



**CUMBERLAND
COUNCIL**

Request for Tender

**T-2018-058 Alternations and Additions to Friend Park
Children's Centre**

Summary Information

Request for Tender (RFT) Reference No.	T-2018-058
Project Name	Alternations and Additions to Friend Park Children's Centre
Date	6/12/2018
Closing Date and Time	31/01/2019 at 2pm
Briefing or Site Inspection	3A McKern St, Wentworthville, NSW 2145 at 11am on 16 January, 2019
Endorsement of RFT	The RFT must be endorsed as "Confidential", and include: ATTENTION: Bill So CUMBERLAND CITY COUNCIL TENDER NO : T-2018-058
Addressing Lodgement	Responses are to be submitted via electronic lodgement through the eTendering website at: https://tenders.nsw.gov.au/wsroc/
Nominated Contact Person/s	Bill So E-mail: eTendering forum or tendering@cumberland.nsw.gov.au
Information Contained in RFT Package	This Request for Tender contains the following Sections: (1) Part A: Introduction (2) Part B: Conditions of Tendering, together with the following: (i) Attachment 1: Tender Offer Form (ii) Attachment 2: Tender Schedules (iii) Attachment 3: Conditions of Contract (iv) Attachment 4: Scope of Works (v) Attachment 5: Information Documents

Part A - Introduction

A1. INVITATION TO TENDER

This Invitation to Tender has two parts:

- (a) Part A - this introduction; and
- (b) Part B - Conditions of Tendering which includes Attachments 1 to 5.

A2. BACKGROUND TO THE PROJECT

Cumberland Council (**Council**) is seeking tenders from appropriately qualified and experienced contractors to provide alterations and additions to Friend Park Children Centre in accordance with the requirements of the Request for Tender Document RFT-2018-058.

A3. TENDER SPECIFIC DETAILS AND CRITICAL DATES

- (a) Enquiries regarding the tender are to be directed to the Nominated Contact Officer as specified in the **Summary Information**.
- (b) Tenders must be endorsed as specified in the **Summary Information**.
- (c) An indicative timeframe for the Tender process has been established and denoted in the table below:

Task Description	Target Milestone
Request for Tender issued	6 Dec 2018
Site Briefing including site inspection	16 Jan 2019
Last date for submission of any Request For Information by Tenderers	24 Jan 2019
Closing Date/Time for Tenders	31/1/2019 at 2pm
Post Tender Meeting	As notified by the Council
Preferred Tenderer announced	TBA
Date for Practical Completion	39 weeks and /or before 2 Dec 2019

- (d) The Tenderer acknowledges and agrees that except for the Closing Date/Time, the timeframes identified in the table above are indicative only and shall not bind the Council in any way. The Council reserves the right to vary the timeframes in its absolute discretion.

Part B - Conditions of Tendering

B1 INTERPRETATION OF TENDER MATERIALS

B1.1 Terms defined in the General Conditions of Contract (**the Contract**) have those meanings in the Tender Documents unless the context otherwise requires.

B1.2 The Conditions of Tendering does not form part of the Contract.

B1.3 The **Tender Documents** are:

- (a) these conditions of tendering (**Conditions of Tendering**), the tender offer form (**Tender Offer Form**), and the tender schedules (**Tender Schedules**);
- (b) the Formal Instrument of Agreement;
- (c) the Contract including the schedules to the General Conditions of Contract set out in Attachment 3;
- (d) the Scope of Work/Specification including attachments (if any) set out in Attachment 4; and
- (e) all addenda (if any) to the Tender Documents issued to Tenderers by Council.

B1.4 The Tenderer is the person who submits a Tender and who is identified in the Tender Offer Form.

B1.5 The **Information Documents** are:

- (a) the documents listed in Attachment 5;
- (b) all information, data, test results, samples, reports or documents provided to the Tenderer by the Council, the Council's representative or the Council's servants, agents or consultants which are expressly stated to be "Information Documents" or which do not form part of the Tender Documents; and
- (c) any other information, data or document which is referred to or incorporated by reference in the information, data or documents referred to in paragraph (a) above.

