



Australian Government
Department of Foreign Affairs and Trade

REQUEST FOR TENDER (RFT) FOR
Samoa Human Development and Social Inclusion Program (SHDSI): DFAT-320

Please email all tender questions to: TENDER.SHDSI@DFAT.gov.au

The Department will not respond to questions submitted in any other manner.

RFT Dates and Times

Tender

RFT issued	16 July 2021
Last date to ask questions of DFAT	16 August 2021
Last date for DFAT to reply to questions	23 August 2021
Closing date for tenders	Monday, 30 August 2021 (10. a.m Canberra Time)

(Tenders must be submitted via AusTender)

Evaluation (indicative**)**

Conformity check	31 August 2021
Evaluation	mid-late September 2021
Commencement of negotiations	late October 2021
Contract signed	mid November 2021
Contract start date	16 November 2021

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RFT PART 1: SERVICES-SPECIFIC CONDITIONS OF TENDER

The lodgement requirements for this RFT are detailed below:

1 Tender Particulars

Lodgement

AusTender Help Desk

Tenderers should ensure Response Schedules are legible and are within the indicated page limits and in line with the Tender Response Schedules – additional pages will be removed and not evaluated.

Tenders must be submitted via AusTender by the closing date

Website: <https://tenders.gov.au>

Telephone (within Australia): 1300 651 698

International: +61 2 6215 1558

Email: tenders@finance.gov.au

Tenderer Response Schedule 1: Diversity, Inclusion and Benefit to the Australian Economy including (up to 4 pages):

Part 1: Indigenous (Australian) Participation Plan

Part 2: Diversity and Inclusion Plan

Part 3: Localisation Plan

Part 4: Benefit to the Australian Economy

Tenderer Response Schedule 2: Technical Proposal (up to 12 pages not including annexes).

Response Format: One (1) electronic copy in PDF.

The written response to the three (3) Technical Evaluation Criteria listed, including the following Annexes:

Annex 1 – Mobilisation Plan

Annex 2 – Design Work Plan

Annex 3 – Organisational Chart

Annex 4 – Risk Management Framework

Annex 5 – Past and Current Experience Form

Annex 6 – Letters of Association

Annex 7 – Resourcing Profile

Annex 8 – Terms of Reference, Curriculum Vitae (CV) and referee reports.

Tenderer Response Schedule 3: Commercial Proposal (no page limits)

Response Format: One (1) electronic copy of Price Tables in Word and

One (1) electronic copy in PDF that includes all relevant qualifications/assumptions.

Tenderer Response Schedule 4: Tenderer Details, Deed Poll, and Response Statements [A-E], (no page limits)

Response Format: One (1) electronic copy in PDF.

If a tender response consists of more than one legal entity, a Tenderer Details Form must be completed for each entity participating in the tender response.

Standard(s) applicable to the Requirement (Clause 37 of Part 2 of this RFT)

Not applicable.

Minimum Form and Content Requirements (Clause 27 of Part 2 of this RFT)

- (a) Tenders are to be written in English (including all attachments and statements);
- (b) All measurements are to be expressed in Australian legal units of measurement unless otherwise specified; and
- (c) Tenders are to include substantially completed **Tender Response Schedules 1-4** in accordance with the instructions in **Part 1** of this RFT.

Conditions for Participation (Clause 28 of Part 2 of this RFT)

- (a) Tenders must be submitted via AusTender (www.tenders.gov.au) by the closing date.
- (b) The Tenderer must not be named as not complying with the Workplace Gender Equality Act 2012 (Cth).
- (c) The Tenderer complies with the Black Economy Procurement Connected Policy.
- (d) The Tenderer must not be listed on the World Bank List or any similar List maintained by a development donor or be the subject of an informal investigation or temporary suspension which could lead the Tenderer becoming so listed.
- (e) The Tenderer must not be subject to an adverse Court or Tribunal decision (not including decisions under appeal) for a breach of any workplace relations law, work health and safety law, or workers' compensation law, or if the Tenderer is subject, that the Tenderer has fully complied, or is fully complying with the Court or Tribunal order.
- (f) The Tenderer agrees to contract as a single legal entity.

2 Services Required

- 2.1 The Commonwealth of Australia, represented by the Department of Foreign Affairs and Trade ('Department'), invites Tenderers to tender for the provision of the Samoa Human Development and Social Inclusion program (SHDSI) in accordance with this Request for Tender (RFT).
- 2.2 DFAT has a requirement for a Contractor to design and implement the SHDSI program (in close consultation with DFAT and the Government of Samoa), and in parallel, continue the delivery of existing services previously undertaken through the *Education Sector Support Program Technical Assistance Support Services* and the delivery of services identified in the Samoa Gender Action Plan.
- 2.3 The SHDSI program will deliver Australia's commitments in the latter phase of the Samoa Covid-19 Development Response Plan (2020-2022) and help build the human development foundations required for Samoa's economic recovery and continued stability. It is anticipated to have the following three (3) End-Of-Investment-Outcomes (EOIOs):
 - (a) Government and non-government providers deliver higher quality essential services and programs [i.e. quality].

- (b) More people have access to essential services and programs (e.g. SRHR, VAWG counselling, social protection), including women, girls, people with disabilities and vulnerable people [i.e. access and equity].
- (c) Australian assistance incentivises the Government of Samoa to address policy reform, system bottlenecks and pursue collaborative partnerships and innovation to maximise resources and improve service delivery outcomes [i.e. ways of working and sustained benefits].

3 Term and Duration of Contract and Indicative Budget

3.1 The Samoa Human Development and Social Inclusion program will run for four (4) years from 16 November 2021, including an option to extend up to a further four (4) years.

3.2 The proposed initial term and options to extend the Contract exercisable at the discretion of DFAT are:

<i>Initial Term</i>	up to 15 November 2025	Indicative budget of up to AUD \$18.5 million (exclusive of GST)
<i>Option Periods</i>	up to 4 years	Indicative budget of up to AUD \$18.5 million (exclusive of GST)
<i>Total</i>	up to 15 November 2029	Indicative budget of up to AUD \$37 million (exclusive of GST)

3.3 DFAT intends to contract based on the Draft Contract attached to this RFT. By submitting a Tender, the Tenderer agrees to the Services, Specific and Standard Conditions of Tender, including the Draft Contract. Any non-compliance with the Draft Contract must be documented in Tenderers' Response Schedule 4, Statement [D]: Non Compliance with Draft Contract. At contract negotiation DFAT will not accept additional non-compliance with the Draft Contract unless of a non-material nature or if circumstances have substantially changed, at DFAT's discretion.

4 Conformity and Compliance Screening

4.1 DFAT will undertake conformity and compliance screening of Tenders received to ensure they:

- (a) comply with the Minimum Form and Content Requirements (**Clause 27 of Part 2** of this RFT); and
- (b) comply with the Conditions for Participation (**Clause 28 of Part 2** of this RFT).

4.2 Tenders that comply with **Clause 4.1** above will proceed to the next stage of the evaluation.

5 Tender Evaluation

5.1 DFAT will evaluate Tenders to identify the Tender which it considers can provide the Services in a manner that achieves best value for money.

5.2 DFAT will convene an evaluation committee to undertake the value for money evaluation of the Tenderer Response Schedules and any other relevant information. The committee could be DFAT representatives, representatives of the Partner Governments, and/or externally engaged experts, at DFAT's sole discretion. The evaluation will go to a DFAT delegate for decision.

