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PARTICIPATE IN THIS RFT AND THEN BECOME A PROSPECTIVE
TENDERER**

Please read and Note:

This file is provided on the Commerce tenders web site when the Request For Tender (RFT) document is issued in Dmax Lite format.

This file contains (below) a brief scope statement and extracts from the RFT documents, but is not a complete RFT document and does not contain the responsible questions.

To participate in this tendering process you MUST first return to the Commerce tenders web site:

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

Then from the RFT web page (see RFT number below) download a full copy of the RFT documents, including the responsible components, and also any addenda issued to date; and also during the tender period.

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DmAX Lite Software

You will need to have a current licensed copy of the Dmax Lite 5.1 software to read, complete, and respond to the RFT with your tender. If you do not currently have such a licensed copy it can be optionally purchased and downloaded when downloading the full RFT documents from the tenders web site.



Services,
Technology &
Administration

NSW Procurement – Contracting Services is a Business Unit of the NSW
Department of Services, Technology & Administration

**NSW Procurement – Contracting Services invites this tender for and on
behalf of the
NSW Government State Contracts Control Board**

Request for Tender 0901848

GSAS Information Asset Management Systems
System Implementation & Managed Services
(IAMS SIMS).

Tender Issue Date: 16 November, 2009

Closing Date: 17 December, 2009

Closing Time: 9:30 am Sydney Time

Note: In order to respond to this RFT tenderers must have a current licence for i-Tenders Supplier software. Licences can be purchased through NSW eTendering website: www.tenders.nsw.gov.au at a cost of \$110 (inclusive of GST) for a 12 month annual licence. This provides access to respond to tenders developed in the i-Tenders application. It is anticipated that most RFTs released by the Board and the NSW Government will be in this format.

For help on purchasing your software, or use of application, please contact NSW Procurement Client Support Centre on 1800 NSW BUY (679 289) or NSWP_Support@Commerce.nsw.gov.au.

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For the purposes of this RFT, inquiries should be directed to the Contact Officer nominated in Part B of this RFT.

Other matters should be directed to:

Group General Manager
NSW Procurement – Contracting Services
NSW Department of Services, Technology & Administration
McKell Building
2-24 Rawson Place
Sydney NSW 2000
Tel: (02) 9372 8953
Fax: (02) 9372 7533

GSAS Information Asset Management Systems System Implementation & Managed Services (IAMS SIMS)

REQUEST FOR TENDER - PART A – OVERVIEW.....	4
1 Outcome	4
2 Background to the GSAS Program	4
3 Objectives.....	7
4 Required Benefits	8
5 Scope of RFT	8
6 RFT Structure	9
7 Best Price and Cost Structure	9
8 Benchmarking.....	10
9 Performance Framework	10
10 Customer Contract Formation	10
11 Electronic Business	11
12 Implementation of an ICT Services Portal	11

REQUEST FOR TENDER - PART A – OVERVIEW

1 Outcome

This Request for Tender (“RFT”) is made by the State Contracts Control Board (the “Board”) for the supply to Eligible Customers of the Deliverables defined this RFT.

The Board is responsible for the delivery of the tender process, assisted by NSW Procurement – Contracting Services. This RFT is coordinated by the Government Chief Information Office (GCIO).

NOTE: Responses to this RFT are not limited to IAMS software vendors and certified and accredited partners of these IAMS software applications that exist on the IAMS panel 2602. While certification/accreditation will be highly regarded, it is not essential. Tenderers should indicate in their response any certification/accreditation they hold.

Tenderers may tender for both the Systems Integration (SI) and Managed Services (MS) components of this RFT or tender for either component alone. Part C Tender Response contains SI evaluation questions commencing at Clause 6, with scenario evaluation questions commencing at Clause 7 MS evaluation questions commence at Clause 8.

2 Background to the GSAS Program.

2.1 The NSW Department of Technology, Services & Administration (DTSA), GCIO and NSW Procurement (NSWP) have embarked on a comprehensive review of –

- Government Selected Application Software (GSAS) Panel Contracts – a series of panel contracts for the provision of corporate service software systems to the NSW Public Sector which covers the following application areas – Finance, HR/Payroll, Records and Information Managements as well as Integrated Management solutions.
- Back Office Application Consolidation (BOAC).

The above are two strategic projects approved under People First, the NSW ICT Strategic Plan to improve service delivery and reduce costs of IT in relation to corporate applications through consolidation, standardisation and application lifecycle management.

The “guiding principles” of the GSAS/BOAC Projects include –

- improving the Government’s Return on Investment (ROI) across the installed base
- to ensure licence transferability and achievement of economies of scale, the “Crown” (NSW Government) will be the central custodian of all GSAS application licences
- a central program office, based in NSWP will coordinate all activities relating to corporate applications
- development a standard, NSW Government configuration for “core” functionality to reduce implementation, upgrade, support and maintenance costs
- a significant shared services program that includes –
 - a reduced number of processing centres, i.e. the formation of “clusters” for NSW Government Agencies/Departments
 - use of a “lead agency” model within sectors to manage and maintain corporate applications
 - consolidation of software applications – i.e. a reduced number of applications, instances, versions and technologies

- the potential to “on-board” a number of Departments/Agencies onto the successful Vendors’ application/s
- integration of Government applications/initiatives such as smartbuy and eRecruitment into the core standard government configuration
- building sustainable long term relationships with successful vendor/s

To support these initiatives, the GSAS program has been expanded to incorporate a lifestyle management approach to the acquisition, implementation and maintenance of IAMS systems. It has been divided into three sections –

- Application Providers
- Service Providers
- Third Party Providers

2.2 Service Provider Strategy

Agencies will have a choice of two paths to the acquisition of resources to support their IAM environments:

- *Time and Material* engagement of individual contractors for short term assignments. An example of this would be a 3 day engagement to update authorisations. This sourcing method will be known as *Contractor Services* and
- Project engagement via preferred suppliers for significant packages of work where the supplier carries a greater responsibility for the task, and the task is of a greater complexity. This sourcing method will be known as *GSAS System Implementation & Managed Services (Preferred Supplier Panel Contract)*.

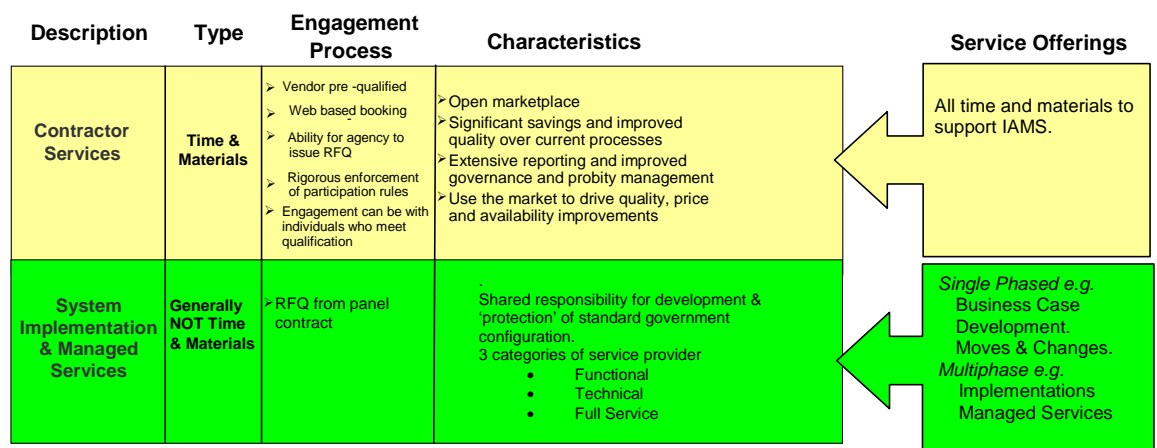


Figure 1 Support Services Sourcing Model

2.3 System Implementation & Managed Services (SIMS) Panel

The GSAS panel contract for System Integration & Managed Services (SIMS) has been established for service providers who support the IAMS solutions. The panel will be for a term of 5 years, subject to annual reviews to potentially admit new providers, and remove non performing providers, if necessary.