B1.6 Boxed text in the Scope of Works identified as "NOTE TO TENDERERS" (if any) comprises either instructions to the Tenderer to amend the Scope of Works and/or the drawings, or instructions on the pricing of parts of the Works (which may be identified as options or alternatives). If the note contains instructions to amend the Scope of Works and/or the drawings, the Tenderer must prepare its tender on the basis of those documents amended as instructed.

The Scope of Works and the drawings will be adjusted accordingly before the Contract is executed, and the note removed.

B2 ENQUIRIES

B2.1 Enquiries concerning the tender must be directed to the Nominated Contact Person specified in the **Summary Information**.

B2.2 Tenderers' names will be made available on receipt of apparently bona fide enquiries from interested subcontractors and suppliers of material. Whether or not any

enquiry received by a subcontractor or supplier is "bona fide" for the purposes of this clause B2 is a matter for the Council in its absolute discretion.

B3 STATUS OF TENDERS

- B3.1 The Tenderer is invited to submit a Tender in accordance with these Conditions of Tendering.
- B3.2 The invitation to tender in clause B3.1 is an invitation to treat. It is not an offer capable of acceptance, nor should it be relied upon, construed or interpreted as such.
- B3.3 By submitting a tender the Tenderer acknowledges that the submission of a tender does not create a contract between the Tenderer and the Council.
- B3.4 Without limiting any clause of the Conditions of Tendering:
- (a) Tenderers acknowledge that no agreement has been formed between the Council and a Tenderer as a result of the tender process such that the Council is limited or constrained in the way in which it can deal with Tenderer's offer other than (if at all) as set out in these Conditions of Tendering; and,
 - (b) The Council will not be liable to any Tenderer for any loss or damage suffered by a Tenderer arising out of or in connection with any act or omission of the Council in respect of the invitation to tender in clause B3.1, the subject matter of this invitation to submit a tender, the Tender Documents, any tender, the evaluation of tenders, the termination of the tender process or the award of a contract for the [#Services #Works] (whether to a Tenderer or someone else).

B4 TENDER

- B4.1 A tender must be made by fully completing, dating and executing the Tender Offer Form and completing, signing and dating the numbered Tender Schedules, and attaching to the Tender Schedules all information required by those schedules. If an addendum has been issued, the completed 'acknowledgment of addendum' form (issued with the addendum) must be lodged with the tender.
- B4.2 The amount entered on the Tender Offer Form is for performing the Works strictly in accordance with the requirements of the Tender Documents and is deemed to include all incidental and all contingent costs, expenses and profit.

B5 LODGEMENT OF TENDER

- B5.1 Tenders must be lodged at the address below by the time and date specified in **Part A - Introduction (Closing Time)** and in the **Summary Information**.
- B5.2 Tenders must be lodged by the Tenderer by Closing Time and submitted via <https://Tenders.nsw.gov.au/wsroc/> as a single ZIP file.
- An electronic tender must be received in its entirety, and not merely dispatched, prior to the system being shut down. Electronic tenders not received in their entirety will not be considered by the Council.
- B5.3 Tenders, and any supporting documents, must be prominently endorsed as specified in the **Summary Information**.
- B5.4 Tenders made by facsimile or email will not be accepted.

