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| TENDERING CONDITIONS AND  STATEMENT OF REQUIREMENTS  **Version 1** |
| <*Insert RFT Name*>  <*insert RFT Number*>  Tender Issue Date:<*insert*>  Closing Date:< *insert* >  Closing Time: < *insert* > |

**Contact Officer**

Tenderers should refer requests for information or advice regarding this RFT to:

|  |  |
| --- | --- |
| CONTACT NAME | *<Insert contact officer name>* |
|  |  |
| CONTACT POSTAL ADDRESS | *<Insert >* |
|  |  |
| CONTACT PHONE | *<Insert>* |
|  |  |
| CONTACT EMAIL ADDRESS | *<Insert>* |

Any information given to a tenderer to clarify any aspect of this RFT will also be given to all other tenders if in the opinion of the Principal it would be unfair not to do so.

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All inquiries should be directed to;

Director Category Management

NSW Procurement

Government Services

NSW Department of Finance, Services and Innovation

McKell Building

2-24 Rawson Place

Sydney NSW 2000

Tel: 1800 679 289

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RFT OVERVIEW

1. Scope of RFT
   1. Suppliers
      1. This RFT <Insert Number> seeks tenders from suppliers to supply to NSW Government Customers the Goods/Services described in the Statement of Requirements in the Tendering Conditions and Statement of Requirements.
   2. Contract and Duration
      1. The Principal proposes to enter into a contract in the form of the Head Agreement with the successful tenderer(s) to establish a panel of suppliers for the Goods/Services.
      2. It is envisaged that the panel will be in place for a term of <Insert Number> years, which may be extended for <Insert Options, if any>.
   3. Current Expenditure
      1. The current expenditure incurred by government agencies for the procurement of the Goods/Services is estimated at around <Insert figures> million/year. This estimate is provided for information only and does not constitute a guarantee that the same expenditure will be incurred in the future.
   4. Appointment of Suppliers
      1. The Principal reserves the right to appoint more than one Supplier under the proposed Head Agreement to establish a panel of Suppliers.
   5. NSW Government requirements
      1. The successful tenderer must comply with applicable NSW Government policies, guidelines, and Standards listed in Schedules to the Head Agreement.
   6. NSW Government Procurement Reforms
      1. The NSW Government is overhauling its system for purchasing goods and services. The objective of the reform program is to ensure that the NSW Government has a world class procurement system which delivers value for money, is aligned with business needs, leads to service delivery improvement and supports a competitive and innovative NSW economy.
      2. In November 2012, the NSW Procurement Board issued the NSW Government’s Strategic Directions Statement to outline its reform program. The three overarching procurement reform objectives in the Strategic Directions Statement are value for money, delivering quality government services and alignment with business needs.
   7. Value for Money – Savings Targets
      1. The NSW Government’s Strategic Directions Statement recognises that an effective procurement system will deliver value for money for Government. Procurement activity needs to consider the total value derived by Government over the life of a contract/strategy.
      2. The NSW Government committed to identifying sustainable procurement savings. In addition to broader procurement reform, respondents are encouraged to demonstrate how they will support Government in achieving this commitment through price reductions, increased discounts, improved efficiencies and other measures.
   8. Removal of Management Fee from State Contracts
      1. The NSW Government’s Strategic Directions Statement, Strategic Direction 2, is Simplification and Red Tape Reduction. A key way to deliver value for both suppliers and agencies is to simplify procurement practice and process and remove unnecessary red tape.
      2. One of the measures already implemented to reduce red tape and simplify the process for industry is that Management fee under whole of government contracts (commonly 2.5%) has been abolished relieving onerous reporting, remittance, and auditing procedures which came at a cost to the suppliers over and above the 2.5%.
      3. It is expected that industry will respond to this RFT with competitive offers that fully reflect the removal of Management fee through a decrease in unit cost of no less than 2.5%.
   9. Small and Medium Enterprises Policy

Guide Note: delete this clause if not applicable.

* + 1. The NSW Government has released the NSW Government Procurement: Small and Medium Enterprises Policy Framework (available at [www.procurepoint.nsw.gov.au](https://www.procurepoint.nsw.gov.au/policy-and-reform/goods-and-services/small-and-medium-enterprises-policy-framework)*).* This Policy is applicable to this RFT.

