

REQUEST FOR QUOTATION CONDITIONS

1. INTERPRETATION

In this document, capitalised words or phrases used in these RFQ Conditions have the following meanings:

Confidential Information means information that:

- (a) is by its nature confidential;
- (b) is marked as confidential; or
- (c) the receiving party knows or ought to know is confidential,

and includes all financial and commercial information of the Customer disclosed to Suppliers as part of the RFQ Process, but does not include information which:

- (d) is or becomes public knowledge other than by a breach of confidence by the receiving party;
- (e) is in the possession of a party without restriction in relation to disclosure before the date of receipt; or
- (f) has been independently developed or acquired by the receiving party;

Contract means a legally binding agreement entered into by the Customer and a Supplier, which is executed during the RFQ Process in accordance with each party's respective governance requirements and approvals;

Goods, Services and Deliverables means the goods, services and/or deliverables being procured by the Customer pursuant to the RFQ Process.

Personnel means, in relation to a Supplier, the Supplier's officers, employees, agents and advisors;

Request for Quotation means the Request for Quotation described or stated in this document;

Requirements means the Requirements set out in Section 1 of this document;

RFQ Conditions means the terms and conditions set out in Schedule A of this document;

RFQ Process means the Customer's process for the calling for, and preparation, submission and evaluation of, quotations submitted in response to the Request for Quotation; and

Supplier means a legal person or other entity that participates in the RFQ Process at the invitation of the Customer, whether or not it submits a quotation as part of that process.

2. RFQ PROCESS

2.1 Supplier acceptance

The Supplier represents and agrees that:

- (a) by participating in the RFQ Process, the Supplier will be and is legally bound by and will comply with these RFQ Conditions; and
- (b) the submission of a tender or quotation constitutes an offer to enter into a Contract with the Customer to provide the Goods, Services and Deliverables;

and the Customer is relying on the Supplier's representations and agreement.

2.2 Customer discretion

The Customer may make any changes to the RFQ Process in its absolute discretion, by notifying the Supplier of the changes, including without limitation:

- (a) add or change Requirements;
- (b) amend dates including extending the closing date and time for the RFQ Process;
- (c) consider or reject a quotation received after the closing date and time for the RFQ Process;
- (d) accept quotations that do not conform with the RFQ Process or these RFQ Conditions, alternative or innovative quotations, quotations in part, or multiple quotations;
- (e) reject any or all quotations;
- (f) exercise discretion in evaluating any subjective evaluation criteria;
- (g) negotiate with one or more Suppliers and allow any Supplier to vary its quotation;
- (h) interview, negotiate or hold discussions with any Supplier or prospective Supplier on any matter contained (or proposed to be contained) in a quotation to the exclusion of others;
- (i) request some or all Suppliers to conduct site visits, provide references and additional information, and/or

make themselves available for panel interviews; or

- (j) cancel the RFQ Process.

The Supplier will have no claim and the Customer will have no liability to the Supplier in connection with any exercise or failure to exercise by the Customer of its rights and discretions in relation to the RFQ Process.

3. ALTERNATIVE OFFERS

The Queensland Government Procurement Policy promotes an outcome focussed approach, seeking opportunities to innovate and improve value for money. Suppliers are encouraged to submit alternative offers and innovative offers where they believe that the alternative will promote the Customer's objectives.

4. NO RELIANCE ON INFORMATION

The Supplier is responsible for making its own investigation and assessment about all matters relevant to the Request for Quotation, the Requirements, the accuracy of all information and documents provided by or on behalf of the Customer, and all other matters relevant to the Supplier's quotation.

5. SUPPLIER COST

Participation in the RFQ Process is at the Supplier's cost. The Customer is not liable for any loss, costs or expenses suffered or incurred by the Supplier in relation to the RFQ Process, and all such liability is excluded to the fullest extent legally permissible.

6. SUBJECT TO CONTRACT

No Contract will be formed between the Customer and the Supplier unless and until the Customer accepts the Supplier's quotation in writing or both parties sign a contract document.

7. COMPLIANCE

The Supplier must:

- (a) **(communication)** direct all enquiries relating to the Request for Quotation to the Customer's nominated contact person, and not discuss the Request for Quotation with any other person except as required to prepare its quotation;
- (b) **(accuracy)** ensure that all information provided as part of its quotation is complete, accurate, current, and not misleading;
- (c) **(laws)** comply with all laws;

- (d) **(confidentiality)** (i) keep confidential, and ensure its Personnel keep, all Confidential Information which it receives or obtains from the Customer (**Customer's Confidential Information**) as part of the RFQ Process; (ii) not use Customer's Confidential Information except for the sole purpose of responding to the Request for Quotation; (iii) not disclose Customer's Confidential Information except to its Personnel on a need to know basis for the purpose of responding to the Request for Quotation, or with the Customer's written consent, or to the extent required by law, or to its professional advisors; (iv) if directed by the Customer as a condition of participation in the RFQ Process, promptly execute, and require each of its Personnel to whom Customer's Confidential Information is or will be disclosed for the above purpose, to execute, a confidentiality deed poll in favour of the Customer, on terms reasonably acceptable to the Customer; (v) immediately notify the Customer of any breach or suspected breach of confidentiality relating to Customer's Confidential Information; and (vi) if directed by the Customer, promptly destroy and/or return Customer's Confidential Information to the Customer.