- 5.3 In conducting its evaluation, DFAT may take into consideration past performance including, but not limited to, referee reports, performance information, and any other relevant information. Interviews will not be required as part of the evaluation.
- 5.4 At any stage, DFAT may seek clarification of any technical, commercial, risk or other matters, associated with Tender. DFAT may seek a Best and Final Offer in respect of the offer provided by each Tenderer.
- 5.5 The DFAT Delegate is not bound to accept the evaluation committee recommendation and may direct that further action be taken, in accordance with this RFT and the Commonwealth Procurement Rules. DFAT is not bound to accept the lowest priced, highest technical, or any Tender.
- 5.6 DFAT may enter into parallel negotiations with preferred tenderers.

6 Evaluation Criteria

- 6.1 The evaluation criteria (and technical weightings) which will be used in the Value for Money Evaluation are contained in the Tenderer Response Schedules.
- 6.2 In writing the Tenderer Response Schedules, tenderers are encouraged to write about their relevant experience and how they have drawn on that experience to select the solutions that they are offering to DFAT in their bid to implement the Services. Where experiences are described, tenderers should reference the name of the client including a contact name and contract details, the name of the project, the date of the project, and an indication of the contribution of the tenderer (for example, the budget of the project) in the Schedule.
- 6.3 If the Tenderer nominates specific personnel in its Tenderer Response Schedule - TORs, CV's and referee reports are only required for the Design Team Lead and one other nominated personnel.

TENDERER RESPONSE SCHEDULES

NOTE TO TENDERERS:

*Tenderers **must** use the forms on the following pages to submit Tender responses.*

The forms enable the seamless facilitation of the evaluation of Tender responses by the Evaluation Committee.

TENDER RESPONSE SCHEDULE 1 – DIVERSITY, INCLUSION AND BENEFIT TO THE AUSTRALIAN ECONOMY (up to 4 pages):

Part 1: Indigenous Participation Plan

NOTE TO TENDERERS (Delete this box before submitting your Tender)

DFAT applies the (Australian) Indigenous Procurement Policy (IPP) to all large value aid tenders. Tenderers are required to submit an Indigenous Participation Plan with their Tender. The Indigenous Participation Plan should address how the Tenderer intends on maximising the levels of indigenous employment (workforce) and supplier use (supply chain) over the life of the Contract. The IPP can be accessed at <https://www.pmc.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp>

In answering this question, the Tenderer is requested to succinctly detail its organisation's progress in terms of Indigenous participation in terms of detailing relevant organisational baselines and targets/progress, and what has been learned and changed.

The Tenderer should also describe how it will maximise participation in the project in terms of baselines/targets and how it will go about meeting these targets.

Non-Australian entities can include how they apply the principles of the IPP in their workforce and supply chain.

DFAT will consider proposals from Tenderers to meet the IPP intent at either the contract-based level or at the organisation-based level. These requirements can be met directly or through subcontracts.

The preferred Tenderer's Indigenous Participation Plan will form part of any resultant Contract.

[Insert response]

Part 2: Diversity and Inclusion Plan

NOTE TO TENDERERS (Delete this box before submitting your Tender)

Tenderers are required to submit a Diversity and Inclusion Plan with their Tender. The Plan should address how the Tenderer intends on addressing barriers to inclusion and opportunities for participation to enable women, culturally and linguistically diverse people and people with a disability to benefit from the project.

In answering this question, the Tenderer is requested to succinctly detail its organisation's progress in terms of diversity and inclusion and in terms of detailing relevant baselines and targets/progress, and what has been learned and changed.

The Tenderer should also describe how it will maximise diversity and inclusion in the project in terms of baselines/targets and how it will go about meeting these targets.

The preferred Tenderer's Diversity and Inclusion Plan will form part of any resultant Contract.

[Insert response]

Part 3: Localisation Participation Plan

NOTE TO TENDERERS (Delete this box before submitting your Tender)

Tenderers are required to submit a Localisation Participation Plan with their Tender. The Localisation Participation Plan should address how the Tenderer intends on maximising the levels of local employment (workforce) and supplier use (supply chain) over the life of the Contract.

In answering this question, the Tenderer is requested to succinctly detail its organisation's progress in terms of localisation in terms of detailing relevant organisational baselines and targets/progress and what has been learned and changed.

The Tenderer should also describe how it will maximise localisation in the project in terms of baselines/targets and how it will go about meeting these targets.

The preferred Tenderer's Localisation Participation Plan will form part of any resultant Contract.

For Tenderer's information attached to this RFT is a Research Paper: Localisation and Social Procurement

[Insert response]

Part 4: Benefit to the Australian Economy

NOTE TO TENDERERS (Delete this box before submitting your Tender)

Tenderers must describe how their proposed supply provides economic benefit to the Australian economy.

Examples of information potential suppliers might include are (not limited to the below examples):

- lowest price, saving the tax payer;*
- building, leasing or procuring infrastructure that supports Australian communities;*
- providing skills and training that benefits Australian communities;*
- employing workers in Australia;*
- paying taxes in Australia;*
- the environmental benefit of the proposed solution to Australia, for example, low environmental impact through energy efficient inputs such as computers, air conditioning, telephones and paper;*
- contributing to positive social outcomes in Australian communities;*
- use of indigenous businesses;*
- use of SMEs in delivering goods and services, such as a subcontractor or supplier;*
- research and development related activities and investments (including those undertaken with universities);*
- transfer of technology to Australian businesses;*
- positive effects on international competitiveness of Australian businesses (e.g. better linking to global supply chains);*
- sharing knowledge, skills and technology with SMEs; and*
- using goods and services from a business that provides services of persons with a disability.*

Responses should describe how strategies are being realised / will be realised.

[Insert response]

TENDER RESPONSE SCHEDULE 2: TECHNICAL PROPOSAL (up to 12 pages – excluding annexes)

NOTE TO TENDERERS (Delete this box before submitting your Tender) Within the 12-page limit specified, the tender written response must address the Three Technical Evaluation Criteria and provide the required Annexes listed (as per the information below).

Technical Proposal Evaluation Criteria	Weighting
<p>Technical Criterion 1: Technical Approach</p> <p>Tenderers should describe how they will:</p> <ul style="list-style-type: none">(a) design and implement a program to fulfil the End-of-Investment Outcomes (EOIOs) in collaboration with DFAT.(b) deliver education and gender sector services whilst designing the program;(c) generate value but recognise the needs and authorities of DFAT and Government of Samoa (i.e. a systems and partnership approach); and(d) include measures in the context of a COVID19 environment regarding the provision of technical support and analysis; training; partnership brokering and ‘just in time’ policy advice in the areas of health; gender; disability; and social protection. <p>Annex 1: Mobilisation Plan</p> <p>Tenderers must provide a Mobilisation Plan in one (1) A4/A3 size page (landscape format), covering activities for the first 8 months (16 November 2021 – 31 July 2022).</p> <p>Annex 2: Design Work Plan</p> <p>Tenderers must submit a Design Work Plan of up to three (3) A4 pages outlining their approach to designing the program, including possible challenges, particularly COVID-19 related, that might be encountered during the design phase and how they might be mitigated.</p> <p>[Insert written response to Criterion 1]</p>	<p>40%</p>
<p>Technical Criterion 2: Operational Approach</p> <p>Tenderers should describe their capability to:</p> <ul style="list-style-type: none">(a) Translate the SHDSI principles to ways of working that are promoted and upheld.(b) Develop appropriate systems to implement and oversee the program effectively and in accordance with the relevant Government’s laws and policies.(c) Work flexibly and sensitively with diverse stakeholders including DFAT and partner governments.(d) Work collaboratively with other programs and organisations (including other contractors) to deliver outcomes; and(e) Deliver services and outcomes in resource constrained and/or remote environments.	<p>30%</p>