- B5.5 A tender submission must contain the original tender, completed in accordance with clause B4.
- B5.6 All costs associated with the preparation and submission of the Tender shall be borne by the Tenderer.
- B5.7 If the Tenderer encounters technical difficulties during the lodgement process, then it may contact the following help desk:
- NSW Procurement Service Centre Technical Help Desk: 1800 679 289*
- B6 LATE LODGEMENT
- B6.1 A tender lodged after the Closing Time will not be accepted. The Council will notify the Tenderer promptly should its tender or tenders (as relevant) be received late.
- B6.2 Lodgement of tenders on time is entirely the Tenderer's responsibility.
- B6.3 The Proponent is to notify Council if its quotation is delivered by incorrect means or to the incorrect address.
- B7 NON-DISCLOSURE OF INFORMATION
- B7.1 The Tender Documents and any documents made available by the Council for the information of Tenderers (including the Information Documents) (**Confidential Information**) are confidential and are furnished to the Tenderer on that basis. The Tenderer must comply with the obligations set out in the Contract in dealing with all Confidential Information as if it was the Contractor referred to in that clause.
- B7.2 Except as required by law, the amount of each tender received will not be disclosed or otherwise made public by the Council.
- B8 CONFLICT OF INTEREST
- B8.1 Tenderers must notify the Council as soon as practical after becoming aware of an actual or potential Conflict of Interest at any time prior to receiving notification of the award of a contract or the termination of the tender process.
- B8.2 If the Tenderer has or may have an actual or potential Conflict of Interest, the Council may, at its discretion:
- (a) exclude the tender from further consideration; or
 - (b) impose conditions on the Tenderer for the management of the actual or potential Conflict of Interest.
- B8.3 If the Tenderer is unable or unwilling to comply with the conditions imposed under clause B8.2(b) or otherwise resolve the actual or potential Conflict of Interest in a manner satisfactory to the Council, the Council may, at its discretion, exclude the tender from further consideration.
- B8.4 For the purposes of this clause B8, the terms:
- (a) **"Conflict of Interest"** means when the Tenderer could be seen to influence a council officer / staff member (employed on a permanent, casual or contractual basis) due to a Non-Pecuniary Interest or a Pecuniary Interest;

- (b) **“Non-Pecuniary Interest”** means any private or personal interest the Tenderer or any of its employees may have with a council officer / staff member or councillor which does not relate to financial gain (eg kinship, friendship, membership in an association, society etc), or involvement or interest in any activity; and
- (c) **“Pecuniary Interest”** is a financial interest that a council officer / staff member or councillor or relatives, partners and associates has with a Tenderer because of a likelihood or expectation of financial gain or loss.

B9 INFORMATION DOCUMENTS

B9.1 The Tenderer:

- (a) must not in any way rely upon:
 - (i) any Information Document or any other data, representation, statement or document made by or provided to Tenderers by the Council or anyone on behalf of the Council which will not form part of the eventual contract with the Council for the performance of the Works; or
 - (ii) the accuracy, adequacy, suitability or completeness of the Information Documents or any other such information, data, representation, statement or document;
- (b) must prepare and submit its tender based on its own investigations, interpretations, deductions, information and determinations; and
- (c) acknowledges that the Council will be entering into the Contract relying upon the successful Tenderer fulfilling the obligations in paragraphs (a) and (b).

B10 CONDITIONS FOR PARTICIPATION

B10.1 The conditions for participation set out in this clause B10 (**Conditions for Participation**) are mandatory threshold requirements that must be met for a tender in response to this invitation to tender to be accepted for evaluation.

B10.2 Subject to clause B14.3, any tender that in the opinion of the Council does not meet a Condition for Participation may be excluded from evaluation.

B10.3 The Conditions for Participation are as follows:

- (a) the Tenderer must complete and lodge its tender in accordance with the requirements of the Council's Code of Conduct.

Refer to:

<https://www.cumberland.nsw.gov.au/sites/default/files/2017-10/code-of-conduct.pdf>

- (b) the Tenderer must comply with and observe the ethical principles in Council's Statement of Business Ethics which is available from Council's website:

<https://www.cumberland.nsw.gov.au/sites/default/files/2017-10/statement-of-business-ethics-1.pdf>

- (c) the Tenderer complies with the NSW Government *Code of Practice for Procurement (NSW Code)*, the *New South Wales Industrial Relations Guidelines: Building and Construction Procurement (NSW Guidelines)* and any amendments thereto. Lodgement of a tender will itself be an acknowledgement and representation by the Tenderer that it is aware of the requirements of the NSW Code and the NSW Guidelines, that it will comply with the NSW Code and the NSW Guidelines and that it agrees to provide evidence of compliance with the NSW Code and the NSW Guidelines and access to all relevant information to demonstrate compliance for the duration of any contract that may be awarded.

If the Tenderer has failed to comply with the NSW Code and the NSW Guidelines, the failure will be taken into account by the Council when considering this or any subsequent tender and may result in this or any subsequent tender being passed over without prejudice to any other rights of action or remedies available to the Council.

