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To do this return to the RFT web page on this web site and copy the RFT documents to your own computer or network – the blue “**DOWNLOAD A SOFT COPY**” link at the bottom provides access to the page from which you can do this.

Corrective Services NSW (ABN32 980 170 687) invites this tender

PART A

OVERVIEW AND CONDITIONS OF TENDER

Request for Tender 0410-06 for *Sustaining Tenancies for Ex-Prisoners in the Far West NSW*

Tender Issue Date: 30 April 2010

Closing Date: 3 June 2010

Closing Time: 9:30 a.m. Sydney Time

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

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Sustaining Tenancies for Ex-Prisoners in the Far West NSW

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REQUEST FOR TENDER - PART A – OVERVIEW AND CONDITIONS OF TENDER

1 Definitions

Unless the context indicates otherwise, the following terms, where used in Parts A and B of this Request For Tender ("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 Corrective Services NSW before Closing Date and Closing Time.

"Agreement" means the proposed agreement to be made between Corrective Services NSW and the Contractor in the form of Part C to this RFT.

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

"Client" means a client of Corrective Services NSW, being a person exiting a correctional centre who has met the criteria for assistance under the targeted housing project administered by Corrective Services NSW.

"Closing Date and Closing Time" means the Closing Date and Closing 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 Specification;
- (b) the terms and conditions of Part C;
- (c) other parts of this RFT; and
- (d) is in the prescribed form.

"Contractor" means a tenderer who has entered into an Agreement with Corrective Services NSW.

"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.

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

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

“Services” means the services sought under this RFT, as detailed in the Specification.

“Specification” means the detailed description of the Services contained in Annexure 1 to Part B.

2 Outcome

- 2.1 This RFT is issued by Corrective Services NSW to secure accommodation and stable lifestyle as outlined in Annexure 1 to Part B.
- 2.2 Corrective Services NSW is responsible for the delivery of the tender process and the proposed Agreement will be executed between Corrective Services NSW and the successful tenderer.
- 2.3 The key outcome of this RFT is to provide a procurement solution (through the proposed Agreement) for the required Services that meet the needs of Corrective Services NSW.

3 Scope of RFT

3.1 Services

- 3.1.1 The Contractor will assist the Client to integrate back into the community by organising stable, comfortable and secure housing with sustained support services which specifically address the Client's social and criminogenic needs. Persons eligible for the targeted housing project are those at risk of homelessness exiting Broken Hill or Wellington Correctional Centres who intend to reside in the Far West region of NSW. For the purposes of this RFT the Far West region will be limited to the Broken Hill township area as part of the first phase. In the second phase other post release locations such as the Dubbo area or Dareton will be considered depending on location requests and available housing options.
- 3.1.2 The project will accept up to 15 people at any one time. While the period of support will be 12 months, it is anticipated that some participants will develop sustainable tenancy skills in a shorter time period while others may need support for a longer time period.
- 3.1.3 A detailed description of the Services is described in Annexure 1 to Part B.
- 3.1.4 There is a strong preference to appoint 1 provider to deliver the Services. Notwithstanding this, Corrective Services NSW reserves the right to appoint more than one provider if this results in a better outcome for the NSW Government.

3.2 Contract Duration

- 3.2.1 It is envisaged that the term of the proposed Agreement will be 3 years commencing in June 2010 or earlier, which may be extended by up to two further one year periods at the sole discretion of Corrective Services NSW.

3.3 NSW Government Requirements

- 3.3.1 The successful tenderer must comply with NSW Government codes, guidelines and standards listed in Schedule 1 of Part C.

4 RFT Structure

4.1 Interpretation

- 4.1.1 Definitions of terms used in Parts A and B are contained in section 1 of this Part.

4.2 RFT Structure

- 4.2.1 This RFT comprises three Parts as follows:

Overview and Conditions of Tender – Part A

It is an executive summary of the scope of the RFT and provides the terms, conditions and procedures governing the tender process.

Tender Response – Part B

These are response schedules which are required by Corrective Services NSW to evaluate the tenderers' offers. It also provides at Annexure 1 a detailed description of the Services to be provided which will form part of the Agreement to be executed between the successful tenderer and Corrective Services NSW.

Agreement - Part C

- 4.2.2 This is the conditions of contract to be executed between the successful tenderer and Corrective Services NSW.

If submitting a tender, retain Parts A and C. Part B, once completed, forms the tender, and is to be submitted in accordance with Part A.

