

**DIT CONDITIONS OF SUBMISSION FOR AN EXPRESSION OF INTEREST****1. EXPRESSION OF INTEREST DOCUMENTS**

The Expression of Interest (Eol) documents comprise of the documents listed in the contents page of this document. This Eol document supersedes any other documentation that may have been previously available in relation to this project.

Any Departmental publications referred to in these documents are available from the internet at:

[https://dit.sa.gov.au/contractor\\_documents](https://dit.sa.gov.au/contractor_documents)

No explanation or amendment to the Eol documents shall be recognised unless in the form of a written amendment thereto issued by the Department. The Department may amend the Eol documents at any time prior to the closing date. The Registrants must be registered at the SA Tenders and Contracts website: <https://www.tenders.sa.gov.au/tenders/index.do>. Telephone (08) 8462 1401 for further information.

**2. REGISTRANT'S WARRANTIES AND OBLIGATIONS**

These Conditions for Submission prescribe the rules for the conduct of the Eol process. By submitting a response, a Registrant agrees to comply with, and be bound by, the rules contained within these Conditions for Submission. If a Registrant acts contrary to these rules, the Department reserves the right to terminate consideration of their submission, but is under no obligation to do so. A reference to a Registrant in these conditions includes its employees, agents and subcontractors.

Except for any express statement contained in the Eol documents, a Registrant warrants that in lodging its response it did not rely on any express or implied statement, warranty or representation, whether oral, written, or otherwise made by or on behalf of the Department, its officers, employees, agents or advisers. A Registrant cannot rely upon any document designated as "For Information Only".

This Eol is not an offer or an invitation to treat. These Conditions for Submission will not form part of any Contract.

Prior to submitting a response, a Registrant is deemed to have:

- a) examined all documentation (either written, electronic or information made available through a Departmental internet site) made available by the Department to the Registrants for the purpose of submitting a response;
- b) examined all information relevant to the risks, contingencies and other circumstances having an effect on the Eol and obtainable by the making of reasonable enquiries; and
- c) where applicable, inspected the site and its near surrounds.

**3. CLARIFICATION**

Registrants may seek clarification of any matters relating to this Eol by directing written enquiries to the Contact Officer(s) nominated on the cover of this Eol document. Registrants shall not rely on communication with any other person(s) with regard to the Eol process.

It is the responsibility of the Registrant to request any clarifications or additional information arising from analysis of this Eol. The Department's Contact Officer may stipulate that any request for clarification or additional information arising from analysis of this document be forwarded in writing. Where it is appropriate for the Department to provide a written reply to any enquiry, and the matter is not considered by the Department to be commercially sensitive or designated by the Registrant as commercial in confidence, a clarification may be sent to all Registrants.

**4. CONSORTIUM RESPONSES**

The Registrant shall provide a description of the proposed legal structure and the relationships that are proposed between Registrant Members.

Registrants shall nominate one person as the preferred contact person on behalf of all Registrant Members.

Notwithstanding any undertaking regarding confidentiality, by submitting an EoI Response, the Registrant agrees that the Department may forward information relating to the Registrant or the EoI Response to the Australian Competition and Consumer Commission (ACCC) if the Department reasonably suspects, or is notified by the ACCC that it reasonably suspects, that there is cartel conduct or unlawful collusion in relation to this EoI process (whether or not the suspicion relates to the Registrant).

## **5. FORM OF SUBMISSION**

If the EoI Response is to be submitted electronically, it is recommended that the submission is uploaded at least two hours before the specified closing time.

If problems are encountered with uploading the submission to the SA Tenders and Contracts web site, the Registrant should contact the SA Tenders and Contracts Helpdesk on (08) 8462 1401 as soon as possible and in any case, prior to the specified closing time.

The Registrant's submission must comply with the following:

- a) all documents and schedules listed in the Part "Information to be Submitted" are included in the submission;
- b) the format and number of copies is as stated in the Part "Information to be Submitted";
- c) the submission is lodged in accordance with the requirements stated on the cover page of this EoI document;
- d) all of the submission is in English, all prices are in Australian dollars and all measurements are in the metric (SI) system;
- e) the submission includes a written acknowledgment of receipt of any amendments issued by the Department; and
- f) hard copy documents are sealed in an envelope or package, marked confidential and clearly identified as a submission for this EoI.