Refer to:

https://www.procurepoint.nsw.gov.au/system/files/documents/code_of_practice_for_procurement_2013_ir_guidelines_0.pdf; and
http://www.industrialrelations.nsw.gov.au/biz_res/oirwww/pdfs/NSW_IR_Guidelines_Building_and_Construction_Procurement.pdf;

- (d) the Tenderer must be registered and approved with BNG Contractor Services prior to works commencing. All costs for registration must be met by the supplier. Registration and approval must be maintained for the duration of the contract.

BNG contact details:

conserve@bngconsulting.com.au

Tel: (02) 8883 1501

Fax: (02) 8883 1502

www.bngconserve.com.au

- (e) the Tenderer demonstrates their capacity to manage environmental matters in accordance with the NSW Government *Environmental Management Systems Guidelines (EMS Guidelines)*.

Refer to: <https://www.procurepoint.nsw.gov.au/environmental-management-systems>; and

- (f) the Tenderer demonstrates their compliance with the NSW Government *Aboriginal Participation in Construction (APIC) Policy (APIC Policy)* and capacity to engage in increased Aboriginal participation in the project including meeting the requirements of the *Aboriginal Participation in Construction (APIC) Policy: Guidelines for NSW Government Suppliers (APIC Supplier Guidelines)*.

Refer to:

https://www.procurepoint.nsw.gov.au/system/files/documents/apic_policy_june_2018_final.pdf; and
<https://www.procurepoint.nsw.gov.au/policy-and-reform/construction-procurement-policy/aboriginal-participation-construction-policy>.

B11 CONFORMING AND NON-CONFORMING TENDERS

- B11.1 The Tenderer shall submit a conforming tender. Tenders shall be based on materials or other details designated in the drawings, specifications and other documents provided to the Tenderer. In addition, the Tenderer may submit one or more alternative tenders.

Tenderers wishing to submit offers based on alternatives may submit an alternative, but alternative tenders will not be considered unless full details of difference in materials, method of construction and/or other details, together with advantages which would accrue to the Principal, are set out in the alternative tender, and the Tenderer also submits a tender based on materials or other details designated in the drawings, specifications and other documents provided to the Tenderer.

- B11.2 Without limiting any clause of the Conditions of Tendering, the Council may, in its absolute discretion and without being under any obligation to do so:

- (a) reject or otherwise not consider;
- (b) evaluate or otherwise consider; or
- (c) accept,

any alternative tender.

- B11.3 Any tender may be regarded as non-conforming if:

- (a) the Council considers that it does not comply with a requirement of these Conditions of Tendering; or
- (b) it contains qualifications, assumptions, or conditions which are inconsistent with or in conflict with the Contract Conditions or with any significant constraints or restrictions set out in the Scope of Works.

- B11.4 Tenders must be executed in the manner indicated below:

- (a) *In the case of a corporation:* the tender must be executed under its common seal affixed in accordance with the *Corporations Act 2001* (Cth) and the corporation's constitution or alternatively, by a director and secretary, or 2 directors in accordance with s127 of that Act.
- (b) *In the case of an unincorporated joint venture or consortium (whether or not trading under a business or trade name):* each member of the joint venture or consortium must execute the tender. Where that member is a corporation, execution must be under its common seal affixed in accordance with the *Corporations Act 2001* (Cth) and the corporation's constitution or alternatively, by a director and secretary, or 2 directors in accordance with section 127 of that Act.

B12 TENDER VALIDITY PERIOD

- B12.1 Tenders will remain valid for a period of ninety (90) days from the expiration of the Closing Date.

B13 SITE INSPECTION AND BRIEFING

- B13.1 A joint site inspection and briefing for Tenderers will be held at the place and time identified in the **Summary Information** or as otherwise nominated by the Council. The Tenderer must attend this site inspection and briefing.

B13.2 The Tenderer may attend the joint site inspection and briefing with their subcontractors or other consultants however the maximum number of people who may attend the joint site inspection and briefing on behalf of the Tenderer is four (4) people.

B13.3 The Tenderer acknowledges and agrees that there is an expectation by the Council that the Tenderer will have a thorough knowledge of the requirements of the Project based on the Tender Documents before attending the joint site inspection and briefing.