Part C is to be executed later by the successful tenderer and Corrective Services NSW to form the Agreement.

5 Best Price and Cost Structure

- 5.1 Tenderers are encouraged to provide their best price with their tender. Whilst Corrective Services NSW reserves the right to negotiate pre award, such negotiations may not occur and it is not Corrective Services NSW's preference.
- 5.2 It is important that tenderers realise they may not be short listed for further consideration if they do not provide their best price with their initial tender.

6 Tender Preparation

6.1 Tenderer to Inform Itself

- 6.1.1 Before submitting its tender, a tenderer must examine all information relevant to the risks and contingencies and other circumstances having an effect on its tender; and satisfy itself that:
- (a) the tender, including the tender price is correct; and
 - (b) it is financially and practically viable for it to enter into and perform the proposed Agreement.

7 Eligibility to Tender

7.1 Legal Entity of Tenderer

- 7.1.1 Tenders must be submitted by a legal entity or, if a joint tender, by legal entities, with the capacity to contract. Corrective Services NSW will only enter into an Agreement with such legal entity or entities.
- 7.1.2 Corrective Services NSW 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 three working days of the request.

7.2 Financial Capability of Tenderer

- 7.2.1 Corrective Services NSW reserves the right to reject any tender if Corrective Services NSW judges the tenderer not to have appropriate financial capability.
- 7.2.2 Where Corrective Services NSW forms the view that the tenderer does not have the appropriate financial capability, Corrective Services NSW 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 Corrective Services NSW.

7.3 ABN Requirements

- 7.3.1 Corrective Services NSW will not enter into an Agreement with a tenderer 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.
- 7.3.2 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 Corrective Services NSW's discretion if the tenderer demonstrates that it will obtain an ABN and GST registration before entering into an Agreement with Corrective Services NSW. Such tenderers must state how and when they intend to obtain an ABN and register for GST in their tender response.

8 Tender Process

8.1 Tenderer Briefing

- 8.1.1 A tenderer briefing will be held on the date, time and place indicated below. The contact officer of Corrective Services NSW 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 to the Contact Officer at least 3 working days prior to the date. No more than three persons from each tenderer will be permitted to attend the briefing.

Location: Conference Room Level 2, NSW Government Office, 32
Sulphide Street, Broken Hill
Date: 19 May 2010
Time: 2.00 p.m.

8.2 Contact Officer

- 8.2.1 The Contact Officer for this RFT is:
Allison Jones
Manager State Plan Projects Implementation
Corrective Services NSW
Telephone: (02) 8346 1041
Email: allison.jones@dcsc.nsw.gov.au
- 8.2.2 In the first instance enquiries regarding this RFT should be directed to the Client Support Centre, telephone 1800 NSW BUY, email: nswbuy@services.nsw.gov.au The Client Support Centre will refer enquiries to the Contact Officer where appropriate.

8.3 Conformity of Tenders

- 8.3.1 Corrective Services NSW seeks Conforming Tenders.
- 8.3.2 Non-Conforming Tenders may be excluded from the tender process without further consideration at Corrective Services NSW's discretion.

8.4 Submission of Tenders

- 8.4.1 Prices, responses and other information provided in the tender are to be in writing and in English. The tender price must be in Australian dollars.
- 8.4.2 Tenderers must complete all of Part B of this RFT as directed and must not amend any of the questions provided.

- 8.4.3 Tenderers should notify the Contact Officer in writing before the Closing Date and Closing Time if they find any discrepancy, error or omission in this RFT.
- 8.4.4 Tenders must be provided in Microsoft Word 2003 and/or Microsoft Excel 2003. Please note PDF files are acceptable.
- 8.4.5 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.
- 8.4.6 It is recommended that electronic files be kept as small as practical and the lodgment files below a size of 7 MB, as the limitations of the Internet and communications may affect the successful transmittal and receipt of large files.

8.5 Tender Lodgement

- 8.5.1 Tenders must be fully received by the Closing Date and Closing Time.
- 8.5.2 A tender must be lodged electronically to the electronic tender box for this RFT via the NSW Department of Services, Technology & Administration tenders website at: <https://tenders.nsw.gov.au/dsta> (Login as a system user, locate the web page for this RFT and follow the on screen instructions to lodge the tender).
- 8.5.3 The lodgement can only be made by a registered system user of the NSW Government eTendering system.

