

Conditions of Tendering

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Conditions of Tendering

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The Conditions of Tendering do not form part of the Contract.

The Conditions of Tendering include any notices to tenderers.

1 General

1.1 Summary of the tendered Works

The Principal is seeking tenders from appropriately qualified and experienced organisations for the refurbishment of the Eugowra Pool Changerooms building.

Refer to *Project Overview* and tender documentation for more detail of the proposed Works.

1.2 Requests for information and clarifications

All communications with the Principal and all requests for information or clarification with regard to this Request for Tenders (RFT) must be made through the Principal's online forum.

Requests for information or clarification will be directed to the nominated Contact Person. The Contact Person will respond in writing and may issue an addendum related to the enquiry and the response.

The Principal reserves the right not to respond to enquiries made within 5 Business Days prior to the close of tenders.

Tenderers should not approach the Contact Person directly unless requested to do so or where an urgent response is required for an inspection date or similar.

The Principal's online forum is: Vendor Panel

Access to the Principal's online forum is by web address: www.vendorpanel.com.au

The Contact Person is:

Name:	Patrick Leal
Telephone number:	0475107730
E-mail address:	Patrick.leal@cabonne.nsw.gov.au

2 Tenderer Eligibility

2.1 Acceptable Legal Entities

The Principal contracts only with recognised and acceptable legal entities. The Principal does not contract with firms under any form of external administration. Any tender submitted by an unincorporated business such as a sole trader, partnership or business name must identify the legal entity that proposes to enter into the Contract.

If a tenderer is a trustee, the Principal may require:

- an unconditional undertaking in accordance with Preliminaries Clause - **Additional Security and Obligations for Trustees**; and
- a signed statement from the tenderer, provided before a Contract is awarded, making the following undertaking:

‘If (insert the legal name of the tenderer) is awarded Contract No. (insert the contract number) for (insert the contract description) it will provide security in the amount of (insert the amount of security advised by the Principal) in accordance with Preliminaries Clause - **Additional Security and Obligations for Trustees**, and it undertakes to ensure that, for the duration of the Contract, the total value of the trust beneficiaries' loans to the trustee is always greater than the total value of trust beneficiaries' loans from the trustee.’

Failure to provide the signed statement may result in the tender being passed over.

2.2 Quality Management

The Principal may elect to pass over a tender from a tenderer that does not demonstrate the capacity to systematically plan and manage the quality of its work in accordance with the NSW Government *Quality management guidelines* (Construction Procurement) (Edition 4), available on the Buy.nsw website at:

<https://buy.nsw.gov.au/categories/construction>

Submit when requested, the completed Schedule and the information required by Tender Schedules - **Schedule of Quality Management Information.**

2.3 Work Health and Safety Management

Tenderers must demonstrate their capacity to manage work, health and safety (WHS) in accordance with the NSW Government *Work Health and Safety (WHS) management guidelines* (for Construction Procurement) (Edition 6). These *Guidelines* are available on the buy.nsw website at: <https://buy.nsw.gov.au/categories/construction>

Submit with the Tender Form, the completed Schedule and the information required by Tender Schedules - **Schedule of WHS Management Information - PART A.**

Submit when requested, the completed Schedule and the information required by Tender Schedules - **Schedule of WHS Management Information – PART B.**

2.4 Environmental Management

Tenderers must demonstrate their capacity to manage environmental matters in accordance with the NSW Government *Environmental management (EM) guidelines* (Construction Procurement) (Edition 4) available on the buy.nsw website at:

<https://buy.nsw.gov.au/categories/construction>

Submit with the Tender Form the completed Schedule and the information required by Tender Schedules - **Schedule of Environmental Management Information – PART A.**

2.5 Financial Assessment

By tendering for this Contract, the Tenderer agrees that the Principal may engage private sector consultants to financially assess tenderers. Financial details of tenderers may be obtained by an external Financial Assessor for assessment. Financial Assessors have a contract with the Principal to safeguard the financial details obtained. Financial Assessors must not disclose such details, either in whole or in part to any party other than NSW Government departments or agencies without the express written permission of the tenderer.