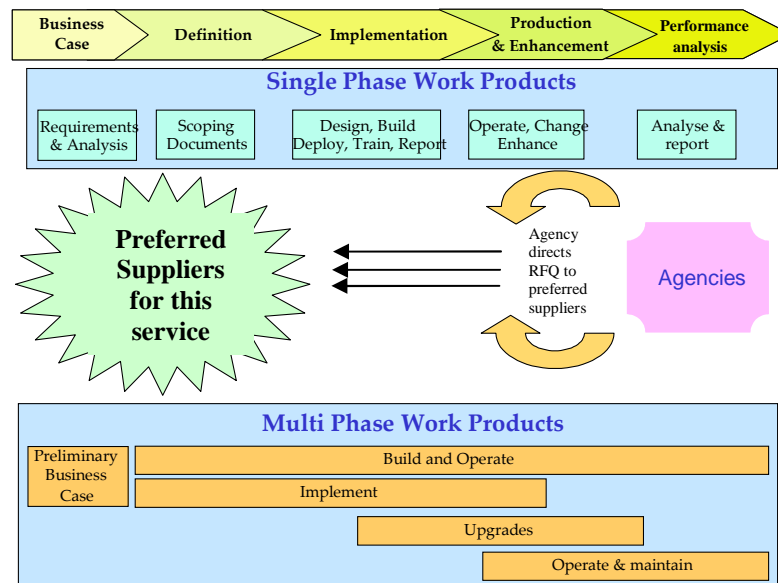


Figure 2 SIMS Work Execution Model

The figure above provides a general illustration of how work packages, (that can be either single phase or multi phase) are passed to the preferred suppliers to quote on. Managed Services in most instances would be multi phased work products.

From the responses to this RFT a group of suppliers will be appointed to the panel as Preferred Suppliers for the provision of Managed Services to NSWG agencies.

2.4 Managed Services Component Matrix

Figure 4 below is intended to illustrate the potential range of Managed Services that an agency could go-to-market to source. The requirement could be as broad as complete outsourcing of all support and operations, or as narrow as Help Desk support for one application area. The potential combinations of Managed Services deliverables is clearly significant and will be determined on a case-by-case basis to meet individual agency needs. A potential deliverable exists at the intersection of each asset and task layer.

Task Layer		Asset Layer				
Continuous Improvement Management						
Problem Resolution & Reporting						
Capacity Management						
Operations & Process Management						
Configuration & Change Management						
Service Level Management	Application Components					
Security Management	Technical Environment					
Analysis, Planning, Budgeting, Performance Reporting	Web Services					
	Systems, Databases & Interfaces					
	Networks					
	Infrastructure					
Roles and Responsibilities						
Pricing Framework						
Contract Framework						

Figure 4 Managed Services Component Matrix.

It is important for tenderers to recognise that each Managed Services contract will have tailored requirements for both deliverables and contract performance.

3 Objectives

The objectives of the proposed Agreement in achieving the desired outcome, includes, but is not limited to the following:

- Reduce the total cost of the Deliverables;
- Provide Deliverables which are commercially competitive;
- Establish a sustainable partnership between the Eligible Customers and the successful tenderer(s) to deliver quality Deliverables;
- Best practice through continual review of service delivery methods i.e. value-engineering;
- Effective management of risks;
- Compliance with all applicable laws, standards, codes and policies;
- To drive automation in procurement for greater efficiency and information management.

4 Required Benefits

The required benefits to be achieved in delivering the objectives of the proposed Agreement are:

- (a) A sustainable, mutually beneficial supply chain partnership;
- (b) Savings and efficiency gains;
- (c) Reduced costs to NSW Government by value-engineering its delivery methods;
- (d) Increasing the number of Eligible Customers which procure the Deliverables under the proposed Agreement;
- (e) Transparency of all transactions, including performance measurement, pricing and reporting;
- (f) Expanded utilisation of electronic procurement across NSW Government to drive efficiency and transparency through systems such as smartbuy®, e-Tendering, i-Tenders etc.

5 Scope of RFT

4.1 Deliverables

Contractors must be proactive in marketing their Deliverables to Eligible Customers.

5.2 Contract and Duration

The proposed Agreement which is in the form of a Deed of agreement (RFT, Part D Procure IT Whole of Government Agreement) is between the Board and the successful tenderer(s).

It is envisaged that the term of the proposed Agreement will be of two (2) years, which may be extended for three (3) periods of one (1) years duration at the discretion of the Board.

5.3 Current Scope and Expenditure

The current expenditure incurred by government agencies for the procurement of the Deliverables is \$25 million/year. This amount is provided for information only and does not constitute a guarantee for future work through the proposed Agreement.

5.4 Engagement of Additional Contractors

The Board reserves the right to appoint more than one Contractor under the proposed Agreement.

The Board further reserves the right to issue a restricted RFT during the term of the Agreement to engage additional Contractors. Such RFTs will be restricted to those tenderers who have been awarded agreements for the supply of Services for Categories covered by this RFT but not included in the Agreement. The tenderers will have to meet the same terms and conditions and will be subjected to the same evaluation criteria as for this RFT.

5.5 NSW Government requirements

The successful tenderer must comply with NSW Government codes, guidelines, and Standards listed in Schedule 1 of Part D.

6 RFT Structure

This RFT is structured in the i-Tenders format. i-Tenders is an e-sourcing application designed to fully automate the traditional paper-based tendering process introducing best practice processes in electronic tender production, submission and evaluation to improve a tender submission, evaluation and award phases.

This RFT comprises 4 Parts as follows:

Overview – Part A

It is an executive summary of main outcomes, objectives, requirements and expectations for this Agreement as described in detail in the proposed Agreement and the Statement of Requirements. It provides the tenderer(s) with the essential information to make an informed decision on whether to tender or not.

Conditions of Tender – Part B

It provides the terms, conditions and processes governing the tender phase of the RFT.

Tender Response – Part C

These are response schedules which are required by the Board to evaluate the tenderers' offers. Tender responses to be completed by the tenderer(s) are in the i-Tenders format.

Deed of Agreement - Part D

This contains the terms and conditions of the Procure IT Whole of Government Agreement to be executed between the successful tenderer/s and the Board.

Special Conditions – Part E

Not Used

Statement of Requirements – Part F

Not Used

7 Best Price and Cost Structure

Tenderers are encouraged to provide their best price(s) with their tender. Whilst the Board reserves the right to negotiate pre award, such negotiations may not occur and it is not the Board's preference.

It is important that tenderers realise that they may not be short-listed for further consideration, if they do not provide their best price with their initial tender.

This RFT seeks transparency in the tenderer's Cost Structure in the Tender Schedules (RFT, Part C) and is required to be fully completed by tenderer/s to:

- Provide the Board with transparency of the tenderer's Cost Structure;
- Form the basis for price future variations, if applicable.

The tenderer's Cost Structure may be linked to the performance framework under the proposed Agreement.