The Registrant's submission shall become the property of the Department.

The time specified is the time applicable to South Australia, as defined at <https://www.australia.gov.au/time-zones-and-daylight-saving>. The Department reserves the right to extend the closing date or time.

In the event of receipt of a submission after the closing date and time, a determination regarding its acceptability will be made in accordance with the Department's policy for late tenders.

## **6. PROBITY**

The Registrant must:

- a) declare any actual or potential conflict of interest;
- b) prior to the completion of this procurement process, not seek to employ or engage the services of any person (including an advisor, consultant or employee) who has a duty to the Department in relation to this process;
- c) not collude with any potential Registrant;
- d) comply with all laws in force in South Australia applicable to the process, including the *Competition and Consumer Act 2010* (Cth);
- e) disclose whether acting as agent, nominee or jointly with another person and disclose the identity of the other person;
- f) not offer any incentive to, or otherwise attempt to influence, any employee of the Department or any member of an evaluation committee at any time;
- g) not make any news releases or responses to media enquiries and questions pertaining to this process without the Department's written approval; and
- h) not attempt to seek confidential information in respect of this proposal process from the Department's employees and others who have access to confidential information.

The Registrant must comply with:

- a) The "Code of Practice for the South Australian Building and Construction Industry" and its "Implementation Guidelines", available from: <http://www.bpims.sa.gov.au/bpims/login/home.jsp>; and
- b) AS 4120 "Code of Tendering".

## **7. ALTERNATIVE EXPRESSIONS OF INTEREST<sup>1</sup>**

1. **An alternative EoI will not be considered unless a conforming EoI is offered.**
2. A conforming EoI is one that does not contain any departure from any part of the Request for Expression of Interest ("REoI") including the Scope of Work, Specifications or Conditions of Contract.

For clarity, statements such as the following shall be treated as a departure:

- "EoI complies except as stated otherwise";
- "Except for minor items to be negotiated";
- "Except detailed in the EoI";
- "We have allowed for"; or
- "We have assumed".

Subject to submitting a conforming EoI, the Registrant may submit an Alternative EoI.

3. An Alternative EoI shall contain details of departures from any parts of the REoI, including the Scope of Work, Specifications and Conditions of Contract.
  - i. The Registrant shall be deemed to comply with the REoI in every respect except for the departures listed in a separate section of the tender titled "*Departures from the REoI*" per the template at Schedule A.
  - ii. The departures shall be detailed in the same order as the REoI documents and relevant REoI clauses.
  - iii. Each departure shall include separate prices to enable the tender to be adjusted to comply with the REoI. Where a price is not identified or a non-financial adjustment is provided, the Principal will assume a 'worst case scenario' adjustment.
  - iv. Details of any technical, monetary or other advantage or disadvantage to the Principal shall be given.
4. Where there is an inconsistency (other than those properly listed as departures from the REoI) between a provision of the EoI and a provision of the REoI (including supporting documentation), the provision of the EoI shall prevail. To the extent of the inconsistency, the provision of the EoI shall have no force or effect.
5. Adjustment to the EoI price will not be accepted for any item omitted from the list of departures.
6. The Principal is not obliged to accept all or any of the Departures contained in Schedule A.
7. A non-conforming EoI, or portion thereof, if accepted, would be subject to all the other requirements of the REoI Documents, apart from the nominated and accepted departures.
8. Any of the Registrant's standard conditions of tendering, supply, Contract of Sale or other standard terms shall be excluded completely from forming part of the conforming tender.

## **8. ASSESSMENT OF SUBMISSIONS AND NEGOTIATION**

Submissions will be assessed in accordance with the criteria included in Part E "Information to be Submitted".

At any time during the assessment process, the Department reserves the right to:

- a) seek clarification of any aspect of a submission;
- b) seek the advice and / or assistance of external consultants regarding the assessment of submissions; and
- c) make enquiries of any person, company or organisation to ascertain information regarding any Registrant and its submission.

---

<sup>1</sup> Note: paragraph amended 1/11/17

For the purpose of assessment, the Registrant licences the Department to reproduce the whole or any portion of the submission despite any copyright or other intellectual property right that may subsist in the submission.