Information about the financial assessment services scheme SCM2491 is available on the buy.nsw website at:

<https://buy.nsw.gov.au/schemes/financial-assessment-services-scheme>

The criteria considered in the financial assessment of tenderers include:

- Net Tangible Assets (total assets, less total liabilities, less intangible assets);
- Current Ratio (ratio of current assets to current liabilities); and
- Working Capital (current assets less current liabilities).

Taking into account, the value of work started in the six (6) weeks prior to the financial assessment, the Principal considers a tenderer with the following financial indicators, and no other significant detrimental financial characteristics, to be financially satisfactory in respect of its tender:

- Net Tangible Assets exceed 5% of the tender price;
- Current Ratio exceeds 1;
- Working Capital exceeds 10% of the tender price; and
- Where a tenderer is a trustee, the total value of trust beneficiaries' loans to the trustee exceeds the total value of trust beneficiaries' loans from the trustee.

Deviations from the above indicators will not necessarily prevent the Principal from considering any tender.

Submit, within five (5) business days after receiving a request from the appointed financial assessor or the Principal, the information required by Tender Schedules - **Schedule of Financial Assessment Information**.

3 Contract Details

3.1 Insurance

Works and Public Liability Insurance

Works Insurance

The Contractor must arrange insurance of the Works (and any temporary works) and pay all premiums in accordance with General Conditions of Contract clause - **Insurance**.

Public Liability Insurance

The Contractor must arrange insurance for public liability and pay all premiums in accordance with General Conditions of Contract clause - **Insurance**.

Other Insurance

Unless otherwise advised by the Principal, the Contractor is to arrange and pay all premiums for all other insurance required by law or under General Conditions of Contract Clause - **Insurance**.

For professional indemnity insurance, a Certificate of Currency or evidence of the ability to obtain the required insurance, such as a letter from a broker or insurer, may be required as a condition of acceptance of the tender.

4 Current Policies

4.1 Disclosure of Tender and Contract Information

Details of this tender process and any contract awarded as a result of the tender process may be disclosed in accordance with the *Government Information (Public Access) Act 2009* (NSW) and Premier's Memorandum 2007-01.

4.2 Procurement Policy Framework, Supplier Code and Industrial Relations Guidelines

The Tenderer's attention is directed to the:

- NSW Government Procurement Policy Framework (Procurement Framework);
- NSW Government Supplier Code of Conduct (the 'Code'); and
- NSW Industrial Relations Guidelines: Building and Construction Procurement (NSW Guidelines).

The Procurement Framework, the Code and the NSW Guidelines apply to the Contract. Refer to Preliminaries clause 1.6 - **Procurement Policy Framework, Supplier Code and Industrial Relations Guidelines** for further information.

The NSW Government Procurement Policy Framework is available at:
<https://buy.nsw.gov.au/policy-library/policies/procurement-policy-framework>

The Supplier Code of Conduct is available at:
<https://buy.nsw.gov.au/policy-library/policies/supplier-code-of-conduct>

The NSW Industrial Relations Guidelines are available at:
<https://www.industrialrelations.nsw.gov.au/industries/key-industries-in-nsw/building-and-construction/>

Tenderers have obligations under the Procurement Framework. Tenderers must demonstrate that they understand and will comply with the Code and the NSW Guidelines.

Submit, with the Tender, the completed Tender Schedules - **Schedule of Compliance with NSW Supplier Code and Industrial Relations Guidelines: Building and Construction Procurement**.

A Tender will not be accepted from a Tenderer that does not provide the completed Schedule which comprises a declaration by the Tenderer.

4.3 Exchange of Information by the Principal

By submitting a tender, the tenderer authorises the Principal to gather, monitor, assess, and communicate to NSW Government agencies or local government authorities, information about the tenderer's performance in respect of any contract awarded as a result of the tender process. Such information may be used by those agencies or authorities in considering whether to offer the tenderer future tendering opportunities.