The Board expects the successful tenderer(s) to reduce its pricing during the term of the proposed Agreement by:

- (a) Continually improving delivery processes to improve efficiency;
- (b) Providing lower prices and discounts for large/bulk purchases;
- (c) Passing on the benefit of rebates received from its own suppliers to Eligible Customers;
- (d) Matching prices as identified/recommended from the benchmarking process;

- (e) Other methods of savings identified during the term of the proposed Agreement;
- (f) Price matching as identified by customers;
- (g) Expanded utilisation of electronic procurement across NSW Government to drive efficiency and transparency through systems such as smartbuy®, e-Tendering, i-Tenders etc.

8 Benchmarking

Benchmarking with other suppliers within the market place is a potential price-management mechanism under the proposed Agreement.

An independent benchmarking service provider may be engaged to compare prices of the Deliverables with other comparable Deliverables available in the market place. The benchmarking service provider will be mutually agreed by the Board and successful tenderer/s.

Benchmarking may be undertaken by the benchmarking service provider after the first anniversary of the proposed Agreement and at 12 monthly intervals thereafter.

9 Performance Framework

The Board is committed to engaging contractors who are able and willing to continually improve their performance during the term of the proposed Agreement.

The performance framework within the proposed Agreement provides both incentives for good performance and sanctions for poor performance.

Performance incentives and sanctions are based on the Contractor's performance as measured by an Overall Performance Indicator (OPI). Both Contracting Services (monitor the Key Performance Indicators – KPI) and Customers (monitor the Agency Performance Indicators – API) will provide data to establish the OPI. The Statement of Requirements (RFT, Part F) describes the performance framework in detail and the measurement/targets of all performance indicators.

Typical incentives and sanctions that may be used by the Board include, but are not limited to :

- (a) Additional or reduced performance reporting requirements;
- (b) Temporary suspension of all or parts of a proposed Agreement for a period not exceeding 12 months;
- (c) Scope variation ie. inclusion of additional Services/reduction;
- (d) Extensions of the proposed Agreement (if available);
- (e) Non payment of price variations.

The successful tenderers will be required to provide to the Board “granular sales data” (as defined in clause 13.5 of Part D))of all sales made by or on behalf of the Contractor to Eligible Customers on a monthly basis and consent to the analysis and use of that data by the Board.

10 Customer Contract Formation

Eligible Customers will place orders against the proposed Agreement based on the contracted pricing and the Statement of Requirements. Each time an Eligible Customer places an order, a separate contract will be formed.

Eligible Customers will provide feedback to the Board on the performance of all Contractors.

11 Electronic Business

The use of electronic commerce is a mandatory requirement under this Agreement. Further details are included in the sample Agreement (RFT, Part D Procure IT Whole of Government) and the Statement of Requirements (RFT, Part F).

The use of NSW government electronic procurement systems (smartbuy®, NSW e-Tendering, i-Tenders, etc) is a mandatory requirement under this Agreement. Tenderers are encouraged to present similar electronic solutions that can further support expanding adoption of electronic business by NSW government agencies and their suppliers.

12 Implementation of an ICT Services Portal

The ICT Services Accreditation Scheme will be supported by a web-based portal. Suppliers and agencies MUST use the ICT Services Portal (see details given below) for the exchange of key documents, and for recording all ICT Services activity as appropriate and as determined from time-to-time by NSW Procurement on behalf of the Board.

The ICT Services Portal facilitates the secure exchange of:

- Supplier Statements (these brief statements, prepared using information provided through the RFT process will summarise each Supplier's capabilities, capacity and experience and they will be accessible to all Agencies);
- Requests for Quotes (RFQ) (to be issued by Government Agencies);
- Solution Responses (to be provided by Suppliers if they choose to respond to RFQ'S);
- Project Performance Reviews (to be conducted by Suppliers and Government Agencies at project completion;
- Project Learnings (to be provided by Suppliers after projects have been completed and
- Other key documents as determined by NSW Procurement including self assessment of supplier capabilities as described in the following section.

Organisation Capability Information in ICT Services Portal

Accredited suppliers will have to undertake a self-assessment of their capabilities, capacity and experience whilst registering on the ICT Services Portal.

The self-assessment will be based on a "Capability Model - Integration" (CMMI) similar to that being used by the South Australian Government. The CMMI is based on a scale that progresses through five levels from Initial to Managed, Defined, Quantitatively Managed, and Optimising.

Accredited suppliers will be provided with more information on how to undertake their self-assessment during their registration onto the ICT Services Portal or during their initial induction meeting. It is imperative that accredited suppliers provide a true reflection of their capabilities on the ICT Services Portal as agencies may proceed to shortlist or select a supplier based on the information provided in the ICT Services Portal.

It should be noted that agencies will undertake a similar assessment of the accredited suppliers and rate them on the same scale/key factors on the ICT Services Portal following the completion of a project and their experience with the selected supplier.

Any misrepresentation (whether intentional or otherwise) by the accredited suppliers on the ICT Services Portal may be seen as a breach of the accreditation scheme and will be dealt with accordingly.

Client Engagement

While the ICT Services Portal will allow agencies to scan suitable suppliers equally, it will be the responsibility of accredited suppliers to market their services. Applicants are to note the existence of a number of project specific and period contracts for individual client departments and agencies who will be able to access the accredited list. Work orders from agencies are to be placed in accordance with PROCURE IT which is the basis of all engagements under the scheme.

ICT Service Provider Performance

The performance of accredited ICT service providers will be monitored through the ICT Services Portal throughout the period of the Accreditation Scheme. This monitoring may include, but not limited to, the following:

- Ongoing compliance with the Scheme accreditation requirements
- Complaints pattern
- Client usage
- Change in financial status or legal entity as reported by supplier or by an independent agency nominated by NSW Procurement
- Effectiveness of marketing campaigns
- Performance Reports by clients
- Self assessments reported in the ICT Services Portal
- Non compliance to requirements specified NSW Procurement Business Ethics statement
- Any improper or undisclosed conflict of interests.

Temporary suspension or removal of accreditation

The Board or its delegate may suspend an ICT service provider from the benefits of the Scheme for an initial period of up to 3 months or totally remove the ICT Service provider from the scheme. This occurs if the Board obtains evidence that the ICT service provider is not complying with the Scheme requirements or developing an unsatisfactory record as per the performance reports.

In dealing with any apparent non-compliance, the Board will generally proceed as follows:

The ICT service provider will be notified in writing of the reasons for the suspension (prior to this step the Board, at its discretion, may give the ICT service provider the opportunity to provide reasons as to why a sanction should not be applied)/

An ICT service provider will be requested to inform the Board when and how it will resolve the reasons for the suspension have been resolved.

The Board or its delegate may revoke the suspension if it is satisfied that the ICT service provider has taken the appropriate action to resolve the reasons for suspension.

Downgrading of accreditation

NSW Procurement may downgrade an ICT service provider's level of accreditation under the Scheme when NSW Procurement considers that an ICT service provider has:

- Unsatisfactory performance during the accreditation period
- Experienced and adverse change in capacity; or
- Experienced and adverse change in business status.

Upgrading of accreditation

NSW Procurement may upgrade an ICT service provider's level of accreditation under the Scheme when:

- an ICT service provider can demonstrate it has met the requirement for the higher level or
- an ICT service provider accredited under the scheme consistently exceeds the expectations of the client needs detailed in the performance reports.