<p>This criterion should also highlight approaches to operational and logistical support; management; quality assurance and knowledge exchange; financial and information management; and safeguards and risk management and include how the nominated Contractor Representative will support and facilitate the program team.</p> <p>Annex 3: Organisational Chart</p> <p>Tenderers must provide an Organisational Chart of up to two (2) pages in A4 landscape for the Inception phase and Implementation phase (a proposed structure with key personnel indicated, noting the final structure will be determined by the design)</p> <p>Annex 4: Risk Management</p> <p>Tenderers must submit a risk management framework of up to one (1) page outlining process for how they propose to manage the political, partner relations and operational risks in a COVID-19 environment.</p> <p>Annex 5: Past and Current Experience</p> <p>The Tenderer must provide past experience forms of up to one (1) page each for up to two (2) completed or current programs.</p> <p>Annex 6: Letters of Association</p> <p>Where a tender represents more than one company, each company represented on the bid must provide an up to one (1)-page letter of association addressed to the lead tenderer. The letter should outline the role of the company and list any activities they may/will be involved in.</p> <p>[Insert written response to Criterion 2]</p>	
<p>Technical Criterion 3: Personnel Approach</p> <p>Tenderers should propose a resource profile appropriate to the services required, utilising national personnel where possible, with varying depths of experience and reflect sound principles of gender equality and social inclusion. This includes personnel with skill sets as set out in the Statement of Requirements.</p> <p>Annex 7: Resourcing Profile</p> <p>Tenderers must provide a table of up to two (2) pages in A4 landscape indicating all proposed positions and inputs (days or months) including any unallocated positions; and any contractor representative and/or head office positions with substantial inputs in the format provided below. This should not include any cost information.</p> <p>Annex 8: Terms of Reference (ToRs), CVs and referee reports</p> <p>For the Design Team Lead and <u>one (1)</u> other nominated key personnel position the Tender should provide the following, in the format provided below:</p> <ul style="list-style-type: none"> (a) Terms of Reference (ToRs) of one (1) A4 page. (b) a CV of up to two (2) A4 pages; and (c) up to two (2) written references of one (1) A4 page each. <p><i>*Please note that additional TORs, CVs and referee reports are not required and will be removed if submitted.</i></p>	<p>30%</p>

<i>[Insert written response to Criterion 3]</i>	
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Format requirements for the Technical Proposal (Schedule 2) Annexes listed above:

Annex 7: Resourcing Profile, tenderers to complete Table below and insert rows as required by your individual tender response. (*Criterion 3*)

Position Title	Position Location	Inputs (days/months)	Year 1 16 Nov 2021 to 30 Jun 2022 [7.5 months]	Year 2 1 Jul 2022 to 30 Jun 2023 [12 months]	Year 3 1 Jul 2023 to 30 Jun 2024 [12 months]	Year 4 1 Jul 2024 to 30 Jun 2025 [12 months]	Year 5 1 Jul 2025 to 15 Nov 2025 (4.5 months)	CONTRACT TERM TOTAL
Long Term Adviser								
(if any) Tenderer to specify - Position	City, Country	Months	Qty of inputs	Qty of inputs	Qty of inputs	Qty of inputs	Qty of inputs	Position Total
Education In-country Manager	Samoa	Months	7.5					7.5
Gender Program Coordinator	Samoa	Months	7.5					7.5
Short Term Adviser								
(if any) Tenderer to specify - Position	City, Country	Days	Qty of inputs	Qty of inputs	Qty of inputs	Qty of inputs	Qty of inputs	Position Total
Short Term Personnel Pool								
Unallocated short-term adviser	City, Country	Days	Qty of inputs	Qty of inputs	Qty of inputs			Position Total
(if any) Tenderer to specify - Position								
Associates (if any) < delete Associate if not applicable to the tender proposal>								
(if any) Tenderer to specify - Position	City, Country	Days	Qty of inputs	Qty of inputs	Qty of inputs	Qty of inputs	Qty of inputs	Position Total
Total - Long Term Personnel			Input total	Input total	Input total	Input total	Input total	Input total
Total - Short Term Personnel			Input total	Input total	Input total	Input total	Input total	Input total
Head Office Support Personnel								
Contractor Representative								
(Others if any) Tenderer to specify - Position								
Head Office Support Personnel			Input total	Input total	Input total	Input total	Input total	Input total

Annex 8: Terms of Reference (TORs), Curriculum Vitae (CV) and Referee Reports the Tenderer will provide TORs, CV's and referee reports for all key nominated personnel (i.e. the leadership delivery team), that will deliver the full suite of services. (*Criterion 3*)

[Tenderers to complete the Table below and insert rows as maybe required by your individual tender response for TOR's of no more than 1 page].

Position Title	<i>Insert Position Title</i>
Nominated Tenderer Personnel	<i>Insert Name Surname</i>
Long Term / Short Term	<i>Short Term / Long Term Position</i>
Position Location	<i>Insert location where the position will be based</i>
Reports To	<i>Insert Position which this Position reports to</i>
Job Specification	<i>Provide brief details as maybe required</i>
Reporting Requirements	<i>Provide brief details as maybe required</i>

[Tenderers to use their own brief CV templates of up to two (2) A4 pages]

[Tenderers to use the Table below for two (2) written references of one (1) page each.]

Written References

Nominated Position Title	<i>Insert Position Title as per the TORs position title</i>
Applicant Name	<i>Insert Name Surname</i>
Referee Name	<i>Insert Referee Name</i>
Referee Phone	<i>Insert Referee Phone Number</i>
Referee Email	<i>Insert Referee Email Address</i>
Relationship to the Applicant	<i>Insert relationship to the Applicant</i>
How long did you work with the applicant?	<i>Insert months/years</i>
In what capacity do/did you work with the applicant?	<i>Insert response</i>
What were the dates of their engagement?	<i>Insert response</i>
What duties and responsibilities does/did the applicant have?	<i>Insert response</i>
How big was the team they supported? How well did they fit into the team	<i>Insert response</i>
How would you describe the applicant's overall work performance? Have you had any concerns with their performance?	<i>Insert response</i>
What would you say are the applicant's strengths?	<i>Insert response</i>
What would you say are the applicant's areas for development?	<i>Insert response</i>
Would you work with the applicant again? Why/why not?	<i>Insert response</i>
Referee Name and Date	<div>_____</div> <div>Referee Name</div> <div>_____</div> <div>Date</div>

TENDER RESPONSE SCHEDULE 3: COMMERCIAL PROPOSAL

NOTE TO TENDERERS (Delete this box before submitting your Tender): Your response should address the proposed commercial proposal. You do not need to repeat parts of your Technical Proposal.

Provide the proposed management fee arrangement that are specific to, and commercially reasonable for, the services required. Tenderers are requested to submit a management fee schedule for negotiation with DFAT. In developing your proposal consider all cost savings or other benefits your tender can offer in the provision of goods/services. Describe an enhanced value for money basis of payment, detailing milestones/deliverables and reporting frameworks and incorporating payments linked to performance and program achievements (i.e. link your Management Fees to Delivery of Services).

Any costs for **Tender Associates** (see Clause 20 (Associate Tenders) of Part 2 of this RFT) must be included in Management Fees in Table 1 of Tender Response Schedule 3, or in Tender Personnel/Associate Costs Table 2 at Tender Response Schedule 3 if on a fee for service basis as a reimbursable cost to DFAT.