8.6 Electronic Tenders

- 8.6.1 A tender submitted electronically will be treated in accordance with the *Electronic Transactions Act 2000* (NSW).
- 8.6.2 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 tenders website at <https://tenders.nsw.gov.au/dsta>.
- 8.6.3 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 to the NSW Government eTendering system. 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 tenders website and any instructions which may have been supplied with the RFT documents, advertisement or invitation.
- 8.6.4 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 (refer clause 8.4.4).
 - (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.
 - (d) The file/s name/s must have an extension and not have invalid characters or file names/loading path names too long for the system, as detailed on the NSW Department of Services, Technology & Administration tenders website.
- 8.6.5 Signatures are not required for an electronic tender. 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.
- 8.6.6 Electronically submitted tenders may be made corrupt or incomplete, for example by computer viruses. Corrective Services NSW 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.

8.6.7 Corrective Services NSW will not be responsible in any way for any loss, damage or corruption of electronically submitted tenders.

8.6.8 If a tenderer experiences any persistent difficulty with the NSW Department of Services, Technology & Administration tenders website in submitting a tender or otherwise, it is encouraged to advise the Contact Officer promptly in writing.

8.6.9 If there is an extended defect or failure of the NSW Department of Services, Technology & Administration tenders website or eTendering system and Corrective Services NSW is advised, the tender Closing Date and Closing Time may be extended provided that, in the view of Corrective Services NSW, the RFT process will not be compromised by such an extension.

8.6.10 Tenderers may break down the lodgement of large tenders into smaller packages if clearly identified e.g. package 1 of 3; 2 of 3; 3 of 3.

8.6.11 If a tenderer provides multiple lodgements, the latest tender received will be the tender to be evaluated unless the tenderer provides clear directions to whether the lodgement is:

- (a) an Alternative Tender,
- (b) supporting information, or
- (c) a further part of a tender that has had previous lodgement.

8.7 Tender Validity Period

8.7.1 The lodged tender will remain open for acceptance by Corrective Services NSW for a period of six months from the Closing Date and Closing Time for tenders.

8.8 Late Tenders

8.8.1 Late tenders shall not be considered unless Corrective Services NSW is satisfied that the integrity and competitiveness of the tendering process has not been compromised. Corrective Services NSW shall not penalise any tenderer whose tender is received late if the delay is due solely to mishandling by Corrective Services NSW.

8.9 Extension of Closing Date and Closing Time

8.9.1 Corrective Services NSW may, at its discretion, extend the Closing Date and Closing Time.

8.10 Corruption or Unethical Conduct

8.10.1 Tenderers must comply with the requirements of the Corrective Services NSW Business Ethics Statement, which is available at the link below and must disclose any conflicts of interests in Part B.

8.10.2 If a tenderer, 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 sub-contractor of Corrective Services NSW 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 Corrective Services Business Ethics Statement available at: http://www.correctiveservices.nsw.gov.au/_media/dcs/information2/BusinessEthics.pdf

as this may result in the tender not receiving further consideration.

- 8.10.3 Corrective Services NSW may, in its discretion, invite a relevant tenderer to provide written comments within a specified time before Corrective Services NSW excludes the tenderer on this basis.
- 8.10.4 If Corrective Services NSW becomes/s aware of improper conflict of interests by a successful tenderer after an Agreement has been executed, Corrective Services NSW reserves the right to terminate the Agreement and not be held liable for any fees, costs or damages whatsoever.

8.11 Code of Practice for Procurement

- 8.11.1 In submitting its tender, the tenderer signifies agreement to comply with the Code (as defined in section 1).
- 8.11.2 Failure to comply with the Code may be taken into account by Corrective Services NSW when considering the tenderer's tender or any subsequent tender, and may result in the tender being passed over.

8.12 Prescribed Form of Tender

- 8.12.1 The tender must comprise a fully completed Part B and any attachments to Part B, as may be necessary. Any attachments should be labelled to identify those clauses of the RFT to which they relate.
- 8.12.2 The tender will be taken to be for the provision of the Services on the terms and conditions stated in Part C except to the extent that these are amended by the tender and agreed by Corrective Services NSW.

8.13 Addenda to RFT

- 8.13.1 If, for any reason Corrective Services NSW, at its sole discretion, requires the RFT to be amended before the Closing Date and Closing Time, an Addendum will be issued.
- 8.13.2 In each case, an Addendum becomes part of the RFT.
- 8.13.3 Corrective Services NSW, 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 closing date, even if a tender has already been submitted.
- 8.13.4 Tenderers must check the web site address <https://tenders.nsw.gov.au/dsta> and download the Addendum.