Removal of accreditation

The Board or its delegate may remove an ICT service provider's level of accreditation. Reasons for the removal may include, but not be limited to :

- ICT service providers that have not provided services to clients during a 12 month period
- ICT service providers that have not met key performance requirements as detailed in the performance reports
- ICT service providers that have experienced an adverse change in capacity or capability
- ICT service providers that have experienced an adverse change in business status
- ICT service providers that have engaged in corrupt or unethical conduct
- Any breach of PROCURE IT terms and conditions

Before the accreditation of an ICT service provider is removed the Board or its delegate will advise the ICT service provider of the details for the removal.

Where an ICT service provider is removed from the Scheme, it is not eligible to re-apply for accreditation for a period of 12 months from date of removal.

Accreditation Appeals Process:

Should an ICT service provider consider that there are substantive grounds to review a decision, the ICT service provider may request a review providing full details of the reasons in writing, to:

Group General Manager - NSW Procurement
Level 11, Mckell Building
2-24 Rawson Place
SYDNEY NSW 2000

The department will inform the ICT service provider of the outcome of the review.

Changes to ICT service provider's status

ICT service providers that are accredited under the Scheme must immediately inform the following contact officer of any substantial change in their offerings, financial capacity, capability, ownership status, contact details or address by writing with full details to:

Manager - Vendor Management
NSW Procurement
Level 10, Mckell Building
2-24 Rawson Place
SYDNEY NSW 2000

Review and development

The Scheme will be subject to annual review by the State Contracts Control Board to assess whether the objectives and intent of the Scheme are being met. This review may involve meetings with each accredited ICT service provider. Any enhancements or modifications to the Scheme may be made at the Board's discretion during the life of the accreditation process.

GSAS Information Asset Management Systems Systems
Implementation & Managed Services (IAMS SIMS)

PART B Conditions of Tender 2

1 Definitions 2

2 Tender Preparation 4

3 Eligibility to Tender 4

4 Tender Process 5

5 Evaluation Process 9

6 Method of Acceptance 13

7 Disclosure Information 13

8 Complaints Procedure 13

ANNEXURE 1 TO PART B (Disclosure of Information)..... 14

PART B Conditions of Tender

1 Definitions

Unless the context indicates otherwise, the following terms, where used in Parts A-C of this RFT, shall have the meanings set out below.

“ABN” means an Australian Business Number as provided in GST law.

“Addendum” means an addition to this RFT made by the Board made before Closing Date and Time.

“Agreement” means an agreement made by a tenderer with the Board pursuant to the RFT under which there is an Agreement for the provision of goods and services on the order of any Customer for whom the Board has arranged the contract. The Agreement will be embodied in a Deed of Agreement between the Board and the Contractor in the form of Part D (and Part E if applicable) to this RFT.

“Alternative Tender”

A Non-Conforming Tender that is intended to offer a different method of meeting the object and intent of the requirement.

“Board”

The State Contracts Control Board established under the *Public Sector Employment and Management Act 2002* whose responsibilities include:

- (a) Inviting and accepting tenders;
- (b) Determining the conditions under which tenders are invited or accepted;
- (c) Entering into contracts on behalf of the Crown in right of the State of New South Wales; and
- (d) On-going contract administration and management, and includes the duly authorised delegates of the Board, including officers of NSW Procurement – Contracting Services.

“Category” means generic categories comprising of multiple Products inclusive of the associated services for its supply.

“Closing Date and Closing Time” means the Closing Date and Time for receipt of tenders specified in the cover sheet of this RFT.

“Code” means the NSW Government Code of Practice for Procurement as amended from time to time, together with any other codes of practice relating to procurement, including any amendments to such codes that may be applicable to the particular RFT. The Code can be viewed and downloaded from: http://www.nswprocurement.com.au/Government-Procurement-Frameworks/Files/code_of_prac-curr.aspx

“Conforming Tender” means a tender that conforms in all material aspects to:

- (a) the Statement of Requirements;
- (b) the terms and conditions of Part D;
- (c) other parts of this RFT; and
- (d) is in the prescribed form.

“Contractor” means a tenderer who has entered into an Agreement with the Board.

“Cost Structure” means the individual tenderer’s cost breakdown in accordance with the number of product categories specified in Part C. Such breakdown must equate to 100% of the tenderer’s cost for the supply of the Deliverables.

“Customer Contract” means the contract that is made between the Contractor and an Eligible Customer, on the terms and conditions stated in clause 3.3 of Part D, by means of the placing of an order by the Eligible Customer with the Contractor.

“Deed” means a form in which a contract can be recorded which requires execution under the parties' seal.

“Deliverables” means the goods and services or the goods or services sought under this RFT, as detailed in the Statement of Requirements.

“Eligible Customer” means

- (a) An entity listed in Schedule 1 to the *Public Sector Employment and Management Act 2002* as amended from time to time;
- (b) A public body as defined by clause 18(4) of the *Public Sector Management (Goods and Services) Regulation 2000* being:
 - (i) a government trading enterprise (including a State owned corporation),
 - (ii) a public or private hospital (including an area health service),
 - (iii) a local government agency,
 - (iv) a charity or other community non-profit organisation,
 - (v) a public or private school or a college or university,
 - (vi) a public authority of this State, the Commonwealth or any other State or Territory,
 - (vii) a contractor to a public authority (but only in respect of things done as such a contractor),
 - (viii) a Nominee Purchaser provided that it satisfies the requirements of clause 3.6 of Part D (Agreement), and
 - (ix) such other persons or entities, which the Board may from time to time in its discretion, determine through a customer registration process.

“GST” means a goods and services tax and has the same meaning as in the GST Law.

“GST Law” means any law imposing a GST and includes *A New Tax System (Goods & Services Tax) Act 1999* (C'th) or if that Act does not exist, means any Act imposing, or relating, to a GST and any regulation made under those Acts.

“GST Free Supplies” and **“Input Taxed Supplies”** have the same meaning as in the GST Law.

“Nominee Purchaser” means a contractor to an Eligible Customer, nominated by the Eligible Customer to be authorised to place orders under Agreements and registered by NSW Procurement – Contracting Services.

“Non-Conforming Tender” means a tender that does not conform in all material aspects to:

- (a) the Statement of Requirements;
- (b) the terms and conditions of Part D;
- (c) other Parts of this RFT;
- (d) is not in the prescribed form.

“NSW Procurement - Contracting Services” A business unit of the NSW Department of Services, Technology & Administration representing the Board and authorised to arrange and administer contracts on behalf of the Board.

“Procure IT” means a set of standard terms and conditions for Information Technology procurement by the NSW Government agencies, contained in Part D of this RFT.

“**smartbuy®**” means an electronic market place, consisting of an internet web site and associated databases and applications, maintained on behalf of the NSW Government, located at <http://smartbuy.nsw.gov.au> and associated domains.

“**State Contracts Control Board**” is the Board.

2 Tender Preparation

2.1 Tenderer to inform itself

Before submitting its tender, a tenderer must:

2.1.2 Examine all information relevant to the risks and contingencies and other circumstances having an effect on its Tender; and

2.1.3 Satisfy itself:

(a) that the tender, including the tender price is correct; and

(b) that it is financially and practically viable for it to enter into and perform the proposed Agreement.

2.2 Assumptions made by Tenderer

Where a tenderer has made assumptions in preparing its tender, such assumptions must be set out in a supporting statement and submitted with the tender.

2.3 Information Supplied in Part F (Not Used)

3 Eligibility to Tender

3.1 Legal Entity of Tenderer

3.1.1 Tenders must be submitted by a legal entity or, if a joint tender, by legal entities, with the capacity to contract. The Board will only enter into an Agreement with such legal entity or entities.