Contractor Representatives cannot be listed as Personnel and must be 100% covered by Management Fees (including their travel and any proposed technical inputs).

DFAT takes this cost-consciousness seriously and it will form a competitive part of the evaluation process. Tenderers must specify any qualifications or cost assumptions that they will later rely on in contract negotiations or contract implementation, as footnotes below each table.

[Insert written response to the Payment Arrangements outlined above and complete all tables listed below]

Table 1: Management Fee Applicable (AUD, excluding GST)

Payment Type	Percentage (%)	Item	Year 1 16 Nov 2021 to 30 Jun 2022 [7.5 months] (AUD)	Year 2 1 Jul 2022 to 30 Jun 2023 [12 months] (AUD)	Year 3 1 Jul 2023 to 30 Jun 2024 [12 months] (AUD)	Year 4 1 Jul 2024 to 30 Jun 2025 [12 months] (AUD)	Year 5 1 Jul 2025 to 15 Nov 2025 (4.5 months) (AUD)	Maximum Amount Payable (AUD)
Milestone		<i>MEL Framework</i>						
		<i>(Milestone 2 description onwards etc)</i>						
Payment by Results /Deliverables		<i>(PBR item 1)</i>						
		<i>(PBR item 2 etc)</i>						
Partner Performance Assessment (PPA)		<i>PPA based payment *</i>						
TOTAL	100%					TOTAL	TOTAL	AUDx
<i>Yearly breakdown</i>			<i>AUDx</i>	<i>AUDx</i>	<i>AUDx</i>	<i>AUDx</i>	<i>AUDx</i>	

[Tenderers to list any relevant assumption associated with proposals]

*PPA payments will be paid in accordance with the percentage (%) payable based on the overall PPA rating for that eligible period.

- 5 or above the payment will be [xx%] of the amount due;
- 4 to 5 the payment will be [xx%] of the amount due; and
- 3 or below the payment will be [xx%]of the amount due.

Table 2: Tenderer Personnel/Associate Costs (AUD, excluding GST)

Position Title	Inputs (Months/Days)	Year 1 16 Nov 2021 to 30 Jun 2022 [7.5 months] (AUD)			Year 2 1 Jul 2022 to 30 Jun 2023 [12 months] (AUD)			Year 3 1 Jul 2023 to 30 Jun 2024 [12 months] (AUD)			Year 4 1 Jul 2024 to 30 Jun 2025 [12 months] (AUD)			Year 5 1 Jul 2025 to 15 Nov 2025 (4.5 months) (AUD)			Maximum Amount Payable (AUD)
		Inputs	Rate	Total	Inputs	Rate	Total	Inputs	Rate	Total	Inputs	Rate	Total	Inputs	Rate	Total	
Long-Term Personnel																	
Design Team Lead	Months																
Novated Personnel*	Months	7.5		150,000													150,000
Any other LT position titles	Months																
																Sub-tota	AUDx
Short-Term Personnel																	
(Position 1)	Days																
Any other ST position titles																	
																Sub-tota	AUDx
Short-Term Personnel Pool																	
N/A	Paid as a daily rate																
																Sub-tota	AUDx
																TOTAL	AUDx
	Yearly breakdown (AUD)			AUDx			AUDx			AUDx			AUDx			AUDx	

*The two novated personnel should be costed at an upper limit of AUD150,000 over the 7.5 months in Year 1. Novated Personnel costs will be discussed and agreed with the preferred tenderer.

[Tenderers will provide relevant personnel costs]

[Tenderers to list any relevant assumptions associated with proposals]

Table 3: Reimbursable Costs (AUD, excluding GST)

Items	Year 1 16 Nov 2021 to 30 Jun 2022 [7.5 months] (AUD)	Year 2 1 Jul 2022 to 30 Jun 2023 [12 months] (AUD)	Year 3 1 Jul 2023 to 30 Jun 2024 [12 months] (AUD)	Year 4 1 Jul 2024 to 30 Jun 2025 [12 months] (AUD)	Year 5 1 Jul 2025 to 15 Nov 2025 (4.5 months) (AUD)	Maximum Amount Payable (AUD)
Operational costs including:	x	x	x	x	x	x
• Office set up						
• Office ongoing costs						
• Travel costs						
[Tenderers to insert additional rows and amend line items listed as required]						
MIS establishment (excluding personnel costs)						
MIS ongoing maintenance costs						
					TOTAL	AUDx
<i>[Yearly breakdown (AUD)]</i>						

[Tenderers will provide relevant reimbursement costs for operational and support expenditure associated with the specific Tender proposal]

[Tenderers to list any relevant assumptions associated with proposals]

Table 4: Tender Price

Management Fees Payable	[insert total from Table 1]
Tenderer Personnel/Associate Costs	[insert total from Table 2]
Reimbursable Costs	[insert total from Table 3]
Tender Price (excluding GST)	[insert total sum of Tables 1 to 3]

[The tender price submitted will exclude Program Costs, however the Total Contract Value will be the Tender Price plus the Program Costs within the indicative budget allocation for the initial term]

NOTE TO TENDERERS (Delete this box before submitting your Tender)

Please note that this Table **will not** be considered for the Commercial Assessment and that the details listed below are for future use during contract negotiations (and will become Table 2A, Schedule 2 of the draft Contract).

Table 2A: Tenderer Personnel – Long Term Personnel Support Costs (AUD, excluding GST) (if applicable)

Position. Title	Year 16 November 2021 to 30 June 2022 [7.5 months] (AUD)					Maximum. Amount Payable (AUD)
	M/D	H	D	A	Total	
(Position 1 e.g. Design Team Lead)						
Any other LT positions						

*Reimbursable costs can be adjusted between financial years with prior written approval from DFAT (via email). Any changes must then be reflected into the next amendment.

**M/D: Mobilisation/Demobilisation Costs

H: Housing Costs

D: Dependents

A: Associated Costs as per Schedule 2, clause 3.11(d) in the Draft Contract.

TENDER RESPONSE SCHEDULE 4 – Tenderer Details, Deed Poll, and Response Statements [A to E]

Tenderer Details Form

NOTE TO TENDERERS (Delete this box before submitting your Tender)

A Tenderer Details form must be completed for each entity that is represented in the tender response.

Lead Entity in Tender Response	YES / NO (Delete one) If YES, this will be the name of the contracting party, if applicable.
Tenderer Name <i>The name of the legal entity participating in the tender response</i>	[Insert]
Company Registration Number in country of registration <i>(for example, Australian companies should provide their Australian Company Number and Australian Business Number)</i>	[Insert]
Registered Business Address <i>The business address of the legal entity making the Tender</i>	[Insert]
Compliance with Workplace Gender Equality Act 2012 <i>Commonwealth policy prevents DFAT from entering into contracts with contractors until they have demonstrated their compliance with the WGE Act.</i>	Is your organisation classified as a 'relevant employer' under the WGE Act? YES / NO (Delete one) If YES, you are required to provide a current letter of compliance with the WGE Act with your tender
Compliance with the Black Economy policy	YES/ NO
Identify by ticking the relevant boxes whether or not you are a 'Reporting Entity' for the purposes of the Payment Times Procurement Connected Policy (PT PCP). Note: A Reporting Entity means a 'Reporting Entity' within the meaning of the <i>Payment Times Reporting Act 2020</i> (Cth) (PTR Act).	<input type="checkbox"/> The tenderer <u>is</u> a Reporting Entity. <input type="checkbox"/> The tenderer <u>is not</u> a Reporting Entity.