The Department may require additional information to be submitted. This information shall be submitted within the time stated and will be considered as part of the submission. Failure to submit the information in the time requested may result in the submission being excluded from further consideration. Such additional information will not be accepted if it serves to vary the essence of the original submission.

The Department may engage in discussions or negotiations, as appropriate, with any Registrant for the purposes of clarifying its submission or rectifying minor omissions. The Department may request that a Registrant resubmits information in response to proposed changes to any of the EoI documents.

The Registrant is advised that the obligations outlined in Procurement Services South Australia "International Obligations Guideline" apply to this EoI process.

Refer <https://www.procurement.sa.gov.au/guidelines2/International-Obligations-Guideline.pdf>

In determining the identity of Registrants to be shortlisted, the Department may take into account the relationship between Registrants (including common directorships and common ownerships) to ensure that there is competition between the Registrants. In the event that a Registrant contains a related body corporate (as defined in the *Corporations Act 2001* (Cth)) of another Registrant, the Department reserves the right to only shortlist the highest ranking Registrant.

## **9. VALIDITY PERIOD**

The Registrant warrants that it will maintain the validity of its submission for a period of 120 days from date of submission. Where the Department seeks an extension of this period, a request in writing will be forwarded to the Registrant. The failure of a Registrant to respond to this request may result in its proposal being excluded from further consideration.

## **10. SUBMISSION**

The Registrant agrees and acknowledges that the Department, in its absolute discretion:

- a) is not obliged to accept any submission;
- b) may reject any submission at any time; or
- c) may abandon this expression of interest process at any time.

Nothing in this EoI document or the subsequent evaluation process is to be construed as creating a binding contract (express or implied) between the Department and any Registrant.

Notification to a Registrant that it is a shortlisted Registrant will not constitute an acceptance of the submission.

No representation made by or on behalf of the Department in relation to this EoI (or its subject matter) will be binding on the Department unless that representation is expressly incorporated into the contract ultimately entered into between the Department and the successful Registrant.

## **11. CONFIDENTIALITY**

The Registrant and the Department may disclose information to any consultant or subcontractor engaged for the purpose of this process if the consultant is required to preserve the confidentiality of that information.

Information supplied by or on behalf of the Department after the date of close of submissions is confidential and the Registrant is obliged to maintain its confidentiality, unless indicated otherwise.

The Department understands the need to keep commercial matters confidential in appropriate circumstances (including information submitted at the request of the Department after the date of close of submissions), but reserves the right to disclose some or all of the contents of a submission:

- a) if required to do so by a constitutional convention;
- b) in order that the relevant Minister may discharge their duties and obligations to Parliament and the South Australian Government;
- c) to the Australian Competition and Consumer Commission (ACCC) or any other government authority having relevant jurisdiction, if the Department reasonably suspects or is notified by the ACCC that it reasonably suspects, that there is cartel conduct or unlawful collusion in relation to this process (whether or not the suspicion relates to the Registrant); and

- d) as required by law.

Any condition in a bid that purports to prohibit or restrict the Government's right to make such disclosures cannot be accepted.

## **12. COPYRIGHT**

The Registrant licences the Department to reproduce, for the purposes of any assessment process, the whole or any portion of the submission despite any copyright or other intellectual property right that may subsist in the submission.

Ownership in the documentation submitted by the Registrant will be transferred to the Department.

## **13. COST OF PREPARATION OF BIDS**

Registrants are responsible for the cost of preparing and submitting an EoI Response and all other costs arising out of the process, which includes any subsequent contract negotiation phase prior to the award of a contract.

## **14. EMPLOYMENT OF EX-GOVERNMENT EMPLOYEES**

The Principal will not accept the services of any former public sector employee, either directly or through a third party, who has received a separation package from the Government, for a period coinciding with the number of weeks of the payment to them as part of the package, from the effective date of the termination of their employment by resignation, where such engagement may breach the conditions under which the separation package was paid to the former public sector employee.

## **15. DISCLOSURE OF GOVERNMENT CONTRACTS**

Registrants are to be aware that if a contract is entered into, the Department may disclose that contract and/or information in relation to it in either printed or electronic form and either generally to the public or to a particular person as a result of a specific request.