B14 DISCREPANCIES, ERRORS AND OMISSIONS

B14.1 The Tenderer must notify the Council in writing of any ambiguity, discrepancy, error omission in any of the Tender Documents. Upon receipt of any notice, the Council may, in its absolute discretion:

- (a) not respond to or answer, or otherwise decline to respond to or answer any such notice;
- (b) respond to or answer any such notice by issuing:
 - (i) addenda to all Tenderers, under clause B12; or
 - (ii) an Information Document to all Tenderers; or
- (c) respond only to the Tenderer who gave the notice.

B14.2 The Council will not be bound by any verbal advice given or information furnished by any of its employees, officers or agents in respect of the Works. Any interpretation of the Tender Documents will be valid only if made by a formal addendum to the Tender Documents issued by the Council in accordance with clause B15.

B14.3 If the Council considers that a Tenderer has made an unintentional error of form in its tender, the Council may, at its sole discretion, permit the Tenderer to correct that error, but will not permit the Tenderer to submit new or different information that would materially alter the original tender.

B15 ADDENDA TO TENDER DOCUMENTS

B15.1 Addenda may be issued by the Council to clarify or to amend the Tender Documents. Every addendum issued will upon issue form part of the Tender Documents. Receipt of each addendum must be acknowledged on the form issued with the addendum, and the completed form must be lodged with the tender. Failure to acknowledge the receipt of any addendum may render a tender non-conforming.

B16 DATE FOR PRACTICAL COMPLETION

B16.1 The Tenderer must allow in its tender for all that which is necessary to bring the Works to Practical Completion on or before the Date for Practical Completion as identified in **Part A - Introduction** and Annexure Part A of the Contract Conditions.

B17 NO COLLUSION

B17.1 The Tenderer must, for so long as its tender remains capable of acceptance:

- (a) not collude with, or communicate with any other Tenderer concerning its tender or the tender process;

- (b) in relation to its tender, behave ethically and in accordance with generally accepted standards of commercial behaviour; and
 - (c) advise the Council in writing as soon as is practicable if it becomes aware that any of the information supplied by it, or any statement made by it, is or becomes incorrect, inaccurate or potentially misleading.
- B17.2 Without limiting any other clause in the Conditions of Tendering, or any right the Council may have pursuant to these Conditions of Tendering or otherwise, if the Tenderer does not comply with clause B17.1, the Council may immediately terminate the involvement of the Tenderer in the tender process.
- B18 TENDER EVALUATION
- B18.1 The object of the evaluation will be to determine which tender the Council considers offers best value to the Council. The evaluation will assess tenders against technical aspects of the tender, financial aspects of the tender, legal and commercial aspects of the tender and general aspects of the tender including the criteria referred to in clause B18.4.
- B18.2 Tender Schedules 1 to 6 inclusive are criteria which will be assessed by Council on a pass/fail basis.
- B18.3 The evaluation of tenders will be based on (but is not limited to) the information provided in the Tender Schedules submitted by Tenderers. This information may be supplemented or qualified by responses by Tenderers to requests for information or clarification from the Council or any other information which the Council considers relevant, including any information or clarification obtained at interview or as part of the tender process.
- B18.4 The criteria on which tenders will be assessed includes (not in order of importance):
 - (a) whether the Tenderer can adequately meet the work health and safety requirements of the Contract having regard to amongst other things, the Tenderer's response to **Tender Schedule 9**;
 - (b) whether the Tenderer will be able to obtain the required insurance cover with insurers acceptable to the Council;
 - (c) whether the Tenderer is willing to provide information regarding its current financial position, to demonstrate that its financial position is sound and is capable of, at the least, supporting its cash requirements for the performance of the Contract, noting that the Council (or a third party appointed by the Council) may request further information pertaining to the Tenderer's financial position at its discretion;
 - (d) the capacity of the Tenderer to provide the required resources including all key personnel to carry out and complete the Works by the date for practical completion;
 - (e) the pricing and rates submitted in **Tender Schedule 3**;
 - (f) extent of compliance with Tender Documents;
 - (g) the completion date(s) offer by the Tenderer; and,
 - (h) Tenderer's corporate experience on relevant projects.
- B18.5 To assist the Council in tender evaluation following receipt of tenders, the Council may request the Tenderer to supply further information, to clarify or elaborate on aspects of its tender, to provide a more detailed breakdown of the lump sum price, and may require the Tenderer's personnel and proposed subcontractors named in the Tender Schedules attend at interviews.