4.4 Unconditional undertakings - approved institutions

For the purpose of giving unconditional undertakings, banks, building societies, credit unions and insurance companies listed by the Australian Prudential Regulation Authority (APRA) as being regulated by the APRA are acceptable. Lists appear at the APRA website at: <https://www.apra.gov.au/list-of-registered-financial-corporations>

5 Further Information

5.1 Addenda to RFT Documents

If, as a result of a request for clarification from a tenderer or for any other reason, the Principal issues an instruction amending the RFT documents, the instruction will be issued in writing to all tenderers in the form of an Addendum, which becomes part of the RFT documents. Written Addenda issued by the Principal are the only recognised explanations of, or amendments to, the RFT documents.

5.2 Site

Site information

The Principal may provide geotechnical or other information concerning the Site. Some Site information, including reports and investigations, may not form part of the Contract.

Site information is located in:

- this RFT as referenced in the RFT Table of Contents.
- this RFT in relevant Schedules or Appendices.

Refer to Preliminaries clause – **Site** for Site related contract requirements and for other site activities and contracts (if any) which may affect this site.

Access Restrictions

Tenderers and their agents or representatives must:

- obtain permission to inspect the Site from the Client's Representative at least 48 hours before access to the Site is required; and
- upon arrival, at the pre-arranged time, introduce themselves at the Client Representative's office prior to undertaking their inspection of the Site.

Contact the Contact Person if difficulty is experienced in securing an appointment with the Client's Representative for an inspection of the Site.

5.3 Pre-tender Meeting

A pre-tender meeting will be held on the date, at the time and at the place nominated in the tender advertisement or invitation.

The Contact Person will be available at that time to answer any tenderer's queries regarding the RFT.

6 Preparation of Tenders

6.1 Alternative Tenders

Where a tenderer proposes an alternative tender, the tenderer must submit a detailed description of the alternative stating clearly the manner in which it differs from the requirements of the RFT documents. Where the tenderer submits more than one tender and the relevant information is different for the alternative(s), submit separate Tender Schedules. Clearly identify in each Tender Schedule the applicable alternative.

The Principal will consider alternative tenders, that meet the scope and functional intent expressed in the RFT documents but may elect not to accept an alternative tender.

Alternative tenders will not be considered unless the tenderer has submitted a conforming tender.

6.2 Weighted Non-Price Evaluation

Complete and submit Tender Schedules - **Schedule of Weighted Non-Price Criteria Information**.

6.3 Qualifications and Departures

Qualifications and departures include any condition, offer, interpretation, assumption or proposal of any nature appearing on any documents submitted with or within the Tender which constitute any variation of, omission from, or addition to this RFT.

Where the Tenderer considers a qualification or departure to its Tender is appropriate or wishes to clarify an assumption with respect to the RFT document, it may discuss its concern with the Contact Person using the on-line forum, where nominated, and/ or utilise the option, if available, to submit an alternative tender.

Refer to Conditions of Tendering - **Evaluation of Tenders** for information on the evaluation of qualifications and departures.

7 Submission of Tenders

7.1 Documents to be submitted

Part A: Documents to be Lodged at close of Tenders

Complete and lodge, by the date, time and method stated in the tender advertisement and/or invitation, the following documents and information:

- **Tender Form**
- **Schedule of Prices – Lump Sum**
- **Schedule of Weighted Non-Price Criteria Information**
- **Schedule of WHS Management Information: Part A**
- **Schedule of Environmental Management Information: Part A**

Any tender that is not received in full at close of tenders may be passed over.

Do not change the text on the Tender Form or Tender Schedules, other than to insert the required information.

Acknowledge on the Tender Form, by listing the Addendum numbers, that the tender allows for all Addenda issued.

If more than one tender is lodged, mark each tender clearly as to whether it is a copy, an alternative tender, or a tender superseding another submission.

7.2 Tenders submitted electronically

Legal status

Tenders 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 submitted by other means.

Lodgement of a tender electronically is evidence of a Tenderer's acceptance of the NSW Government Global terms and conditions which are available with the tender opportunity.