1. RFT Structure
   1. This RFT comprises the following:
   2. Tendering Conditions and Statement of Requirements
      1. It provides the terms, conditions and processes governing the tender phase of the RFT. The Statement of Requirements is a detailed description of the Goods/ Services to be provided by the successful tenderer/s including technical specification, service levels and performance framework. Taken together with the accepted parts of the tenderer’s response, it will form part of the Head Agreement.
   3. Tender Response
      1. This is the Response prepared by the tenderer to enable the Principal to evaluate the tenderer’s offers.
   4. Head Agreement
      1. This is a deed which contains the terms and conditions of the contractual arrangement proposed to be made between the successful tenderer/s and the Principal to enable the supply of the Goods/ Services to Customers.
   5. Customer Contract
      1. The Customer Contract provides the relationship between the Customer and the Supplier for the supply of the Goods/Services that are available from a panel Supplier which has entered into a Head Agreement with the Principal. Each time a Customer places an order, a separate customer contract will be formed.
   6. Dictionary
      1. The definitions used in this RFT and the rules of interpretation are set out in the Dictionary.
2. Performance Framework
   * 1. The Principal is committed to engaging Suppliers who are able and willing to continually improve their performance during the term of the proposed Head Agreement.
     2. Customers will provide feedback to the Principal on the performance of all Suppliers
3. Electronic Business
   * 1. The use of electronic commerce is a requirement under the Head Agreement.

TENDERING CONDITIONS

1. Tender Preparation
   1. Tenderer to inform itself
      1. Before submitting its tender, a tenderer must:
      2. Examine all information relevant to the risks and contingencies and other circumstances having an effect on its Tender; and
      3. Satisfy itself:
         * 1. that the tender, including the price offered is correct; and
           2. that it is financially and practically viable for it to enter into and perform the proposed Head Agreement.
   2. Assumptions made by Tenderer
      1. 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.
   3. Information Supplied

*Guide Note: Use this clause 5.3 only where there are concerns on the reliability of data supplied in Statement of Requirements, which can impact on the tender, and delete in other circumstances. Tenderers may raise issues with this clause.*

* + 1. The information contained in the Statement of Requirements has been provided with due care and is intended only for the tenderer’s guidance, but is not guaranteed as being accurate for future needs and expenditure by NSW Government Customers.

1. Eligibility to Tender
   1. Legal Entity of Tenderer
      1. Tenders must be submitted by a legal entity or, if a joint tender, by legal entities, with the capacity to contract. The Principal will only enter into a Head Agreement with such legal entity or entities.
      2. The Principal 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.
   2. Financial Capability of Tenderer
      1. The Principal reserves the right to reject any tender if the Principal judges the tenderer not to have appropriate financial capability.
      2. Where the Principal forms the view that the tenderer does not have the appropriate financial capability, the Principal 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 Principal .
   3. ABN Requirements
      1. The Principal will not enter into an Agreement with a company that does not have an Australian Business Number and is not registered for GST. Tenderers must be registered for GST and state their ABN in their tender.
2. Tender Process
   1. Provisional RFT Program
      1. Given below is the Principal’s provisional RFT program. The Principal may, at its absolute discretion, amend the provisional RFT program.

|  |  |
| --- | --- |
| Milestone | (dd/mm/yy) |
| RFT issue | » |
| Tender briefing | » |
| RFT Close Date | » |
| Execution of Agreement | » |
| Transitioning requirements completed | » |
| Commencement of supply of Goods/Services | » |

* 1. Tenderer Briefing
     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 to the contact officer at least 3 working days prior to the date. No more than 2 persons from each tenderer will be permitted to attend the tenderer briefing.

|  |  |
| --- | --- |
| Location: | » |
| Date: | » |
| Time: | » |

* 1. Conformity of Tenders

The Principal seeks Conforming Tenders. Non-Conforming Tenders may be excluded from the tender process without further consideration at the Principal’s discretion.

* 1. Alternative Tenders
     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”.
  2. Tender Lodgement
     1. Tenders (including all supporting information, if any) must be fully received by the Closing Date and Closing Time. Tenderers must complete all of the Tender Response document and must not amend any of the questions provided. Prices, responses and other information provided in the tender must be in writing and in English. The tender price must be in Australian dollars.

The Tender must be submitted electronically to the electronic tender box for this RFT via the NSW Department of Finance, Services and Innovation’s tenders website at: <https://tenders.nsw.gov.au> (Login in as a system user, locate the web page for this RFT, and follow the on screen instructions to lodge the tender). The lodgement can only be made by a registered system user of the NSW Government eTendering system.