8.14 Tenderer's Costs

- 8.14.1 The tenderer acknowledges that Corrective Services NSW 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.

8.15 Custody of Tenders After Receipt

- 8.15.1 Tenders lodged electronically to the NSW Department of Services, Technology & Administration Tenders website will be treated in accordance with the *Electronic Transactions Act 2000*.
- 8.15.2 On receipt of tenders lodged electronically to the NSW Government eTendering system, tenders are encrypted and stored in a secure "electronic tender box".
- 8.15.3 For reasons of probity and security, Corrective Services NSW and its agent are 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.
- 8.15.4 The e-mail receipt that is sent to the system user lodging the tender after successfully lodging the tender electronically to the NSW Government eTendering system is the only evidence of tender lodgement provided.

8.16 Ownership of Tenders

- 8.16.1 All tenders become the property of Corrective Services NSW on submission.
- 8.16.2 Corrective Services NSW may make copies of the tenders for any purpose related to this RFT.

8.17 Discontinuance of Tender Process

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

8.18 Variations to Tenders

- 8.18.1 At any time after the Closing Date of tenders and before Corrective Services NSW accepts any tender received in response to this RFT, a tenderer may, subject to clause 8.18.2, vary its tender:
- (a) by providing Corrective Services NSW 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 9.8 of this Part A.
- 8.18.2 Such a variation may be made either:
- (a) at the request of Corrective Services NSW , or
 - (b) with the consent of Corrective Services NSW at the request of the tenderer; but only if,
 - (i) in the case of a variation requested by the tenderer under clause 8.18.1(a)-(b), it appears to Corrective Services NSW 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 8.18.1(c) Corrective Services NSW has confirmed that the draft-documented changes reflect what has been agreed.
- 8.18.3 If a tender is varied in accordance with clause 8.18.1(a) or (b), Corrective Services NSW will provide all other tenderers whose tenders have similar characteristics with the opportunity of varying their tenders in a similar way.
- 8.18.4 A variation of a tender under clause 8.18.1 will not be permitted if in Corrective Services NSW 's view:
- (a) it would substantially alter the original tender; or
 - (b) in the case of variation under clause 8.18.1(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.

9 Evaluation Process

- 9.1** Tenders will be assessed against the evaluation criteria listed below which are not indicated in order of significance or to be given equal weight.
- 9.2** The evaluation criteria for this RFT that do not relate to price will account for 55% of the total evaluation score. The evaluation for this RFT that relate to price will account for 45% of the total evaluation score.
- 9.3** Information supplied by the tenderer in Part B will contribute to the assessment against each criterion. Tenderers are advised to respond clearly to all the evaluation criteria listed in this RFT.
- 9.4** Tenders that do not include a fully completed Part B, 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 Corrective Services NSW 's discretion.

9.5 Evaluation Criteria

- 9.5.1** The evaluation criteria for this RFT include but are not necessarily limited to:
- (a) Quality of the program to deliver the Services in an efficient, effective and timely manner;
 - (b) Staffing establishment and structure and quality of staff;
 - (c) Profile of organisation, including experience and expertise in conducting similar services and referee reports;
 - (d) Demonstrated financial and managerial capabilities of the organisation including supervision plan;
 - (e) Commitment to working with, and understanding of, the target group;
 - (f) Degree to which the proposal is ready for implementation;
 - (g) Degree of compliance with the Specification (but not including Specification items covered in other selection criteria);
 - (h) Financial viability of the tenderer;
 - (i) Compliance with the NSW Government Procurement Tendering Policies and Codes of Practice;
 - (j) Compliance with the proposed conditions of contract at Part C;
 - (k) Tender price.

9.6 Site Inspections/Presentations/Interviews

- 9.6.1** Corrective Services NSW may, during the evaluation of tenders, undertake site inspections of the tenderer's, or its sub-contractor's, proposed premises.
- 9.6.2** Corrective Services NSW may, in its discretion, and as part of the evaluation process, invite one or more of the tenderers to make personal presentations, and/or be interviewed by the evaluation committee, regarding their tender. Such presentations and/or interviews shall be at the tenderer's cost.
- 9.6.3** Conducting a presentation or being interviewed by the evaluation committee in no way represents a commitment by Corrective Services NSW to accept any aspect of the tender.
- 9.6.4** All information obtained during the course of a site inspection, presentation or interview may be taken into consideration in the evaluation of tenders.