<p>Indigenous Procurement Policy</p>	<p>Is your organisation 50% or more Indigenous owned?</p> <p>YES / NO <i>(Delete one)</i></p> <p>If YES, please provide a certificate or letter from a recognised Indigenous organisation.</p>
<p>Financial Viability</p> <p><i>In line with Clause 30 of Part 2 (Standard Conditions of Tender) of this RFT, DFAT may appoint an independent financial assessor to evaluate Tenderers' financial capacity.</i></p>	<p>Financial Assessment Contact Name: [Insert]</p> <p>Position/Title: [Insert]</p> <p>Telephone Number: [Insert]</p> <p>Email: [Insert]</p>
<p>Preferred Tenderer Contact</p> <p><i>The person who is the Tenderer's point of contact for the purposes of this RFT. Tenderers must ensure the preferred or alternate point of contact is available during the tender evaluation period</i></p>	<p>Name: [Insert]</p> <p>Telephone Number 1: [Insert]</p> <p>Telephone Number 2: [Insert]</p> <p>Email 1: [Insert]</p> <p>Email 2: [Insert]</p>
<p>Alternate Tenderer Contact</p> <p><i>The person who is the Tenderer's point of contact for the purposes of this RFT. Tenderers must ensure the preferred or alternate point of contact is available during the tender evaluation period</i></p>	<p>Name: [Insert]</p> <p>Telephone Number 1: [Insert]</p> <p>Telephone Number 2: [Insert]</p> <p>Email 1: [Insert]</p> <p>Email 2: [Insert]</p>

Tenderer's Deed Poll

NOTE TO TENDERERS (Delete this box before submitting your Tender)

Tenderers must provide a Deed Poll in the following format. The Deed Poll need only be submitted by the lead legal entity in the tender response.

This **DEED POLL** is made on the *<insert date>* day of *<insert month>* *<insert year>*

BY:

[Insert name, address and business registration number such as ACN/ABN] ('Tenderer').

1. The Tenderer declares that this Deed Poll is for the benefit of the COMMONWEALTH OF AUSTRALIA represented by the Department of Foreign Affairs and Trade ABN 47 065 634 525 ("DFAT").
2. This Deed Poll is provided in connection with the Request for Tender *<insert RFT number>* (RFT) issued by DFAT. Terms defined in this RFT will have the same meaning when used in this Deed Poll.
3. The Tenderer submits its Tender to provide the Services:
 - a. described in this RFT; and
 - b. for the Tender Price set out in the Tender.
4. The Tenderer confirms its capacity to Tender and that there is no restriction under any relevant law to prevent it from Tendering.
5. The Tenderer confirms that the Tender does/does not *(Delete inapplicable response)* comply with all the requirements in **Clause 27** (Minimum Form and Content Requirements) in **Part 2** of this RFT.
6. The Tenderer confirms that the Tender does/does not *(Delete inapplicable response)* comply with all relevant Parts of **Clause 28** (Conditions for Participation) of **Part 2** of this RFT. *This includes that if it is the successful tenderer it will ensure that any first tier subcontractor not included in its response that it subsequently engages to deliver goods or services with an estimated value of over AUD4 million (GST inclusive) provides it with a satisfactory Statement of Tax Record that is valid at the time of entry into the subcontract.*
7. The Tenderer acknowledges that it has received all Addenda to this RFT issued by DFAT and posted on AusTender in accordance with **Clause 3** (Amendment of RFT) of **Part 2** of this RFT.
8. The Tenderer confirms that it has/has not *(Delete inapplicable response)* attached all required Letters of Association to **Tenderer Response Schedule 2** in accordance with **Clause 20** (Associate Tenders) of **Part 2** of this RFT.
9. The Tenderer represents and warrants that it holds, or if selected as the Preferred Tenderer agrees to obtain prior to any resulting Contract, all necessary insurances in accordance with **Clause 322** (Insurances) of **Part 2** of this RFT and the Draft Contract and that, if selected as the Preferred

Tenderer, it can/will supply DFAT with a formal Certificate of Currency from its insurer on demand.

10. The Tenderer represents and warrants that, at the time of lodging this Tender, neither it nor any of its directors or partners or any other person who have powers of representation, decision or control have been convicted of any of the following offences during the last seven years: conspiracy relating to participation in a criminal organisation; corruption; bribery; fraud; or money laundering.
11. In accordance with **Clause 22**, (Conflict of Interest) of **Part 2** of this RFT the Tenderer represents and warrants that, at the time of lodging this Tender, no actual or potential conflict of interest exists which could affect the performance of its obligations if the Tenderer were to enter into a contract with DFAT. Further, the Tenderer agrees to notify DFAT in writing immediately if a conflict of interest arises or appears likely to arise after the Tender Closing Time and before the award of any resultant contractual arrangement under this RFT or the termination of this RFT process. The notification must include details of the steps taken by the Tenderer to resolve the conflict. The Tenderer agrees to take such steps as DFAT may require to resolve, or otherwise deal with a conflict of interest notified under this clause or which otherwise comes to the attention of DFAT during this RFT process. The Tenderer acknowledges and agrees that DFAT may exclude the Tender from further consideration if in the opinion of DFAT the Tenderer fails to take any steps required by DFAT to resolve or deal with a conflict of interest.
12. The Tenderer represents and warrants that neither it, nor any member of its governing body (i.e. directors/secretary of the company or board of directors), are the subject of any Court proceedings for debt recovery, bankruptcy, insolvency, or breach of contract.
13. The Tenderer represents and warrants that it is not currently listed by the World Bank or on a Relevant List, nor is it the subject of any formal or informal investigation or temporary suspension by the World Bank or any similar donor of development funding which may lead to it becoming listed on the World Bank List or a Relevant List.

OR

The Tenderer discloses the following details, in relation to providing the Services:

Tenderer's response:

*[Tenderer to enter details in relation to points 9 to 14 above – Tenderers should note the Definition of Conflict of Interest in **Part 2** of this RFT]*

14. The Tenderer confirms that it has read and understood all clauses and paragraphs of the Draft Contract and in so far as a paragraph or clause creates a contractual condition or obligation on the Tenderer, the Tenderer makes its offer to DFAT on that condition or under that obligation and in so far as the paragraph or clause specifies a characteristic or performance to be met by the Tenderer or its Tenderer Personnel under any resultant Contract, the Tenderer's offer is to provide the Services under the Contract as specified. If the Tenderer does not comply with the Draft Contract, the specific clauses or paragraphs of the Draft Contract with which the Tenderer is non-compliant are listed in Statement D.
15. The Tenderer consents to DFAT undertaking all relevant checks in accordance with this RFT.
16. The Tender remains open for acceptance for **180 days** from the tender closing date.