Please note that the following clarifications and interpretations of terms in the referenced NSW Government Global terms and conditions apply to this RFT unless the context requires a different interpretation:

- 'response' and 'quotation' means 'tender';
- 'Respondent', 'user', you, and 'Supplier' means 'Tenderer';
- 'Opportunity' means this 'Request for Tenders' or 'RFT'; and
- 'amendment notice' means 'Addendum'. Note that the RFT can only be changed by the issue of an instruction in the form of an Addendum. Refer to Clause 5.1.

The Principal may decline to consider for acceptance, tenders that cannot be effectively evaluated because they are incomplete or corrupt.

Electronic Format for Submissions

Tenders submitted electronically must be in a file format that can be read, formatted, displayed and printed by Microsoft Word 2021, or any format required by the RFT.

Any CAD files submitted with an electronically lodged tender must be in DGN, DWG, or DXF format. The Principal uses Microstation and Tenderers must ensure that any CAD files submitted that will correctly display and print in Microstation.

File Compression

Tenderers may compress electronic tenders in any format that can be decompressed by WinZip. Tenderers must not submit self-extracting (*.exe) zip files.

7.3 Late Tenders

In accordance with the NSW Government *Supplier Code of Conduct*, late tenders will not be accepted, except where the integrity and competitiveness of the tendering process will not be compromised. The *Supplier Code of Conduct* is available on the buy.nsw website at <https://buy.nsw.gov.au/policy-library/policies/supplier-code-of-conduct>.

8 Procedures after Closing of Tenders

8.1 Evaluation of Tenders

General Evaluation Criteria

In evaluating tenders, the Principal may take into consideration not only price but also other factors affecting value for money, including but not limited to:

- whole-of-life costs, including costs of disposal;
- ability to meet requirements of the NSW Government Code of Practice for Procurement;
- innovation;
- delivery time;
- WHS management performance;
- quality offered;
- previous performance and relevant experience;
- organisational, technical and resource capability and capacity to meet RFT requirements, including financial capacity;
- workplace and industrial relations management performance;
- environmental management performance;
- reasonable steps in dealing with modern slavery;
- stakeholder, community relations management performance;
- value adding, including economic, social and environmental initiatives; and
- conformity to RFT requirements.

The Principal may treat any detail required by the RFT documents which is omitted, illegible or unintelligible as failing to fulfil the relevant requirement.

The Principal may assess the value of any qualification in any tender without reference to the Tenderer and compare tenders on the basis of the Principal's assessed valuation.

Weighted Non-Price Evaluation

Tenders will be evaluated using a weighted scoring process based on information provided with the tender. The ratio of price to non-price criteria will be: 60:40

The weighted non-price criteria will be:

- Experience in Similar Projects
- Capability to Undertake this Project
- References

- Proposed Timeframe
The Principal may elect to pass over a Tender from a Tenderer with an assessed score on any of the above non-price criteria that is below a threshold acceptable to the Principal.

8.2. Acceptance of Tender

The Principal may accept tenders that do not conform strictly with all requirements of the RFT documents.

The Principal is not bound to accept the lowest or any tender. Tenders which do not comply with any requirement of, or which contain conditions or qualifications not required or allowed by, the RFT documents may be passed over.

The Principal reserves the right to not accept a rate for a provisional rate item that it considers is not reasonable.

No tender, or qualification or departure from the RFT documents, is accepted unless and until the Principal gives an acceptance or agreement in writing.

Tenders may be accepted for the whole of the Works or specific parts of the Works.

8.3. Protection of Privacy

The tenderer warrants, in respect of any personal information provided in its tender or for the purpose of any contract awarded as a result of the tender process, that the information is accurate, up to date and complete, and that nominated individuals authorise its collection and are aware:

- that the information is being collected for the purpose of evaluating tenders and administering contracts and may be made available to NSW government agencies or local government authorities for those purposes;
- of any consequences for the individual if the information (or any part of it) is not provided;
- whether the supply of information by the individual is required by law or is voluntary; and
- of the existence of any right to access or correct the information.

END OF SECTION – CONDITIONS OF TENDERING