* + 1. 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.
  1. Electronic Tenders
     1. 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.
     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 Finance, Services and Innovation’s tenders website at <https://tenders.nsw.gov.au>.
     3. Electronically submitted tenders may be made corrupt or incomplete, for example by computer viruses. The Principal may decline to consider for acceptance a tender that cannot be effectively evaluated because it is incomplete or corrupt. Tenderers must note that:
        + 1. To reduce the likelihood of viruses, a tenderer must not include any macros, applets, or executable code or files in a tender response.
          2. 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.
        1. The Principal will not be responsible in any way for any loss, damage or corruption of electronically submitted tenders.
  2. Tender Validity Period
     1. The Tender will remain open for acceptance by the Principal for a period of <*Insert*> months *(e.g. 6 months or longer)* from the Closing Date and Closing Time for tenders.
  3. Late Tenders
     1. Late tenders should not be considered, except where the Principal is satisfied that the integrity and competitiveness of the tendering process has not been compromised. The Principal shall not penalise any supplier whose tender is received late if the delay is due solely to mishandling by the Principal.
  4. Extension of Closing Date and Closing Time
     1. The Principal may, in its discretion, extend the Closing Date and Closing Time.
  5. Corruption or Unethical Conduct
     1. Tenderers must comply with the requirements of the NSW Department of Finance, Services and Innovation’s Business Ethics Statement, which is available at the link below and must disclose any conflicts of interests in Tender Response.
     2. If a tenderer, or any of its officers, employees, agents or sub-contractors is found to have:
        + 1. offered any inducement or reward to any public servant or employee, agent or subcontractor of the Principal, Customer or the NSW Government in connection with this RFT or the submitted Tender;
          2. committed corrupt conduct in the meaning of the Independent Commission Against Corruption Act 1988;
          3. a record or alleged record of unethical behaviour; or not complied with the requirements of NSW Department of Finance, Services and Innovation’s Business Ethics Statement available at: <https://www.finance.nsw.gov.au/about-us/business-ethics>
        1. this may result in the tender not receiving further consideration.
     3. The Principal may, in its discretion, invite a relevant tenderer to provide written comments within a specified time before the Principal excludes the tenderer on this basis.
     4. If the Principal becomes aware of improper conflict of interests by a successful tenderer after an Agreement has been executed, then the Principal reserves the right to terminate the Head Agreement and any Customer Contract that has been made under it.
  6. Goods and Services Procurement Policy Framework
     1. In submitting its tender, the tenderer signifies agreement to comply with the Goods and Services Procurement Policy Framework.
     2. Failure to comply with the Goods and Services Procurement Policy Framework may be taken into account by the Principal when considering the tenderer’s tender or any subsequent tender, and may result in the tender being passed over.
  7. Addenda to RFT
     1. If, for any reason the Principal, at its sole discretion, requires the RFT to be amended before the Closing Date and Time, an Addendum will be issued. In each case, an Addendum becomes part of the RFT. The Principal, 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.
     2. Tenderers must check the web site address, <https://tenders.nsw.gov.au> and download the Addendum.
  8. Costs of Tenderer participating in the RFT
     1. The tenderer acknowledges that the Principal 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.
  9. Ownership of Tenders
     1. All tenders become the property of the Principal on submission. The Principal may make copies of the tenders for any purpose related to this RFT.
  10. Discontinuance of Tender Process
      1. Where the Principal determines that awarding a contract would not be in the public interest, the Principal reserves the right to discontinue the tender process at any point, without making a determination regarding acceptance or rejection of tenders.
  11. Variations to Tenders
      1. At any time after the Closing Date of tenders and before the Principal accepts any tender received in response to this RFT, a tenderer may, subject to 7.16.2, vary its tender:
         + 1. by providing the Principal with further information by way of explanation or clarification;
           2. by correcting a mistake or anomaly; or
           3. by documenting agreed changes negotiated.
      2. Such a variation may be made either:
         + 1. at the request of the Principal, or
           2. with the consent of the Principal at the request of the tenderer; but only if,

in the case of variation requested by the tenderer under clause 7.16.1(a)-(b), it appears to the Principal reasonable in the circumstances to allow the tenderer to provide the information or correct the mistake or anomaly; or

in the case of variation under 7.16.1(c), the Principal has confirmed that the draft-documented changes reflect what has been agreed.