17. Neither the Tenderer nor any of its officers, employees, agents, and subcontractors has attempted to, or will attempt to, improperly influence an officer of DFAT in connection with the preparation, evaluation or assessment of this RFT or its Tender or has approached any Minister, Commonwealth officer or Partner Government representative in connection with this RFT process.
18. The Tenderer represents and warrants that the Tender has not been prepared with the assistance of current or Former DFAT Employees or with improperly obtained information.
19. If at any time prior to execution of a Contract with the Preferred Tenderer, any information provided in this Deed Poll changes, the Tenderer agrees to notify DFAT in writing of that change within **two (2)** business days. Such notification is to be provided to the DFAT Contact Officer for this RFT.
20. The Tenderer agrees that DFAT may provide any information collected, or provided to it by the Tenderer during the course of this RFT process to Parliament and its Committees and other Commonwealth agencies or regulatory bodies, including but not limited to: the Department of Employment, the Australian National Audit Office, the Fair Work Ombudsman and Fair Work Australia.
21. The Tenderer acknowledges and agrees that:
 - a. no express or implied contract (including a process contract) has arisen between the Tenderer and DFAT in relation to this RFT or the Tender; and
 - b. DFAT has no liability to pay the Tenderer, or any other person, and is not liable to the Tenderer for any compensation on the basis of any quantum merit or any other contractual, quasi contractual or restitutionary grounds whatsoever as a consequence of any matter or thing relating to, or incidental to the Tenderer's participation in this RFT.
22. The Tenderer understands and agrees to all Tender conditions including without limitation the obligations, acknowledgements and DFAT's rights included in this RFT document.
23. The Tenderer represents and warrants that the information contained in its Tender is true and correct and the signatory is duly authorised to sign on behalf of the Tenderer.
24. The Tenderer makes the following additional declarations, if any, or amendments to this Tenderer Deed Poll:

Tenderer's response:

[Tenderer to enter details with supporting reasons, or insert N/A]

25. The Tenderer acknowledges it is aware that giving false or misleading information to the Commonwealth is an offence under Part 7.4 of the *Criminal Code Act 1995 (Cth)*.
26. The Tenderer agrees that the laws of the Australian Capital Territory (ACT) apply to this Deed Poll and the Tenderer submits to the non-exclusive jurisdiction of the courts of the ACT and of any court that may hear appeals from any of those courts, for any proceedings in connection with this RFT.
27. This Deed Poll shall not be unilaterally terminated or amended unless such termination or

amendment is agreed in writing by DFAT.

28. This Deed Poll survives the termination or expiry of this RFT.

Execution

EXECUTED by Deed Poll

Signature1

Name (please print)

Official Position Held2

Date

Signature of witness

Name of witness (please print)

Date

¹. To be signed by the Tenderer personally, except in the case of an incorporated entity, when the Managing Director, a Director of the Company or the Company Secretary shall sign.

². i.e. Managing Director, Company Director, Company Secretary.

**Tender Response Schedule 4: Statement A: Declaration of Compliance with the Building Code 2013
– NOT REQUIRED**

**Tender Response Schedule 4: Statement B: The Australian Government Building and Construction
Work Health and Safety (WHS) Accreditation Scheme – NOT REQUIRED**

Tender Response Schedule 4: Statement C: Confidential Information

- A. The Tenderer must identify in Table 1 below any information that it will be providing during this RFT process that it considers should be protected as confidential by DFAT and provide valid reasons which satisfy each of the following criteria:
- Criterion 1: that the information to be protected must be identified in specific rather than general terms;
 - Criterion 2: that the information must be reasonably perceived as of being of a confidential nature;
 - Criterion 3: that disclosure would be likely to cause detriment to the Contractor or other third party; and
 - Criterion 4: that the information was provided under an understanding that it would remain confidential.
- B. Further information on the above criteria can be found in the publication 'Confidentiality Throughout the Procurement Cycle' available at:
<https://www.finance.gov.au/government/procurement/buying-australian-government/confidentiality-throughout-procurement-cycle>
- C. Procurement information should not be classified as confidential unless there is a sound reason informed by legal principle, to maintain the confidentiality of the information.
- D. If no information is to be treated as confidential, indicate by entering "None at this time" in Table 1 below.

Table 1: Confidential Information

Tender Information	Reason(s) why this information should be protected as Confidential Information
	Proposed Period of Confidentiality
<i>[Specific tender information]</i>	<i>[Reason(s)]</i> <i>[Period of Confidentiality]</i>
↑ <i>[Tenderers to insert additional rows as required]</i>	

* Please note that confidential information will also be covered under the existing Confidentiality **Clause 12** of the Standard Contract Conditions.

Tender Response Schedule 4: Statement D: Non-Compliance with Draft Contract

Tenderers should state their compliance or otherwise with the Draft Contract for this RFT. Where Tenderers do not list a Clause and then seek to negotiate this Clause prior to Contracting, DFAT will be under no obligation to consider this request. Where Tenderers do list Clauses below, DFAT is not obliged to accept these and they will be subject to negotiations. The table format below should be used in completing this Compliance Statement:

Contract Compliance Statement		
Clause/Schedule /Attachment	Extent of Compliance	Details of partial or non-compliance and proposed alternate wording
	Partially Compliant / Not Compliant	

↑ *[Tenderers to insert additional rows as required]*

Instructions for completing the Contract Compliance Statement

Only clauses in the Draft Contract that the Tenderer does not comply with or only partially complies with need to be included in the table above. Tenderers will be assessed as being compliant with the Draft Contract unless the Tenderer declares otherwise.

"Compliant" means:

- i. in the case of a clause which is of an informative nature only, the clause has been read and understood.
- ii. in the case of a clause which imposes a contractual condition, that the condition is agreed; and
- iii. in the case of a clause which directs that an action be taken, that this has occurred/will occur.

Tenderers should note the extent of non-compliance will be a factor in the evaluation process. Any additional cost or risk that compliance with those variations or additions will impose on the Commonwealth may be taken into consideration in evaluation.

In completing this Compliance Statement, the items should be in the order in which the clauses appear in the Draft Contract and refer to the relevant clause number, Schedule or Attachment. Compliance responses should be limited to the following expressions:

"Partially Compliant" means, in the case of a clause which imposes a contractual condition, that the Tenderer can meet the condition subject to certain qualifications; or

"Not Compliant" means:

- i. in the case of a clause which imposes a contractual condition, that the Tenderer does not agree with that condition; and
- ii. in the case of a clause which directs that an action be taken, that this has not occurred/will not occur.

Where a Tenderer states that it is partially compliant or not compliant with a clause, the extent of non-compliance should be stated. Tenderers should provide specific reasons for non-compliance with the clause and provide a specific proposal for alternative wording for the clause. Non-committal terms such as "Noted" or a failure to respond may be deemed as a response of "Not Compliant".

Tenderers must note that indicating 'Partially Compliant' or 'Not Compliant' with conditions of the

draft contract, **will not constitute DFAT's acceptance** of the tenderers proposed clause changes. Any suggested changes to the standard contract conditions will only be considered by DFAT during contract negotiations.

Tender Response Schedule 4: Statement E: Statement of Tax Record

Tenderers must apply for a Statement of Tax Record and ensure that their Subcontractors apply for a statement within sufficient time to meet these conditions for participation. Please allow at least four (4) business days for processing by the Australian Taxation Office (ATO).

Tenderers based outside of Australia still need to apply for a statement from the ATO. However, there are additional requirements for overseas based tenderers to receive the statement. This includes providing proof of being a non-resident with no tax record or a tax record of less than four years in Australia. Please refer to the additional requirements listed in Clause 8 (Applying the rules to new and foreign tenderers) of the Black Economy Procurement Connected Policy. For more information from the ATO please visit: <https://www.ato.gov.au/Business/Bus/Statement-of-tax-record/>

Tenderers should attach to their tender response a valid and satisfactory Statement of Tax Record or a receipt demonstrating that a Statement of Tax Record has been requested from the ATO. If a receipt is attached to the tender response, then the Statement of Tax Record should then be supplied to DFAT no later than four business days from the closing time of the Tender. A valid and satisfactory Statement of Tax Record should also be attached for any subcontractors that the tenderer proposes, as part of its response, to engage to deliver goods or services with an estimated value of over AUD4 million (GST inclusive).