3.1.2 The Board may ask a tenderer to provide evidence of its legal status or capacity to contract. If tenders 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 3 working days of the request.

3.2 Financial Capability of Tenderer

3.2.1 The Board reserves the right to reject any tender if the Board judges the tenderer not to have appropriate financial capability.

3.2.2 Where the Board forms the view that the tenderer does not have the appropriate financial capability, the Board reserves the right to make acceptance of any tender conditional upon the tenderer entering into a bank, parent company or personal guarantee, or an unconditional performance bond in a form satisfactory to the Board.

3.3 ABN Requirements

3.3.1 The Board will not enter into an Agreement with a company that does not have an Australian Business Number and is not registered for GST. Normally, tenderers must be registered for GST and state their ABN in their tender.

3.3.2 Tenders from tenderers that do not have an ABN and/or are not registered for GST, such as tenderers commencing business in Australia, may be considered at the Board's discretion if the tenderer demonstrates that it will obtain an ABN and GST registration before entering into an Agreement with the Board. Such tenderers must state how and when they intend to obtain an ABN and register for GST in their tender response.

4 Tender Process

4.1 Tenderer Briefing

- 4.1.1 A tenderer briefing will be held on the date, time, and place, indicated below. The contact officer/s of NSW Procurement – will be available at that time to answer any queries regarding this RFT and the tender process generally. Names of persons attending the tenderer briefing must be provided 3 working days prior to the date. No more than 2 persons from each tenderer will be permitted to attend the tenderer briefing.

Location: SMC Conference & Function Centre
66 Goulburn Street
Sydney NSW 2000
Corinthian Room, Ground Floor
Date: Wednesday, 25 November, 2009.
Time: 2.00pm

4.2 Contact Officer

- 4.2.1 Tenderers should refer requests for information or advice regarding this RFT to:
Client Support Centre P: 1800 NSW BUY
E: nswbuy@commerce.nsw.gov.au
- 4.2.2 Any information given to a tenderer to clarify any aspect of this RFT will also be given to all other tenderers if in the Board's opinion the information would unfairly favour the inquiring tenderer over other tenderers.

4.3 Pre-Tender Access to Prospective Nominee Purchasers

- 4.3.1 A tenderer who wishes to become a Nominee Purchaser to an Eligible Customer under any existing NSW State Contracts Control Board Agreement, must apply to that Eligible Customer to be granted temporary viewing access to view the relevant Board Agreements on smartbuy®. The procedure is described in the link below. The purpose of such pre tender access is to enable tenderers who wish to do so, to price the products and services at Board rates and confer any benefit in their tender to the Eligible Customer. The information must not be used for any other purpose.
- 4.3.2 A tenderer seeking pre tender access must complete the Pre-Tender Access Application Form indicated through the link below. The Eligible Customer will determine, in its sole discretion, whether the tenderer's application will be recommended. In the exercise of this discretion, the Eligible Customer will ensure that decisions made are applied consistently to all applicants. Recommended applications will be submitted by the Eligible Customer to NSWP – Contracting Services for approval.
- 4.3.3 If the tenderer is successful in its tender, it must apply to become a Nominee Purchaser.

4.4 Conformity of Tenders

- 4.4.1 The Board seeks Conforming Tenders.
- 4.4.2 Non-Conforming Tenders may be excluded from the tender process without further consideration at the Board's discretion.

4.5 Alternative Tenders

- 4.5.1 Tenderers may, if they choose, submit an Alternative Tender. Alternative Tenders will only be considered if submitted in conjunction with a Conforming Tender. An Alternative Tender must be clearly marked "Alternative Tender".

4.6 Submission of Tenders

- 4.6.1 Prices, responses and other information provided in the tender are to be in writing and in English.
- 4.6.2 Tenderers must complete all of Part C of this RFT, as directed and must not amend any of the questions provided.
- 4.6.3 Tenderers should notify the Contact Officer in writing on or before the Closing Date and Time if they find any discrepancy, error or omission in this RFT.
- 4.6.4 All tenders must be provided in the i-Tenders Supplier format, using the i-Tenders Supplier software. The tender responses in Part C must be included in one or more files with an extension of *.dtr. The i-Tenders Supplier software is only supported on a Microsoft Windows 9X and above operating system; other operating systems are not compatible. Tenderers must ensure a Microsoft Windows compatible computer is used to prepare the tender.
- 4.6.5 When submitting an electronic tender with supporting items:
 - (a) The complete tender, including the supporting items must be submitted by Closing Date and Closing Time, and
 - (b) supporting items provided by the tenderer in support of its tender but excluding printed material should be clearly designated as supporting items to the RFT to which they relate and be forwarded to the Contact Officer indicated in clause 4.3 of this RFT in a sealed envelope.
- 4.6.6 Tenderers must ensure that all excel or word attachments can be opened and viewed by Microsoft Excel 2003 or Microsoft Word 2003. Other formats for the attachments are only to be submitted if an arrangement has first been made with the Contact Officer prior to lodgment of the tender.

4.7 Electronic Tenders to the NSW Department of Services, Technology & Administration *eTendering* website

- 4.7.1 A tenderer is required to lodge its tender electronically through the NSW Department of Services, Technology & Administration *eTendering* website at <https://tenders.nsw.gov.au/commerce>. A tender submitted electronically will be treated in accordance with the *Electronic Transactions Act 2000* (NSW), and given no lesser level of confidentiality, probity and attention than tenders lodged by other means.
- 4.7.2 A tenderer, by electronically lodging a tender, is taken to have accepted conditions shown in the Conditions and rules on the NSW Department of Services, Technology & Administration *eTendering* website.
- 4.7.3 A tenderer must follow the following directions:
 - (a) A RFT for which electronic lodgement is available through the website can be identified by the blue "Lodge a Response" link on the web pages for the RFT.
 - (b) To lodge a tender electronically, the files containing the tenderer's response must be up-loaded through the website. Access to the up-loading process is through the blue "Lodge a Response" link, then following the steps and instructions on the NSW Department of Services, Technology & Administration *eTendering* website and any instructions which may have been supplied with the RFT.
- 4.7.4 A tenderer must observe the following format for lodgements:
 - (a) An electronically lodged tender must be lodged in a file format required by the RFT.
 - (b) If a tenderer compresses files, it must be possible to decompress them using WinZip. A tenderer must not submit self-extracting (*.exe) zip files.
 - (c) A tenderer must not change pre-existing text in the RFT other than to insert the required information.