The Registrant agrees that if it is successful, the contract may be disclosed on the South Australian Government's Contracts website <http://www.tenders.sa.gov.au> in accordance with Premier and Cabinet Circular 27 (PC027), a copy of which is available from <http://dpc.sa.gov.au/documents/rendition/B17980>.

## **16. STATE FEDERAL COOPERATION ON TRADE PRACTICES MATTERS**

If a Registrant is shortlisted and subsequently invited to submit a proposal, the Registrant will be required to submit a signed declaration that:

- a) confirms that the proposal is independent and that there has not been any unlawful collusion with any other Registrant or party in connection with the request for tender process; and
- b) clearly indicates the total value of the goods and/or services to be provided by sub-contractors, and where that value exceeds either of \$1,000,000 (GST inc) or 25% of the total value of the proposal, the declaration must include a complete list of all sub-contractors, the value, and the nature of the work to be provided under each sub-contract.

## **17. PROBITY ADVISOR**

The Registrant acknowledges that the Department may engage a probity advisor to provide advice on this Project.

## **18. SOUTH AUSTRALIAN INDUSTRY PARTICIPATION POLICY**

The South Australian Industry Participation Policy ("IPP") is the high-level framework for delivery of the South Australian Government's objectives including:

1. promoting capable businesses based in South Australia being given full, fair and reasonable opportunity to participate in government contracts; and

---

2. meeting the requirements of the South Australian Industry Participation Policy, Procedural Guidelines, including the requirements attached to Tailored Industry Participation Plans for projects valued over \$50million, by achieving critical training and employment outcomes.

Information regarding the SA Industry Participation Policy can be found at <https://www.industryadvocate.sa.gov.au/policy-and-resources>

This project will fall within the scope of the IPP. As a condition precedent to the Department considering a Proposal, the Registrant must submit:

- (a) a Standard IPP Plan (as defined on the website) where the project is valued between \$550 000 and \$50 million; or
- (b) a Tailored IPP Plan (as defined on the website) where the project is valued over \$50 million.

The IPP website contains a link to the template Standard IPP Plan that must be submitted.

For information or assistance regarding the completion of the IPP Plan, please contact:

Office of the Industry Advocate  
Level 17, 30 Wakefield Street ADELAIDE SA 5000  
Tel: (08) 8226 8956  
Email: [oya@sa.gov.au](mailto:oya@sa.gov.au)  
Web: <https://www.industryadvocate.sa.gov.au/>

## **19. BUILDING AND CONSTRUCTION WHS ACCREDITATION SCHEME**

This clause only applies if specified in the EoI documents. A successful Registrant must be accredited under the Australian Government Building and Construction WHS Accreditation Scheme (the Scheme) established by the Building and Construction Industry Improvement Act 2005 (BCII Act) when entering into contracts for building work as defined under section 6 of the Federal Safety Commissioner Act 2022 and maintain accreditation under that Scheme while the building work is being carried out.

A successful Registrant must comply with all conditions of Scheme accreditation.

## **20. CHANGES TO PERSONNEL**

The persons nominated in the Submission are key personnel ('Key Personnel'). The Registrant must include each of the Key Personnel in its final proposal / tender and in the role originally proposed, except where a change is made in accordance with the following:

- a) In the event that the Registrant seeks to change any of the Key Personnel from that submitted in its EoI Response, the Registrant must promptly seek the Department's approval of the proposed change and provide the Department with sufficient details of the proposed change so as to facilitate the Department's consideration thereof. The Department may in its sole discretion accept, reject or seek additional information regarding a Registrant's request.
- b) In submitting its EoI Response the Registrant acknowledges and accepts that the above obligation endures throughout the Procurement Process until after the submission of its Final Proposal. Thereafter, changes to key personnel are subject to the terms of the Design and Construct Contract.