[attach Statement(s)/Receipt(s)]

RFT PART 2: STANDARD CONDITIONS OF TENDER

Glossary of Terms

Term	Definition
ACT	Australian Capital Territory
Addendum (or Addenda)	Information, clarification or amendment of this RFT or answers to Tenderer questions published by DFAT on the Austender website at www.tenders.gov.au
AusTender	Commonwealth Government business opportunities website www.tenders.gov.au
Associate Tender	An Associate Tender allows 2 or more businesses to combine their capabilities when developing and delivering a tender. The primary driver of this approach is that it allows for greater economies of scale, efficiency and effectiveness.
Black Economy Procurement Connected Policy	means the Black Economy – increasing the integrity of government procurement: Procurement connected policy guidelines March 2019 available at www.treasury.gov.au/publication/p2019-t369466 .
Building Code	The Commonwealth Building Code 2013 at www.comlaw.gov.au which sets out the Australian Government’s expected standards for all building industry participants involved in Commonwealth-funded construction projects.
Business Day	Any day that is not a Saturday, Sunday, public holiday or bank holiday in the ACT.
Closing Time	The closing time and date for lodgement of Tenders under this RFT as listed in the RFT Dates and Times . The Closing Time is Canberra local time unless specified otherwise.
Conditions for Participation	The requirements that a Tender must meet for it to be considered by the EC.
Conflict of Interest	A situation in which a Tenderer, its Personnel or Referees have a private or personal interest that may influence, or may appear to have the potential to influence, the objective exercise of the Services. The private or personal interest may be a financial or business interest or some other form of benefit or advantage to the Tenderer, its Personnel or Referees or a relative or associate. A conflict of interest creates a reasonable potential appearance to outsiders that the Tenderer’s, its Personnel’s or Referees’ objective judgement is likely to be compromised, biased or partial. A potential conflict of interest is a situation that may develop into an actual conflict of interest. A perceived conflict of interest is one in which a reasonable person would think that the person’s judgement and/or actions may be compromised.
Contact Mailbox	The central contact point for all enquiries regarding this RFT.

CPRs	Has the meaning given in Clause 5.1 of Part 2 of this RFT.
Department	The Commonwealth of Australia, represented by the Department of Foreign Affairs and Trade.
DFAT	The Department of Foreign Affairs and Trade.
Draft Contract	The document located at Part 3 of this RFT.
Evaluation Committee (EC)	The Committee appointed by DFAT to assess Tenders against the Evaluation Criteria, as set out in the Tenderer's Response Schedule to this RFT.
Evaluation Criteria	The selection criteria against which Tenders will be assessed, at Clause 6 (Evaluation Criteria) of Part 1 of this RFT.
Former DFAT Employee	A person who was previously employed by or seconded to DFAT, whose employment ceased within the last nine (9) months and who was substantially involved in the design, preparation, appraisal, review, and/or daily management of this activity.
GST	A Goods and Services Tax levied on the supply of Goods and Services under the A New Tax System (Goods and Services) Tax Act 1999 (Cth).
Minimum Form and Content Requirements	The minimum requirements that a Tender must meet for it to be considered by the EC.
Personnel / Tenderer Personnel	Any Personnel nominated by the Tenderer (including Long Term and Short Term Personnel) to provide the Services.
Preferred Tenderer	The Tenderer selected by DFAT to enter into a negotiation for the Contract for the provision of the Services described in this RFT.
Request for Tender (RFT)	This document and any Attachments and Schedules, together with any Addenda to this RFT issued by DFAT and published on the AusTender website.
RFT Dates and Times	The dates and times specified on the cover page of this RFT.
Relevant Employer	Has the meaning given to the term in the <i>Workplace Gender Equality Act 2012 (Cth)</i> ('WGE Act').
Relevant List	Any similar list to the World Bank List maintained by any other donor of development funding.
Satisfactory	Meets the conditions set out in Part 6.b of the Black Economy Procurement Connected Policy or, if the circumstances in Part 6.c apply, the conditions set out in Part 8.b of the Black Economy Procurement Connected Policy.
Services	The Services required by DFAT to be provided under the terms and conditions of any resultant Contract and described in the Statement of Requirements at Part 1 of the Draft Contract.

Specified Personnel	Personnel nominated by the Tenderer to provide the Services.
Standard	A document approved by a recognised body such as Standards Australia, the International Organisation for Standardisation, the International Electrotechnical Commission or the International Telecommunication Union, that provides, for common and repeated use, rules, guidelines or characteristics for goods or services, or related processes and production methods, with which compliance is not mandatory, unless the goods or services are subject to regulation by government.
Statement of Requirements ('SOR')	The detailed requirements of DFAT for the provision of the Services as described in Schedule 1 (Statement of Requirements) of the Draft Contract.
Statement of Tax Record	A statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out at: www.ato.gov.au/Business/Bus/Statement-of-tax-record
Tender	A Tenderer response submitted to this RFT, substantially in the form of Tenderer Response Schedules 1 - 4 and Statements <A-E> at Part 1 of this RFT.
Tenderer	A person or entity that submits a Tender in response to this RFT.
Tenderer Statements	The forms at Part 1 of this RFT that must be completed and/or executed by the Tenderer and which form the Tenderer's response to Tenderer Response Schedule Statements <A-E> .
Valid	Valid in accordance with Part 7.e of the <i>Black Economy Procurement Connected Policy</i> .
Value for Money	Financial and non-financial costs and benefits to the Commonwealth associated with the goods/property/works/services and includes the factors set out at Clause 4.1 (Tender Evaluation) at Part 1 of this RFT.
Work Health and Safety	Has the meaning given to the term under the <i>Work Health and Safety Act (2011) (Cth)</i> .
World Bank List	A list of organisations maintained by the World Bank in its "Listing of Ineligible Firms" or "Listings of Firms, Letters of Reprimand" at http://web.worldbank.org .

1 Interpretation

1.1 This Request for Tender (RFT) comprises:

- (a) **Part 1: Service Specific Conditions of Tender.**
- (b) **Part 2: Standard Conditions of Tender.**
- (c) **Part 3: Draft Contract**
- (d) **Part 4: Draft Statement of Requirement**

1.2 This RFT is an invitation to treat, and nothing in this RFT, any Tender (with the exception of a Tenderer's Deed Poll executed by a Tenderer), or any conduct or statement made by either DFAT or a Tenderer before or after the issue of this RFT is to be construed so as to give rise to any contractual obligations, express or implied, or any obligations in equity between DFAT and any Tenderer.

1.3 With the exception of a Tenderer's Deed Poll executed by a Tenderer, no binding agreement, express or implied (including, without limitation, any form or contractual, quasi-contractual, restitutionary or promissory estoppel rights, or rights based upon similar legal or equitable grounds), is intended to be created between DFAT and any Tenderer in relation to the Services the subject of this RFT unless and until a formal written contract is executed by DFAT and the successful Tenderer.

1.4 In this RFT, unless a contrary intention appears, words, abbreviations and acronyms have the same meaning given to them in **Part 2: Standard Conditions of Tender** or the **Draft Contract**.

1.5 If there is any inconsistency between any parts of this RFT, a descending order of precedence is to be accorded to the:

- (a) **Part 2: Standard Conditions of Tender;**
- (b) **Part 1: Services Specific Conditions of Tender; and**
- (c) **Part 3: Draft Contract in accordance with the order of precedence clause contained therein,**

so that the provision in the higher ranked document, to the extent of the inconsistency, prevails.

2 Tenderer Costs

2.1 All costs and expenses incurred by a Tenderer in connection with this RFT, including but not limited to the costs associated with preparing and lodging a Tender, responding to requests from DFAT and providing further information sought by DFAT, hosting site visits or attending industry briefings/site inspections, interviews or contract negotiations, are the sole responsibility of the Tenderer.