9.7 Acceptance or Rejection of Tenders

- 9.7.1 Corrective Services NSW expressly reserves the right to accept, in its discretion, any other Non-Conforming Tender or part of a Non-Conforming Tender that, in Corrective Services NSW's opinion, is substantially a Conforming Tender.
- 9.7.2 Corrective Services NSW is not bound to accept the lowest tender.
- 9.7.3 If Corrective Services NSW rejects all the tenders received it may invite fresh tenders based on the same or different criteria.

9.8 Post Tender Negotiations

- 9.8.1 Before making any determination as to acceptance or rejection of tenders Corrective Services NSW may, at its discretion, elect to conduct negotiations with the preferred tenderer or tenderers, including those who have submitted substantially Conforming Tenders, to mutually improve outcomes.
- 9.8.2 Corrective Services NSW will generally not enter into negotiations to amend standard conditions of contract contained in Part C.
- 9.8.3 If Corrective Services NSW considers that none of the tenders are acceptable either due to the level of non-conformance or because they do not represent sufficient value for money, but considers that adequate 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 Corrective Services NSW and made clear to the participant before the commencement of negotiations.
- 9.8.4 Corrective Services NSW may at its absolute discretion elect to conduct post tender negotiations under clause 9.8.3 with more than one tenderer in the event that it decides that the closeness of the tenders or timing constraints warrants doing so.

9.9 Exchange of Information Between Government Agencies

- 9.9.1 Lodgement of a tender will itself be an authorisation by the tenderer to Corrective Services NSW 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 a contract.
- 9.9.2 The provision of the information by Corrective Services NSW 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 Corrective Services NSW 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.
- 9.9.3 In the evaluation of tenders, Corrective Services NSW may take into account any information about the tenderer that Corrective Services NSW receives from any source.
- 9.9.4 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 Corrective Services NSW to collect such information from third parties, and to use and exchange such information in accordance with this clause 9.9.
- 9.9.5 The tenderer's attention is drawn to the Freedom of Information Act 1989 which obliges disclosure of certain information 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 Corrective Services NSW. A summary of the provisions is contained in Annexure 1 to this Part A (Disclosure Information).

10 Method of Acceptance

- 10.1** Acceptance of a tender or part tender will be subject to the execution of a formal Deed of Agreement in the terms of Part C. Until Corrective Services NSW and the successful tenderer execute a formal Agreement there will be no legally enforceable agreement concluded between them.

11 Disclosure Information

- 11.1** Following Corrective Services NSW's decision all tenderers will be notified in writing of the outcome of their tenders.
- 11.2** 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
- 11.3** An outline of these requirements can be found in Annexure 1 to this Part A.

12 Complaints Procedure

- 12.1** 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 C, or the Specification in Annexure 1 to Part B, it is invited to write to the Contact Officer for this RFT:

Allison Jones
Manager State Plan Implementation
Corrective Services NSW
Telephone: (02) 8346 1041
Email: allison.jones@dcs.nsw.gov.au

ANNEXURE 1 TO PART A (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 11.2 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.	<p>As a minimum:</p> <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; and location of the tender call documents. <p>The names and addresses of all entities which submit responses.</p>	<p>Routine public disclosures at the time tender calls are advertised.</p> <p>Routine public disclosure within 7 days of the date tender calls closed.</p>
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 short listing.

2. In accordance with the NSW Government Tendering Guidelines referred to in clause 11.2, the following **contract** information is required to be disclosed -

Contract size and type	Level of disclosure	Basis of disclosure
<p>Class 1 contracts All government contracts with estimated value \$250,000 or above).</p>	<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 Corporations Act 2001 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 the amount payable to the contractor may be varied; 	<p>Routine public disclosure within 60 days after the contract becomes effective.</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 \$250,000 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 or provisions; • a statement as to whether the contract or 	<p>Routine public disclosure within 60 days after the contract becomes effective.</p>

	provisions will be published and, if so, when; and <ul style="list-style-type: none"> • 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 for class 1 or class 2 contracts, or for a copy of a contract where it is a class 3 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 some provisions or all of the contract;
- 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 FOI 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 challenge that decision under the Freedom of Information Act.

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