## **21. CHANGES TO REGISTRANTS**

If a Registrant participants change after the closing time for submissions, the affected Registrant must immediately notify the Department of this change in writing. If the Department, in its absolute discretion, determines that this change is material, it reserves the right to re-evaluate the Submission or to eliminate the Registrant from further participation in the evaluation process. Registrants should (as a minimum) notify the Department of any change to any of the following entities or individuals occurring after the closing time for submissions:

- a) any entity that proposes to take a direct equity interest in the Registrant or a participant if the Registrant is short-listed or becomes the Contractor;
- b) the ultimate parent entity of any entity that proposes to take a direct equity interest of the type mentioned in the paragraph above;
- c) any other entity that is likely to be in a position to exercise control or influence (direct or indirect) over the future management and operation of the Registrant or a participant;
- d) any director, secretary or chief executive of any entity falling within the above paragraphs and any

- proposed new director, secretary or chief executive officer; and
- e) any key Project resources identified by the Registrants as providing a core capability to the Registrant.

## **22. COMPLAINTS**

If at any time during the EoI process, the Registrant considers that it has been unfairly treated, the Registrant must first notify the Department's Contact Person in writing. If the matter is not resolved, the Registrant may then contact the Department's nominated procurement complaints officer below, and request in writing for the issue to be dealt with in accordance with the Department's complaint management process.

Title: Manager, Financial & Procurement, Contracts,  
Policy & Compliance

Address: 83 Pirie Street, Adelaide, 5000

Email: [DIT.TenderSupplierComplaints@sa.gov.au](mailto:DIT.TenderSupplierComplaints@sa.gov.au)

Phone: (08) 8343 2671

## **23. SUPPLIER FEEDBACK**

If you accessed this tender opportunity via the SA Tenders and Contracts website, in addition to feedback you may wish to provide directly to the issuing agency, you can also provide anonymous feedback using the survey tool on the website: <https://www.tenders.sa.gov.au/tenders/index.do>

Your feedback may be provided, either:

- a) after you have downloaded the EoI documentation but decided not to respond; or
- b) at the end of the process following tender award, debrief or contract execution (as applicable).

If using the survey for the first time, additional information about the Supplier Feedback initiative is included on the SA Tenders website. Otherwise, you can gain direct access the survey here: [https://www.surveymonkey.com/s/SPB\\_Supplier\\_Feedback](https://www.surveymonkey.com/s/SPB_Supplier_Feedback)

## **24. CONFLICT OF INTEREST<sup>3</sup>**

The Registrant warrants that at the time of submitting its tender, it is not aware of any matters which could give rise to a real or perceived conflict of interest, except for any such matters disclosed within its tender. The Registrant must disclose in its tender any matter which could give rise to a real or perceived conflict of interest during the tender process or during performance of the contract. In the event such a matter is disclosed, the Registrant must also detail how it proposes to avoid or manage the conflict. If the Registrant fails to disclose such a matter which a reasonable registrant in its position should have been aware of, or its disclosure of such a matter is inaccurate or incomplete, then regardless of any subsequent dealings the Department may:

- a) terminate negotiations with the Registrant;
- b) terminate consideration of the Registrant's submission; or
- c) terminate any contract between the Registrant and the Department in relation to the EoI or the underlying project,

without any obligation on the Department to make any payment to the Registrant.

---

<sup>3</sup> Note: paragraph inserted 1/10/17

**SCHEDULE A**  
**DEPARTURES FROM THE REOI**

Item	Document	Reference	Heading	Departure	Explanation	Technical, monetary or other advantage or disadvantage	Price impact of departure to Conforming Tender Sum
1 (example)	Conditions of Contract	Clause 34.3	Claims	The Contractor shall provide notice <del>immediately</del> within <u>5 working days</u> ...	The company may not be in a position to provide notice immediately.		-\$50000.00
2							
3							
Total Cost of Compliance							\$ [INSERT]

**Registrant's Declaration [DELETE ONE]**

A. The Registrant has submitted a confirming EOI in accordance with the Conditions of Submission of Expression of Interest.

[OR]

A. The Registrant has submitted a confirming EOI in accordance with the Conditions of Submission of Expression of Interest.

B. The Registrant has also submitted an Alternative EOI.

C. The Alternative EOI complies with the REOI in every respect except for the departures listed above and any statement elsewhere in the tender such as the following shall have no force or effect:

- EoI complies except as stated otherwise;
- Except for minor items to be negotiated;
- Except detailed in the EoI.