The Supplier agrees that (vii) the Supplier is responsible for all breaches of confidentiality by its Personnel or advisors in relation to Customer's Confidential Information, and (viii) in addition to any other legal or equitable remedies available to it, the Customer may, in its absolute discretion, suspend or exclude the Supplier from the RFQ Process if the Supplier breaches its confidentiality obligations in relation to Customer's Confidential Information under these RFQ Conditions

- (e) **(privacy)** if it collects or has access to any personal information in connection with the RFQ Process, comply as if it was the Customer with the privacy principles in the Information Privacy Act or the Australian Privacy Principles in the Privacy Act, as applicable, in relation to that Personal Information and comply with all reasonable directions of the Customer relating to the personal information;
- (f) **(no publicity)** not make any public announcements or advertisement relating to the RFQ Process;
- (g) **(competitive neutrality)** if the Supplier is a government owned business, local government, or Commonwealth, State or Territory or authority, price its quotation to

comply with the competitive neutrality principles of the Supplier's jurisdiction;

- (h) **(Personnel)** ensure that its Personnel also comply with these requirements;
- (i) **(accuracy of information)** ensure that all representations, warranties, declarations, statements, information and documents ("information") made or provided by the Supplier in connection with the RFQ Process are complete, accurate, up-to-date and not misleading in any way. The Supplier must immediately tell the Customer if any information is or becomes incomplete, inaccurate, out-of-date or misleading in any way.

8. ANTI-COMPETITIVE CONDUCT, CONFLICT OF INTEREST AND CRIMINAL ORGANISATIONS

8.1 Anti-competitive conduct

The Supplier warrants that neither it, nor its Personnel have engaged in any collusive, anti-competitive or similar conduct in connection with the RFQ Process or any actual or potential contract with any entity for goods and services similar to the Goods, Services and Deliverables.

8.2 Conflict of interest

The Supplier warrants that it and its Personnel do not hold any office or possess any property, are not engaged in any business or activity and do not have any obligations whereby a conflict of interest is created, or may appear to be created, in conflict with its obligations under these RFQ Conditions or the proposed Contract, except as disclosed in the Supplier's quotation.

The Supplier warrants that it will not, and it will ensure that its Personnel do not, place themselves in a position that may give rise to a conflict of interest between the interest of the Customer and the Supplier's interests during the RFQ Process.

The Supplier warrants that it will immediately notify the Customer if any conflict of interest arises after lodgement of the Supplier's quotation.

8.3 Criminal organisation

The Supplier warrants that neither it nor its Personnel:

- (a) have been convicted of an offence under the Criminal Code where one of the elements of the offence is that the person is a participant in a criminal organisation within the meaning of section 60A(3) of the Criminal Code; or

- (b) are subject to an order under, or have been convicted of an offence under the Criminal Organisation Act 2009 (Qld).

8.4 Warranties are ongoing

The warranties in this section are provided as at the date of the Supplier's response to the Request for Quotation and on an ongoing basis until the later of the Customer notifying the Supplier that its quotation has been rejected and expiry or termination of any Contract entered pursuant to the RFQ Process ("relevant period").

The Supplier warrants that it will immediately notify the Customer if it becomes aware that any warranty made in this section was inaccurate, incomplete, out-of-date or misleading in any way when made, or becomes inaccurate, incomplete, out-of-date or misleading in any way, during the relevant period.

8.5 Breach of warranty

In addition to any other remedies available to it at law, the Customer may, in its absolute discretion (but is not required to), immediately disqualify a Supplier that it believes has breached any warranty in this clause.

9. SUPPLIER CONFIDENTIAL INFORMATION

The Customer will keep confidential all Confidential Information of the Supplier which it obtains as part of the RFQ Process.

The Customer may use Supplier Confidential Information for the purposes of the RFQ Process.

The Customer may disclose Supplier Confidential Information:

- (a) to its Personnel for the purposes of the RFQ Process;
- (b) as required under the Right to Information Act;
- (c) as required by law; or
- (d) to its professional advisors.

The Customer may publish information about the Request for Quotation, RFQ Process and any resulting Contract on the Queensland Contracts Directory, where required or recommended by Queensland Government Procurement Policy.

10. ETHICAL SUPPLIER THRESHOLD

Suppliers must comply with the Queensland Government's Ethical Supplier Threshold. The Customer may verify any information provided by the Supplier which it obtains as part of the RFQ Process with a Government Department or Instrumentality as required. This includes Work

Health Safety Queensland, the Queensland Building and Construction Commission, the Fair Work Commission and the Australian Building and Construction Commission.