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- (d) The file/s name/s must have an extension and not have invalid characters or file names/loading pathnames too long for the system, as detailed on the NSW Department of Services, Technology & Administration *eTendering* website.
- 4.7.5 Signatures are not required for a tender submitted to the NSW Department of Services, Technology & Administration *eTendering* website. A tenderer must ensure that a tender response is authorised by the person or persons who may do so on behalf of the tenderer and appropriately identify the person and indicate the person's approval of the information communicated.
- 4.7.6 Electronically submitted tenders may be made corrupt or incomplete, for example by computer viruses. The Board may decline to consider for acceptance a tender that cannot be effectively evaluated because it is incomplete or corrupt. Tenderers must note that:
- (a) To reduce the likelihood of viruses, a tenderer must not include any macros, applets, or executable code or files in a tender response.
 - (b) A tenderer should ensure that electronically submitted files are free from viruses by checking the files with an up to date virus-checking program before submission.
- 4.7.7 If a tenderer experiences any persistent difficulty with the NSW Department of Services, Technology & Administration *eTendering* website in submitting a tender or otherwise, it is encouraged to advise the Contact Officer promptly in writing.
- (a) If there is a defect or failure of the NSW Department of Services, Technology & Administration *eTendering* website and the Board is advised, the tender Closing Date and Closing Time may be extended provided that, in the view of the Board, the RFT process will not be compromised by such an extension.
 - (b) Tenders must be fully received by the Closing Date and Closing Time.
- 4.7.8 A tender lodged via the NSW Department of Services, Technology & Administration *eTendering* website should ideally be below 7 megabytes (MB) in total file size. Responses totalling more than 7MB may experience difficulties in lodgement. In this case tenderers may break down the lodgement into smaller packages if clearly identified eg. package 1 of 3; 2 of 3; 3 of 3.
- 4.7.9 If a tenderer provides multiple lodgements, the latest tender received will be the tender to be evaluated.
- 4.8 Tender Validity Period**
- 4.8.1 The Tender will remain open for acceptance by the Board for a period of six (6) months from the Closing Date and Time for tenders.
- 4.9 Late Tenders**
- 4.9.1 Late tenders should not be considered, except where the Board is satisfied that the integrity and competitiveness of the tendering process has not been compromised. The Board shall not penalise any supplier whose tender is received late if the delay is due solely to mishandling by the Board.
- 4.10 Extension of Closing Date and Time**
- 4.10.1 The Board may, in its discretion, extend the Closing Date and Closing Time.
- 4.11 Corruption or Unethical Conduct**
- 4.11.1 Tenderers must comply with the requirements of the Department of Services, Technology & Administration Business Ethics Statement, which is available at the link below and must disclose any conflicts of interests in Part C.
- 4.11.2 If a tenderer, or any of its officers, employees, agents or sub-contractors is found to have:

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- (a) offered any inducement or reward to any public servant or employee, agent or subcontractor of the Board, Customer or the NSW Government in connection with this RFT or the submitted Tender;
 - (b) committed corrupt conduct in the meaning of the *Independent Commission Against Corruption Act 1988*;
 - (c) a record or alleged record of unethical behaviour; or not complied with the requirements of Department of Services, Technology & Administration Business Ethics Statement available at: <http://www.commerce.nsw.gov.au/About+Commerce/Business+ethics+statement/Business+ethics+statement.htm>;

this may result in the tender not receiving further consideration.

4.11.3 The Board may, in its discretion, invite a relevant tenderer to provide written comments within a specified time before the Board excludes the tenderer on this basis.

4.11.4 If the Board becomes aware of improper conflict of interests by a successful tenderer after an Agreement has been executed, then the Board reserves the right to terminate the Agreement and any Customer Contract that has been made under it.

4.12 Code of Practice for Procurement

4.12.1 In submitting its tender, the tenderer signifies agreement to comply with the Code.

4.12.2 Failure to comply with the Code may be taken into account by the Board when considering the tenderer's tender or any subsequent tender, and may result in the tender being passed over.

4.13 Prescribed Form of Tender

The tender, including any Alternative Tender, must comprise a completed Part C and any attachments to Part C, as may be necessary. Any attachments should be labelled to identify those clauses of the RFT to which they relate.

4.14 Addenda to RFT

4.14.1 If, for any reason the Board, at its sole discretion, requires the RFT to be amended before the Closing Date and Time, an Addendum will be issued.

4.14.2 In each case, an Addendum becomes part of the RFT.

4.14.3 The Board, during the tender period may issue Addenda altering the RFT. In such cases, it is the obligation of the tenderer to verify if any Addenda were issued prior to the Closing Date, even if a tender has already been submitted.

4.14.4 Tenderers must check the web site address, <https://tenders.nsw.gov.au/commerce> and download the Addendum.

4.15 Tenderer's Costs

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

4.16 Custody of Tenders after Receipt

4.16.1 Tenders lodged electronically to the NSW Department of Services, Technology & Administration Tenders website will be treated in accordance with the *Electronic Transactions Act 2000* (NSW) and given no lesser level of confidentiality, probity and attention than tenders lodged by other means.

4.16.2 On receipt of tenders lodged electronically to the NSW Department of Services, Technology & Administration eTendering website, Tenders are encrypted and stored in a secure "electronic tender box."

4.16.3 For reasons of probity and security, NSW Department of Services, Technology & Administration is prevented from interrogating the electronic tender box to ascertain whether tenders have been received or for any reason, until after the Closing Date and Closing Time.

4.16.4 The e-mail receipt that is sent to the tenderer after successfully up-loading and lodging the tender electronically is the only evidence of tender lodgement provided.

4.17 Ownership of Tenders

4.17.1 All tenders become the property of the Board on submission.

4.17.2 The Board may make copies of the tenders for any purpose related to this RFT.

4.18 Discontinuance of Tender Process

4.18.1 Where the Board determines that awarding a contract would not be in the public interest, the Board reserves the right to discontinue the tender process at any point, without making a determination regarding acceptance or rejection of tenders.

4.19 Variations to Tenders

4.19.1 At any time after the Closing Date of tenders and before the Board accepts any tender received in response to this RFT, a tenderer may, subject to clause 4.20.2, vary its tender:

- (a) by providing the Board with further information by way of explanation or clarification;
- (b) by correcting a mistake or anomaly; or
- (c) by documenting agreed changes to the tender negotiated under clause 5.5 of this Part B.

4.19.2 Such a variation may be made either:

- (a) at the request of the Board, or
- (b) with the consent of the Board at the request of the tenderer; but only if,
 - (i) in the case of variation requested by the tenderer under clause 4.20.1(a)-(b), it appears to the Board reasonable in the circumstances to allow the tenderer to provide the information or correct the mistake or anomaly; or
 - (ii) in the case of variation under clause 4.20.1(c), the Board has confirmed that the draft-documented changes reflect what has been agreed.

4.19.3 If a tender is varied in accordance with clause 4.20.1(a) or (b), the Board will provide all other tenderers whose tenders have similar characteristics with the opportunity of varying their tenders in a similar way.

4.19.4 A variation of a tender under clause 4.20.1 will not be permitted if in the Board's view:

- (a) it would substantially alter the original tender; or
- (b) in the case of variation under clause 4.20.1(a) or (b), it would result in the revising or expanding of a tender in a way that would give a tenderer an unfair advantage over other tenderers.

5 Evaluation Process

5.1.1 Tenders will be assessed against the evaluation criteria listed below which are not indicated in order of significance or equal weight.

5.1.2 The evaluation criteria for the Systems Integration component of this RFT that do not relate to price will account for 65% of the total evaluation score. The evaluation

criteria for this RFT that relate to price will account for 35% of the total evaluation score.

- 5.1.3 The evaluation criteria for the Managed Services component of this RFT that do not relate to price will account for 90% of the total evaluation score. The evaluation criteria for this RFT that relate to price will account for 10% of the total evaluation score
- 5.1.4 Information supplied by the tenderer in Part C will contribute to the assessment against each criterion. Tenderers are advised to respond clearly to all the evaluation criteria listed in this RFT.
- 5.1.5 Tenders that do not include a fully completed Part C, in particular those tenders which do not contain sufficient information to permit a proper evaluation to be conducted, or electronic tenders that cannot be effectively evaluated because the file has become corrupt, may be excluded from the tender process without further consideration at the Board's discretion.
- 5.1.6 The Board may assess an Alternative Tender against the evaluation criteria where submitted with a Conforming Tender.