* + 1. If a tender is varied in accordance with clause 7.16.1(a) or 7.16.1(b), the Principal will provide all other tenderers whose tenders have similar characteristics with the opportunity of varying their tenders in a similar way.
    2. A variation of a tender under clause 7.16.1 will not be permitted if in the Principal’s view:
       1. (a) it would substantially alter the original tender; or
       2. (b) in the case of variation under clause 7.16.1(a) or 7.16.1(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.
  1. Evaluation Process
     1. Tenders will be assessed against the evaluation criteria listed below which are not indicated in order of significance or equal weight. The evaluation criteria for this RFT that do not relate to price will account for x% of the total evaluation score. The evaluation criteria for this RFT that relate to price will account for 100-x% of the total evaluation score. Information supplied by the tenderer in Tender Response will contribute to the assessment against each criterion.
     2. Tenderers are advised to respond clearly to all the evaluation criteria listed in this RFT. Tenders that do not include a fully completed Tender Response, 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 Principal’s discretion.
     3. The Principal may assess an Alternative Tender against the evaluation criteria where submitted with a Conforming Tender.
  2. Evaluation Criteria
     1. The evaluation criteria for this RFT (which include but are not limited to) are:

(*Guide Note: Modify Evaluation Criteria as needed)*

* + - * 1. Capability and capacity to perform the Head Agreement and Customer Contracts including:

Proposed facilities, processes and arrangements for:

receiving and processing Customer orders;

warehousing; and

delivering products to Customers;

Capacity and capability to facilitate electronic commerce through NSWBuy.

Proposed Customer support facilities, including availability Customer enquiries and Help Desk for repairs;

Quality assurance;

Proposed arrangements for managing the Head Agreement and Customer Contracts made under it;

* + - * 1. Price;
        2. Previous experience and performance on meeting the requirements covered in this RFT or other similar requirements;
        3. Proposed implementation plan, including the setting up of Customer accounts and timeline;
        4. Financial capacity and stability;
        5. Compliance with the Statement of Requirements;
        6. Compliance with the proposed conditions of the Head Agreement and Customer Contracts.
        7. Compliance with NSW Government procurement policy and other relevant policies to the supply of the Goods/Services.
        8. Compliance with relevant legislation and standards.
        9. Record of ethical behaviour.
  1. Site inspects and Presentations by Tenderer
     1. The Principal may, during the evaluation of tenders, undertake site inspections of tenderer’s or their subcontractor’s proposed premises. The Principal, 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. The tenderer shall make any presentations at its own cost. However, receiving a presentation by a tenderer in no way represents a commitment by the Principal to accept any aspect of the tender. All information obtained during the course of presentation or site inspection may be taken into consideration in the evaluation of tenders.
  2. Acceptance or Rejection of Tenders
     1. The Principal is not bound to accept the lowest priced tender.
     2. If the Principal 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).
     3. The Principal expressly reserves the right to accept, in its discretion, either or both of the following:
        + 1. Any Alternative Tender or part of an Alternative Tender, when submitted with a Conforming Tender; and
          2. 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 Principal’s opinion, is substantially a Conforming Tender.
  3. Post Tender Negotiations
     1. Before making any determination as to acceptance or rejection of Tenders the Principal 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. The Principal will not enter into negotiations to amend Head Agreement.
     2. If the Principal considers that none of the tenders are fully acceptable either because 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 Principal and made clear to the participants before the commencement of negotiation.
     3. The Principal may at its absolute discretion elect to conduct post tender negotiations under 7.21 with more than 1 tenderer in the event that it decides that the closeness of the tenders or timing constraints warrants doing so.
  4. Exchange of Information between Government Agencies
     1. By lodging a tender the tenderer will authorise the Principal to make information available, on request, to any NSW government agency. This includes information dealing with the tenderer’s performance on any prior contract that has been awarded. Such information may be used by the recipient NSW Government agency for assessment of the suitability of the tender for pre-qualification, selective tender lists, expressions of interest or the award of a contract.
     2. The provision of the information by the Principal 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 Principal 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. Method of Acceptance
     1. Acceptance of a tender or part tender will be subject to the execution of a formal Deed in the terms of the Head Agreement. Until the Principal and the successful tenderer(s) execute a formal Head Agreement there will be no legally enforceable agreement concluded between them.
  6. Disclosure Information
     1. Following the Principal’s decision, all tenderers will be notified in writing of the outcome of their Tenders.
     2. Details of this tender and the outcome of the tender process will be disclosed in accordance with the *Government Information (Public Access) Act* (NSW) and the [Premier’s Memorandum 2007-01](http://arp.nsw.gov.au/m2007-01-public-disclosure-information-arising-nsw-government-tenders-and-contracts).
  7. Complaints Procedure
     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 Head Agreement or the Statement of Requirements, it is invited to write to:
        1. Chairperson
        2. NSW Procurement Board
        3. McKell Building
        4. 2-24 Rawson Place
        5. Sydney NSW 2000