B19 TENDER SCHEDULES

- B19.1 The Tender Schedules referred to in this clause B19, issued to the Tenderer as a part of the Tender Documents, must be completed in full, executed and dated by the Tenderer and must accompany the Tender Offer Form. Failure to include, or to complete and execute, any of the Tender Schedules may render the tender non-conforming. A Tender Schedule is deemed to be not completed in full if any document called for in that Tender Schedule is not provided with the tender submission.
- B19.2 Should the Tenderer's tender be successful, all or part of the information may be incorporated into the Contract as an obligation of, or restriction on, the Contractor.
- B19.3 The Tender Schedules must be completed so as to furnish the required information only.
- B19.4 The Tenderer must state, in **Tender Schedule 2**, whether its tender is a conforming tender or not. If the Tenderer is not willing, or would be unable, to comply with all requirements set out in the General Conditions of Contract (including the Annexures) and the Specifications/Scope of Work as issued to the Tenderer with the Tender Documents and would therefore not be prepared to enter into a contract with Council on the basis of those documents, the Tenderer must submit a comprehensive list of non-conformances with the **Tender Schedule 2**, clearly setting out in that list all tender qualifications and reservations that apply to its tender.
- B19.5 The Tenderer must submit with its tender, in **Tender Schedule 3**, a breakdown of the lump sum tender price stated on the tender form into component amounts for each of the items identified on **Tender Schedule 3**. The sum of the amounts shown against the items in **Tender Schedule 3** must equal the lump sum tender price stated on the Tender Offer Form. Those amounts and the lump sum tender price must exclude GST (as the Tenderer is entitled under the General Conditions of Contract, subject to its compliance with the Contract requirements, to recover from the Council an additional amount on account of GST).
- B19.6 The Lump Sum tender price breakdown will be used by Council for the purposes of tender evaluation and will be incorporated into the Contract.
- B19.7 The Tenderer must submit with its tender, in **Tender Schedule 4**, the rates, amounts and prices set out on that schedule. The rates, amounts and prices submitted must exclude GST (as the Tenderer is entitled under the General Conditions of Contract, subject to its compliance with the Contract requirements, to recover from the Council an additional amount on account of GST). The rates, amounts and prices must also include both off-site overheads and profit and non-time related on-site overheads and preliminaries.
- B19.8 The Tenderer must submit with its tender, in and with **Tender Schedule 5**, an executed tenderer's declaration.
- B19.9 The Tenderer must identify in its tender, in **Tender Schedule 6**, details of the Tenderer's insurance in the several categories identified in **Tender Schedule 6** (including providing any current Certificate of Currency for such insurances), and must confirm that, should its tender be successful, it will be able to comply with the insurance cover requirements set out in the Contract.
- B19.10 The Tenderer must submit with its tender, in and with the **Tender Schedule 7**, various information concerning the Tenderer's capacity to perform the work under the Contract in accordance with the Contract requirements, including:

- (a) details of a minimum of three (3) projects carried out by the Tenderer, in the last five (5) years, for the provision of services similar in scope to the Works under the Contract, with client organisation contacts who can comment on the Tenderer's performance;
- (b) any other information demonstrating the Tenderer's capacity to perform the work under the Contract tendered for;
- (c) details of persons (including but not limited to names, relevant experience, and relevant qualifications) whom the Tenderer, if successful, proposed to assign to perform, manage, administer and supervise the work under the Contract, and the CV's of those proposed persons;
- (d) details of subcontractors and consultants whom the Tenderer, if successful, proposes to use, including a brief description of the work to be carried out by each subcontractor and consultant, and details of relevant recent work completed by each subcontractor and consultant in the provision of services similar to the Works to be subcontracted or consulted. The Tenderer must provide with client organisation contacts who can comment on the subcontractor's or consultant's performance of that work.

B19.10 The Tenderer must submit with its tender, in and with **Tender Schedule 8**, details of the construction methodology and processes proposed to be used by the Tenderer.