5.2 Evaluation Criteria

The evaluation criteria for this RFT (which include but are not limited to) are:

- (a) Fitness for purpose including quality, range of products, innovative aspects, product design, performance and warranties;
- (b) Price;
- (c) Capacity to perform the Agreement including:
 - (i) Technical capacity;
 - (ii) Human resource capacity, qualifications, skills and experience;
 - (iii) Quality assurance systems;
 - (iv) Suitability of sub-contractors;
 - (v) Previous experience and performance on similar agreements for the products and services covered in this RFT, including performance of management fee obligations;
 - (vi) Compliance with other Board requirements, (including ability to market the proposed Agreement).
- (d) Compliance with the proposed conditions of Part D – Procure IT
- (e) SME Participation Plan (SMEPP) under the Local Jobs First Plan policy;
- (f) Compliance with NSW Government procurement policy and other applicable NSW Government policies, including:
 - (i) Commitment to sustainable long-term industry development;
 - (ii) Development of long-term, strategic alliances;
 - (iii) Value-added activity;
 - (iv) SME involvement;
 - (v) Regional development activity;
 - (vi) Workforce development;
- (g) Compliance with relevant legislation and standards.
- (h) Capacity and capability to facilitate electronic commerce through smartbuy®/ICT Service Portal.

5.3 Presentations by Tenderer

- 5.3.1 The Board, may in its discretion, and as part of the evaluation process, invite any or some of the tenderers to make personal presentations regarding their tender.
- 5.3.2 Receiving a presentation by a tenderer in no way represents a commitment by the Board to accept any aspect of the tender.

5.4 Acceptance or Rejection of Tenders

- 5.4.1 The Board may assess an Alternative Tender against the evaluation criteria when submitted with a Conforming Tender.
- 5.4.2 The Board expressly reserves the right to accept, in its discretion, either or both of the following:
 - (a) Any Alternative Tender or part of an Alternative Tender, when submitted with a Conforming Tender; and
 - (b) Any other Non-Conforming Tender or part of a Non-Conforming Tender (not, in either case, being an Alternative Tender or part of an Alternative Tender) that, in the Board's opinion, is substantially a Conforming Tender.
- 5.4.3 The Board is not bound to accept the lowest tender.
- 5.4.4 If the Board rejects all the tenders received it may invite fresh tenders based on the same or different criteria (specifications and details contained in Alternative Tenders will not be used as the basis for the calling of new tenders).

5.5 Post Tender Negotiations

- 5.5.1 Before making any determination as to acceptance or rejection of Tenders the Board may, at its discretion, elect to conduct limited negotiations with preferred tenderers, including those who have submitted Alternative Tenders or who have submitted Conforming Tenders, to mutually improve outcomes.
- 5.5.2 The Board will generally not enter into negotiations to amend standard conditions of contract contained in Part D – Whole of Government Standing Offer Agreement.
- 5.5.3 If the Board considers that none of the tenders are fully acceptable either due to the level of non-conformance or because they do not represent sufficient value for money, but considers that full conformity is achievable, negotiations may be conducted with the tenderer that submitted the most conforming tender based on the evaluation criteria. The purpose of the negotiations will be advised by the Board and made clear to the participants before the commencement of negotiation.
- 5.5.4 The Board may at its absolute discretion elect to conduct post tender negotiations under clause 5.5.3 with more than 1 tenderer in the event that it decides that the closeness of the tenders or timing constraints warrants doing so.

5.6 Exchange of Information between Government Agencies

- 5.6.1 Lodgement of a tender will itself be an authorisation by the tenderer to the Board to make available, on request, to any NSW government agency information, including but not limited to, information dealing with the tenderer's performance on any contract that may be awarded. Such information may be used by the recipient NSW Government agency for assessment of suitability for pre-qualification, selective tender lists, expressions of interest or the award of a contract or termination of contract.
- 5.6.2 The provision of the information by the Board to any other NSW Government agency is agreed by the tenderer to be a communication falling within section 30 of the *Defamation Act 2005* (NSW), and the tenderer shall have no claim against the Board 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 tenderer arising out of the communication.
- 5.6.3 In the evaluation of tenders, the Board may take into account any information about the tenderer that the Board receives from any source.

5.6.4 To avoid doubt, information that may be collected, exchanged and used in accordance with this provision includes “personal information” about the tenderer for the purposes of the *Privacy and Personal Information Protection Act 1998*. Lodgement of a tender will be an authorisation by the tenderer to the Board to collect such information from third parties, and to use and exchange such information in accordance with this clause 5.6.

5.6.5 The tenderer’s attention is drawn to the *Freedom of Information Act 1989* which obliges disclosure of the contract documents resulting from the tender and may confer rights, subject to the terms of that Act, to access, and to require the correction of, information held by certain agencies, including tenders held by the Board. A summary of the provisions is contained in Annexure 1 to Part B (Disclosure Information).

5.7 Australian and New Zealand (ANZ) Price Preference Margin

5.7.1 Under the *Local Jobs First Plan*, the Australia and New Zealand (ANZ) Price Preference Margin is to be applied in the evaluation of tenders.

5.7.2 Since this procurement is a covered procurement under a relevant Free Trade Agreement, the ANZ Price Preference Margin will be a preference that is applied in the form of a 20% discount on the declared ANZ content of the tendered goods and services of ANZ SMEs only. For example

New	Price	Imported content	Local content	Discount applied	Evaluated price*
Tender A Non SME	\$ 1.00	80.00%	20.00%	Nil	\$ 1.00
Tender B – SME	\$ 1.00	80.00%	20.00%	0.04	\$ 0.96
Tender C – SME	\$ 1.00	20.00%	80.00%	0.16	\$ 0.84
Tender D – SME	\$ 1.00	100.00%	0.00%	Nil	\$ 1.00

***Evaluated Price = Tendered Price – [(Local Content x 20%) x Tendered Price]**

5.7.3 For the purposes of the evaluation of tenders and to enable the application of the ANZ Price Preference Margin, tenderers are required to provide accurate details of the following in the Price Schedule:

- a) the local (Australian and New Zealand) content; and/or
- b) Imported (non-Australian and non-New Zealand) content

5.7.4 Tenderers also agree to make available records from time to time (as and when requested by the Principal) to substantiate the information provided about the local and/or imported content of the tendered goods and services. Tenderers are responsible for ensuring that information provided in its tender also includes detailed information about the local and /or imported content of goods supplied by them and this may include statements from their sub-contractors on the local and/or imported content of the goods and related services included in the tender.

5.7.5 For the purposes of the ANZ Price Preference Margin, the price of imported content of goods and services includes the estimated duty paid value, inclusive of the value of any services (for example overseas freight and insurance, software in computer tenders, consultancy or engineering effort), or any charges of overseas origin, together with customs clearing charges.

5.7.6 Small to Medium Enterprises (SMEs) is defined as enterprises carrying on business in NSW, other States and Territories of Australia or New Zealand, with up to 500 full time equivalent employees.

5.8 SME Participation Plan

- 5.8.1 All Tenderers are required to complete a SME Participation Plan (SMEPP) that includes quantitative information on employment, investment and other impacts and comments on local SME involvement in supply chains. The SMEPP submitted will, if the Tender is accepted, be incorporated in the agreement made at the conclusion of the tender process.

6 Method of Acceptance

- 6.1.1 Acceptance of a tender or part tender will be subject to the execution of a formal Deed of Agreement in the terms of Part D – Whole of Government Standing Offer Agreement, Procure IT. Until the Board and the successful tenderer(s) execute a formal Deed or Deeds there will be no legally enforceable agreement concluded between them.

