromised.

4.8.2 The Office shall not penalise any interested party whose response is received late if the delay is due solely to mishandling by the Office.

4.9 Extension of Closing Date and Closing Time

4.9.1 The Office may, in its discretion, extend the Closing Date and Closing Time.

4.10 Corruption or Unethical Conduct

4.10.1 Respondents must comply with the requirements of the Office of Sports' Statement of Business Ethics Statement, and must disclose any conflicts of interests in Part B.

4.10.2 If a respondent, or any of its officers, employees, agents or sub-contractors is found to have:

- a) Offered any inducement or reward to any public servant or employee, agent or subcontractor of the Office or the NSW Government in connection with this RFQ or the submitted Response;
- b) Committed corrupt conduct in the meaning of the Independent Commission Against Corruption Act 1988; or
- c) A record or alleged record of unethical behavior; or has not complied with the requirements of the Office of Sports' Statement of Business Ethics Statement. This may result in the response not receiving further consideration.

4.10.3 The Office may, in its discretion, invite a respondent to provide written comments within a specified time before the Office excludes the respondent on this basis.

4.10.4 If the Office becomes aware of improper conflict of interest by a successful respondent after the Agreement has been executed, then the Office reserves the right to terminate this Agreement.

4.11 Code of Practice for Procurement

4.11.1 In submitting its response, the respondent signifies agreement to comply with the Code.

4.11.2 Failure to comply with the Code may be taken into account by the Office when considering the respondents response or any subsequent response, and may result in the response being passed over.



4.12 Addenda to RFQ

- 4.12.1 If, for any reason the Office, at its sole discretion, requires the RFP to be amended before the Closing Date and Closing Time, an addendum will be issued.
- 4.12.2 In each case, an Addendum becomes part of the RFP.
- 4.12.3 During the response period the Office may issue addenda altering the RFP. In such cases, it is the obligation of the respondent to verify if any addenda were issued prior to closing date, even if a response has already been submitted.

4.13 Respondents Costs

- 4.13.1 The respondent acknowledges that the Office will not be liable to it for any expenses or costs incurred by it as a result of its participation in this RFP, including where the RFP has been discontinued.

4.14 Ownership of Responses

- 4.14.1 All responses become the property of the Office on submission.
- 4.14.2 The Office may make copies of the responses for any purpose related to this RFP.

4.15 Discontinuance of Response Process

- 4.15.1 Where the Office determines that proceeding with the RFP would not be in the public interest, the Office reserves the right to discontinue the RFP process at any point, without making a determination regarding acceptance or rejection of responses.

4.16 Variations to Responses

- 4.16.1 At any time after the Closing Date of responses and before any response received in response to this RFP is accepted, a respondent may, subject to clause 4.16.2, vary its response:
 - a) by providing the Office with further information by way of explanation or clarification;
 - b) by correcting a mistake or anomaly; or
 - c) by documenting agreed changes to the response negotiated under clause 5.5 of the Conditions of Participation.
- 4.16.2 Such a variation may be made either:
 - a) at the request of the Office, or
 - b) with the consent of the Office at the request of the respondent; but only if,
 - (i) in the case of variation requested by the respondent under clause 4.16.1a)-b), it appears to the Office reasonable in the circumstances to allow the respondent to provide the information or correct the mistake or anomaly; or
 - (ii) in the case of variation under clause 4.16.1c), the Office has confirmed that the draft-documented changes reflect what has been agreed.
- 4.16.3 If a response is varied in accordance with clause 4.16.1a) or b), the Office will provide all other respondents whose responses have similar characteristics with the opportunity to vary their responses in a similar way.
- 4.16.4 A variation of a response under clause 4.16.1 will not be permitted if in the Office's view:
 - a) it would substantially alter the original response; or



- b) in the case of variation under clause 4.16.1(a) or (b), it would result in the revising or expanding of a response in a way that would give a respondent an unfair advantage over other respondents.

5 Evaluation Process

- 5.1.1 Responses will be assessed against the evaluation criteria listed in the table below, which are not indicated in order of significance or given equal weight.