STATEMENT OF REQUIREMENTS

*Guide Note: Modify following as needed*

1. Introduction
2. Scope
3. Goods/Services to be Supplied by the Supplier

*Guide Note: if the Goods/Services are to be supplied in accordance with the regions, the Regions are identified and described in Attachment 1 to this Statement of Requirements*

1. Stock Levels
2. Performance Management
3. Service Level
4. Reports
5. Technical Support

* + - 1. **Attachment 1: Geographical Regions**

**NSWBuy Regions**

Based on local planning areas are defined as shown below.

Map of NSW highlighting Metro North

**Metro North Region**

1. **Cumberland/Prospect**

* Auburn, Baulkham Hills, Blacktown, Holroyd, Parramatta

1. **Nepean**

* Blue Mountains, Hawkesbury, Penrith

1. **Northern Sydney**

* Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Manly, Mosman, North Sydney, Pittwater, Ryde, Warringah, Willoughby

Map of NSW highlighting Metro South

**Metro South Region**

1. **Inner West**

* Ashfield, Burwood, Canada Bay, Canterbury, Leichhardt, Marrickville, Strathfield

1. **South East Sydney**

* Botany Bay, Hurstville, Kogarah, Randwick, Rockdale, Sutherland Shire, Sydney, Waverley, Woollahra

1. **South West Sydney**

* Bankstown, Camden, Campbelltown, Fairfield, Liverpool, Wingecarribee, Wollondilly

Map of NSW highlighting Hunter Region

**Hunter Region**

1. **Central Coast**

* Gosford, Wyong

1. **Hunter**

* Cessnock, Dungog, Lake Macquarie, Maitland, Muswellbrook, Newcastle, Port Stephens, Singleton, Upper Hunter Shire

Map of NSW highlighting Western Region

**Western Region**

1. **Central West**

* Bathurst Regional, Blayney, Cabonne, Cowra, Forbes, Lachlan, Lithgow, Oberon, Orange, Parkes, Weddin

1. **Orana / Far West**

* Balranald, Bogan, Bourke, Brewarrina, Broken Hill, Central Darling, Cobar, Coonamble, Dubbo, Gilgandra, Mid-Western Regional, Narromine, Walgett, Warren, Warrumbungle Shire, Wellington, Wentworth, Unincorporated NSW (Far West)

1. **Riverina/Murray**

* Albury, Berrigan, Bland, Carrathool, Conargo, Coolamon, Cootamundra, Corowa Shire, Deniliquin, Greater Hume Shire, Griffith, Gundagai, Hay, Jerilderie, Junee, Leeton, Lockhart, Murray, Murrumbidgee, Narrandera, Temora, Tumbarumba, Tumut Shire, Urana, Wagga Wagga, Wakool

Map of NSW highlighting Northern Region

**Northern Region**

1. **Far North Coast**

* Ballina, Byron, Clarence Valley, Kyogle, Lismore, Richmond Valley, Tweed

1. **Mid North Coast**

* Bellingen, Coffs Harbour, Gloucester, Great Lakes, Greater Taree, Hastings, Kempsey, Nambucca, Unincorporated NSW (Lord Howe Island)

1. **New England**

* Armidale Dumaresq, Glen Innes Severn, Gunnedah, Guyra, Gwydir, Inverell, Liverpool Plains, Moree Plains, Narrabri, Tamworth Regional, Tenterfield, Uralla, Walcha

Map of NSW highlighting Southern Region

**Southern Region**

1. **Illawarra**

* Kiama, Shellharbour, Shoalhaven, Wollongong

1. **Southern Highlands**

* Bega Valley, Bombala, Boorowa, Cooma-Monaro, Eurobodalla, Goulburn Mulwaree, Harden, Palerang, Queanbeyan, Snowy River, Upper Lachlan, Yass Valley, Young