B19.11 The Tenderer must submit with its tender, in **Tender Schedule 9**, complete and comprehensive answers to a WH&S questionnaire on the Tenderer's work health and safety practices, including certification by a director of the Tenderer that the information provided is a true and accurate summary of the Tenderer's work health and safety management practices.

B19.12 The Tenderer must submit with its tender, in and with returnable **Tender Schedule 10**, answers to the quality assurance questionnaire contained in the returnable tender schedule and attach to the returnable tender schedule the documents asked for in that returnable tender schedule.

B19.13 The Tenderer must submit with its **Tender Schedule 11**, the information requested.

B19.14 The Tenderer must submit with its **Tender Schedule 12**, the information requested.

B19.15 The Tenderer must submit with its tender, in **Tender Schedule 13** any opportunities for value engineering and potential cost savings.

B20 ACCEPTANCE OF TENDER

B20.1 The Council is not bound to accept the lowest or any tender.

B20.2 The Council may accept a tender even if that tender does not conform to the Specification/Scope of Works as set out in the Tender Documents.

B20.3 The Council will not be responsible for or pay for any costs, losses or expenses suffered or incurred by the Tenderer out of or in the connection with the preparation and submission of tenders.

B20.4 A tender will not be deemed to have been accepted and no contract in respect of the Works will arise between any Tenderer and the Council until the successful tenderer and the Council execute the Formal Instrument of Agreement.

B21 DISCLOSURE OF TENDER AND CONTRACT INFORMATION

- B21.1 The Council will publish details of tenders and any contract awarded as a result of this tender process in accordance with the *Government Information (Public Access) Act 2009* (NSW) and Premier's Memorandum M2007-01.

B22 TERMINATION OF TENDER PROCESS

- B22.1 The Council may terminate the tender process at any time.
- B22.2 The Council will notify all tenderers of the termination of the tender process.
- B22.3 The Council will not be liable to the Tenderer for any costs, losses, damages or expenses suffered or incurred by the Tenderer in preparing or submitting its tender or in respect of any discussions, enquiries or negotiations undertaken by the Tenderer after its tender is submitted, whether or not the tender process is terminated by the Council.

B23 DISCRETION OF THE COUNCIL

- B23.1 The Council reserves the right at any time and on any grounds to:
- (a) amend the Tender Documents, the Scope of Works/Specification] or the Works;
 - (b) readvertise for new tenders;
 - (c) terminate at any time further participation in the process by any or all Tenderers;
 - (d) amend or terminate the tender process;
 - (e) extend the Closing Time for tenders;
 - (f) alter the approach during any negotiations;
 - (g) require additional information or clarification from any Tenderer;
 - (h) elect not to select any Tenderer as preferred Tenderer; or
 - (i) withdraw the invitation to tender.
- B23.3 The Council may, at any time following receipt of tenders, request any or all of the Tenderers to supply any further information or clarification concerning a tender which the Council considers necessary or desirable to enable the Council to better understand or evaluate a tender. For example, a request for information or clarification may require a more detailed breakdown of the prices submitted as part of the tender.

B24 PROBITY ADVISER

- B24.1 The Council may appoint a probity advisor to monitor the tender process. The probity adviser will be an observer of the tender process and will not be involved the detailed evaluation of any tenders.

B25 ENVIRONMENTAL MANAGEMENT

- B25.1 Tenderers should outline in their response to **Tender Schedule 11** their capacity to manage environmental matters in accordance with the EMS Guidelines.
- B25.2 A tender may not be accepted from where the Tenderer does not have a Corporate Environmental Management Systems acceptable to the Council in accordance with the EMS Guidelines.

B26 ABORIGINAL PARTICIPATION

- B26.1 Tenderers should outline in their response to **Tender Schedule 14** their capacity to meet their obligations under the APIC Policy and the APIC Supplier Guidelines.
- B26.2 A tender may not be accepted from where the Tenderer does not have a proposed Aboriginal Participation Plan for the Project acceptable to the Council in accordance with the APIC Policy and the APIC Supplier Guidelines.



CUMBERLAND
COUNCIL

16 Memorial Avenue, PO Box 42, Merrylands NSW 2160

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