Pass / Fail Criteria	<ul style="list-style-type: none"> a) No current legal proceedings b) Financial capacity and stability of supplier c) No conflicts of interest d) Compliance with proposed agreement e) Insurances
Non-Price Criteria	<ul style="list-style-type: none"> a) Organisational structure and key personal b) Methodology and approach to operational management c) Methodology and approach to healthy food guidelines d) Supplier's experience and capacity to provide the goods/services e) Proposed Implementation plan f) Fitness for purpose
Price Criteria	<ul style="list-style-type: none"> a) Revenue generated

- 5.1.2 Information supplied by the respondent in PART C will contribute to the assessment against each criterion. Respondents are advised to respond clearly to all the evaluation criteria listed in this RFP. The Office may seek to clarify any information provided by a respondent in PART C.
- 5.1.3 Responses that do not include a fully completed PART C, in particular those responses which do not contain sufficient information to permit a proper evaluation to be conducted, or electronic responses that cannot be effectively evaluated because the file has become corrupt, may be excluded from the response process without further consideration at the Office's discretion.

5.3 Presentations and Site Inspections

- 5.3.1 The Office may in its discretion, and as part of the evaluation process, invite any or some of the respondents to an interview process or ask them to make personal presentations or conduct site inspections regarding its response. The respondent shall undertake this at its own cost.
- 5.3.2 Receiving an interview or presentation or site inspection by a respondent in no way represents a commitment by the Office to accept any aspect of the response.
- 5.3.3 All information obtained during the course of an interview or presentation or site inspection may be taken into consideration in the evaluation of responses.

5.4 Acceptance or Rejection of Responses

- 5.4.1 The Office may assess an Alternative Response against the assessment criteria where submitted with a Conforming Response.
- 5.4.2 The Office expressly reserves the right to accept, in its discretion, either or both of the following:
- a) Any Alternative Response or part of an Alternative Response, where submitted with a Conforming Response; and



- b) Any other Non-Conforming Response or part of a Non-Conforming Response (not, in either case, being an Alternative Response or part of an Alternative Response) that, in the Office's opinion, is substantially a Conforming Response.

5.4.3 If the Office rejects all the responses received it may invite fresh responses based on the same or different criteria (specifications and details contained in Alternative Responses will not be used as the basis for the calling of new responses).

5.5 Exchange of Information between Government Agencies

5.5.1 Lodgment of a response will itself be an authorisation by the respondent to the Office to make available, on request, to any NSW government agency information, including but not limited to, information dealing with the respondent's performance on any contract/agreement that may be awarded. Such information may be used by the recipient NSW Government agency for assessment of suitability for pre-qualification, selective response lists, expressions of interest or the award of a facility use agreement or termination of a facility use agreement.

5.5.2 The provision of the information by the Office to any other NSW Government agency is agreed by the respondent to be a communication falling within section 30 of the Defamation Act 2005 (NSW), and the respondent shall have no claim against the Office and the State of New South Wales in respect of any matter arising out of the provision or receipt of such information, including any claim for loss to the respondent arising out of the communication

5.5.3 In the evaluation of responses, the Office may take into account any information about the respondent that the Office receives from any source.

5.5.4 In the avoidance of doubt, information that may be collected, exchanged and used in accordance with this provision includes "personal information" about the respondent for the purposes of the Privacy and Personal Information Protection Act 1998. Lodgement of a response will be an authorisation by the respondent to the Office to collect such information from third parties, and to use and exchange such information in accordance with this clause.

6 Notification of Short-listing

6.1 No respondents shall be deemed to have been short-listed until the respondent has been notified of such by the Office in writing.

7 Disclosure Information

7.1.1 Following the Office's decision, all respondents will be notified in writing of the outcome of their RFP Responses.

7.1.2 An outline of these requirements can be found in <https://www.legislation.nsw.gov.au/#!/view/act/2009/52>

8 Complaints Procedure

It is the NSW Government's objective to ensure that industry is given every opportunity to win Government contracts. Should any entity feel that it has been unfairly excluded from responding or unfairly disadvantaged by the Conditions in the RFP, or the Statement of Requirements in Part A, it is invited to write to:

**Director, Finance and Procurement
Office of Sport
Level 3, Building B, 6 Figtree Drive,
SYDNEY OLYMPIC PARK NSW 2127**