7 Disclosure Information

- 7.1.1 Following the Board's decision, all tenderers will be notified in writing of the outcome of their Tenders.
- 7.1.2 Details of tenderers and the outcome of the tender process will be disclosed in accordance with the *Freedom of Information Act 1989* and the NSW Government Tendering Guidelines, available at:
http://www.nswprocurement.com.au/psc/nsw_government_guidelines/tendering_guidelines.aspx
- 7.1.3 An outline of these requirements can be found in Annexure 1 to Part B of this RFT.

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 tendering or unfairly disadvantaged by the Conditions in Part D and/or Part E, or the Statement of Requirements in Part F, it is invited to write to:

Chairperson
State Contracts Control Board
Level 22, McKell Building
2-24 Rawson Place
Sydney NSW 2000

ANNEXURE 1 TO PART B (Disclosure of Information)

Disclosure of information concerning tenderers and outcome of the tender process

1. In accordance with the NSW Government Tendering Guidelines referred to in clause 7.1.2 and found at http://www.nswprocurement.com.au/psc/nsw_government_guidelines/tendering_guidelines.aspx, the following **tender information** is required to be disclosed -

Tender Type	Level of disclosure	Basis of disclosure
For all public calls for tender, expressions of interest or other such public calls which may result in a contract with the private sector.	As a minimum: <ul style="list-style-type: none">a concise description of the proposed works, goods or services the subject of the tender call;the date responses to the tender call close and where responses are lodged; andlocation of the tender call documents. The names and addresses of all entities which submit responses.	Routine public disclosure at the time tender calls are advertised. Routine public disclosure within 7 days of the date tender calls closed.
In a multi-stage tender process.	The names and addresses of the shortlisted entities, except where such disclosure is likely to compromise the competitiveness of the subsequent tender process.	Routine public disclosure within 7 days of these entities being advised of their shortlisting.

2. In accordance with the NSW Government Tendering Guidelines referred to in clause 7.1.2, the following **contract** information is required to be disclosed -

Contract size and type	Level of disclosure	Basis of disclosure
Class 1 contracts All government contracts with estimated value \$150,000 or above.	<ul style="list-style-type: none">a) The name and business address of the contractor;b) Particulars of any related body corporate (within the meaning of the <i>Corporations Act 2001</i> of the Commonwealth) in respect of the contractor, or any other private sector entity in which the contractor has an interest, that will be involved in carrying out any of the contractor's obligations under the contract or will receive a benefit under the contract;c) The date on which the contract became effective and the duration of the contract;d) Particulars of the project to be undertaken, the goods or services to be provided or the real property to be leased or transferred under the contract;e) The estimated amount payable to the contractor under the contract;f) A description of any provisions under which	Routine public disclosure within 60 days after the contract becomes effective.

	<p>the amount payable to the contractor may be varied;</p> <p>g) A description of any provisions with respect to the renegotiation of the contract;</p> <p>h) In the case of a contract arising from a tendering process, the method of tendering and a summary of the criteria against which the various tenders were assessed; and</p> <p>i) A description of any provisions under which it is agreed that the contractor is to receive payment for providing operational or maintenance services.</p>	
<p>Class 2 contracts Class 1 contracts (i.e government contracts with estimated value \$150,000 or above) which also:</p> <ul style="list-style-type: none"> - result from a direct negotiation where there has not been a tender process; or - have been the subject of a tender process and where the final contract terms and conditions are substantially negotiated with the successful tenderer (this includes alliance type contracts); or - involve operation or maintenance obligations for 10 years or longer; or - involve a privately financed project as defined by relevant Treasury guidelines; or - involve a transfer of land or other asset to a party in exchange for the transfer of land or other asset to an agency. 	<p>The information required for class 1 contracts and:</p> <ul style="list-style-type: none"> a) Particulars of future transfers of significant assets to the State at zero, or nominal cost to the State, including the date of their proposed transfer; b) Particulars of future transfers of significant assets to the contractor, including the date of their proposed transfer; c) The results of any cost-benefit analysis of the contract conducted by the agency; d) The components and quantum of the public sector comparator if used; e) Where relevant, a summary of information used in the contractor's full base case financial model (for example, the pricing formula for tolls or usage charges); f) Where relevant, particulars of how risk, during the construction and operational phases of a contract to undertake a specific project (such as construction, infrastructure or property development), is to be apportioned between the parties, quantified (where practicable) in net present-value terms and specifying the major assumptions involved; g) Particulars as to any significant guarantees or undertakings between the parties, including any guarantees or undertakings with respect to loan agreements entered into or proposed to be entered into; and h) Particulars of any other key elements of the contract. 	<p>Routine public disclosure within 60 days after the contract becomes effective.</p>
<p>Class 3 contracts Class 2 contracts where the estimated value of the government contract is \$5 million or more.</p>	<p>The information for class 1 and 2 contracts and the complete contract, less confidential information.</p> <p>Note: if some or all of a class 3 contract is not disclosed for reasons of confidentiality, the agency is to disclose:</p> <ul style="list-style-type: none"> • the reasons for not publishing the contract 	<p>Routine public disclosure within 60 days after the contract becomes effective.</p>

	or provisions; <ul style="list-style-type: none"> • a statement as to whether the contract or provisions will be published and, if so, when; and • where some but not all of the provisions of the contract have been disclosed, a general description of the types of provisions that have not been published. 	
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3. Requests for disclosure of additional contract information

Tenderers must acknowledge that any person may make a specific request to the State Contracts Control Board for any item of contract information contained in schedules 1 or 2, or for a copy of a contract, which is not required to be routinely disclosed under section 15A of the *Freedom of Information Act 1989* ("FOI Act"). The State Contracts Control Board must provide the requested contract information or the requested copy of the contract to the requesting person (less any confidential information) within 60 days of receiving the request.

Where a copy of a contract has been requested and some or all of the contract is not provided for reasons of confidentiality, the State Contracts Control Board will disclose:

- the reasons for not providing;
- a statement as to whether the contract or provisions will be provided and, if so, when; and
- where some but not all of the provisions of the contract have been provided, a general description of the types of provisions that have not been provided.

4. Disclosure of amendments or variations to contract information under the FOI Act

The FOI Act requires that, if there is an amendment to the contract terms or a material variation made under the contract that changes information already routinely disclosed under the FOI Act, the State Contracts Control Board must ensure that the information concerning the change is routinely disclosed within 60 days after such amendment or variation becomes effective, less any confidential information. In the case of class 3 contracts, the full amendment or material variation, less any confidential information, must be disclosed within the 60 day timeframe.

5. Confidential information

None of the disclosure obligations contained in the FOI Act, or the requirements for disclosing tender information or a copy of a contract or information in relation to a contract under these guidelines, require the disclosure of:

- the commercial-in-confidence provisions of a contract (as defined in section 15A(14) of the FOI Act) (the contractor's financing arrangements; the contractor's cost structure or profit margins; the contractor's full base case financial model; any intellectual property in which the contractor has an interest; or any matter whose disclosure would place the contractor at a substantial commercial disadvantage in relation to other contractors or potential contractors, whether at present or in the future.);
- details of any unsuccessful tender;
- any matter that could reasonably be expected to affect public safety or security; or
- information which would be exempt from disclosure if it were the subject of an application under the Freedom of Information Act.

Where such confidential information is withheld, the State Contracts Control Board must inform the requesting person that access to that information may be sought in accordance with the Freedom of Information Act. This will enable a person seeking the information to have the appeal rights available under the FOI Act...

6. Tenderers are invited to nominate items they consider are confidential and why.