2.2 DFAT will not be, and is not, liable for any lost profit, lost opportunity or other losses sustained by the Tenderer as a result of responding to this RFT.

3 Amendment of the RFT

3.1 DFAT may amend this RFT at any time by issuing an Addendum and publishing it on AusTender. All conditions of this RFT will apply to any Addenda issued by DFAT unless amended in the Addenda. Upon issue, each Addendum forms part of this RFT.

3.2 DFAT may extend the Closing Time at its sole discretion by issuing an Addendum via AusTender.

3.3 Tenderers who have registered and downloaded this RFT documentation will be notified by AusTender via email if an Addendum to this RFT is issued.

3.4 DFAT accepts no responsibility if a Tenderer fails to become aware of any Addendum which would have been apparent from a visit to the AusTender page for this RFT.

4 Australian Government Requirements

- 4.1 DFAT will not enter into a Contract with a Tenderer (and will not approve any subcontractor proposed by a Tenderer) which has a judicial decision against it (including in overseas jurisdictions but excluding judgements under appeal or instances where the period for appeal or payment/settlement has not expired) relating to unpaid employee entitlements where the entitlements remain unpaid, for a breach of workplace relations law, work health and safety law, or workers' compensation law. If the Tenderer (or any proposed subcontractor) is so subject, the Tenderer must provide DFAT with assurance that it (or the proposed subcontractor) has fully complied, or is fully complying with the Court or Tribunal decision or Order.
- 4.2 DFAT will not enter into a Contract with a Tenderer (and will not approve any subcontractor proposed by a Tenderer) listed on the World Bank List or a Relevant List. If a Tenderer (or a proposed subcontractor) is subject to investigation by the World Bank or by another aid donor that could lead to the Tenderer (or the proposed subcontractor) becoming listed, DFAT may, in its absolute discretion, exclude a Tender from that Tenderer from further consideration. A Tenderer must immediately notify DFAT if it (or any proposed subcontractor) becomes listed, investigated or suspended by the World Bank or any development donor prior to the award of any resultant Contract or the termination of this RFT process.

5 Commonwealth Procurement Rules and PGPA Act

- 5.1 The Commonwealth Procurement Rules (CPRs) at <http://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules/index.html> and the Public Governance Performance and Accountability Act Rules 2013 (Cth) (PGPA Act) at <http://www.comlaw.gov.au> as amended from time to time, apply to this RFT.

6 Workplace Gender Equality

- 6.1 In accordance with the Workplace Gender Equality Principles at <https://www.wgea.gov.au/about-wgea/workplace-gender-equality-procurement-principles>, DFAT will not enter into any resultant Contract with a Tenderer who is non-compliant under the Workplace Gender Equality Act 2012 (Cth) (WGE Act).
- 6.2 Tenderer must identify in their Tender whether it is a Relevant Employer under the WGE Act, and if it is, must include in its Tender a copy of its current letter of compliance with the WGE Act.

7 Tenderers to inform themselves

- 7.1 DFAT makes no representations or warranties that the information in this RFT or any information communicated or provided to Tenderers during this RFT process is, or will be, accurate, current or complete.
- 7.2 Tenderers are solely responsible for examining this RFT, any documents referenced in or attached to this RFT and any other information made available by DFAT to Tenderers in connection with this RFT process.
- 7.3 Tenderers should make their own independent assessment and investigations and obtain their own independent advice regarding the subject matter of this RFT.
- 7.4 Tenderers are to satisfy themselves that their Tender (including tendered prices) is accurate, complete and not misleading.

8 Tender preparation

- 8.1 Tenderers are to complete and provide the information requested in **Part 1: Services Specific Conditions of Tender** and are to do so in the manner requested in that part.

9 Tenderer Enquiries

- 9.1 All enquiries relating to this RFT should be directed to the Contact Mailbox in writing before the last date for enquiries date on or before the last date for addenda as listed at RFT Dates and Times.
- 9.2 If DFAT considers that a Tenderer's enquiry may be relevant to other Tenderers, it may at its discretion and without disclosing the source of the query, publish its response to all Tenderers on a non-attributable basis by publishing an Addendum on the AusTender website.

10 Lodgement of Tenders

- 10.1 Tenderers are required to lodge their Tender electronically via AusTender in accordance with the requirements set out in **Part 1 (Service Specific Conditions of Tender)** of this RFT. Tenders must be lodged before the Closing Time specified in this RFT Dates and Times located on the cover page of the RFT.
- 10.2 Tenders must be lodged in the format requested in **Part 1 (Service Specific Conditions of Tender)** and all file names should:
- (a) **sufficiently** identify the tenderer by including their names; and
 - (b) **reflect** the parts of the response they represent, where the response comprises multiple files.

11 Late Lodgement Policy

- 11.1 Any Tender lodged after the Closing Time is a late Tender and will not be considered by DFAT.

12 Tender Validity Period

- 12.1 Unless another tender validity period is specified in **Part 1 (Service Specific Conditions of Tender)**, Tenders must remain open for acceptance (valid) for a period of at least **six (6)** months (i.e. 180 calendar days) from the Closing Time.
- 12.2 DFAT may request a Tenderer to extend the validity period of the Tender, referred to at **Clause 12.1** above.

13 Unintentional Errors of Form

- 13.1 If a Tenderer has made an unintentional error of form in its Tender, DFAT may at its sole discretion by written request, permit the Tenderer to correct that error within a specified timeframe, but will not permit the Tenderer to submit new or different information that would materially alter the original Tender.

14 Alterations, Erasures and Illegibility

- 14.1 Any alterations or erasures to a Tender by a Tenderer are to be initialled by that Tenderer. Tenders containing alterations or erasures that are not initialled or pricing or other information that is not stated clearly and legibly may be excluded from consideration.
- 14.2 Alterations or erasures to a Tender must be made before the Closing Time.

15 Additional Material

- 15.1 Tenderers should not provide any pages additional to the page limit as part of the **Tender Response Schedules**. Additional pages will be deleted and not evaluated.
- 15.2 Tenderers should not provide additional material of any kind such as cover pages, tables of content, acronym pages, brochures, letters, summaries, photographs or promotional material – such material will be deleted and not evaluated.
- 15.3 Tenders that include additional pages or material, or material that is not readable, may be considered non-conforming, and as such the Tender will not be evaluated.

16 Privacy, Disclosure and Confidentiality

16.1 In accordance with paragraph 7.21 of the CPRs, DFAT will treat any information provided by the Tenderer prior to the award of any resultant Contract (other than information in the public domain) as confidential.

16.2 Once a contract has been awarded to a Tenderer, DFAT will not keep information provided by that Tenderer confidential, unless:

- (a) the Tenderer requests specific information which it considers should be kept confidential in **Table 1 (Confidential Information)** at **Tender Response Statement C**;
- (b) the specific information is by its nature confidential or is personal information under the Privacy Act 1988 (Cth); and
- (c) DFAT agrees to that request or is otherwise bound by law not to disclose the information.

16.3 In considering a request for confidentiality, DFAT will consider whether disclosure would cause detriment to a Tenderer or a third party.

16.4 DFAT will also consider whether confidentiality is supported by the underpinning principles of Commonwealth procurement such as value for money, accountability and transparency.

16.5 DFAT may disclose:

- (a) details of Commonwealth contracts with an estimated value of AUD10,000 (GST inclusive) or more, and standing offers on AusTender;
- (b) Commonwealth contracts and contract information to the responsible Minister, to a House or a Committee of the Parliament of the Commonwealth of Australia, to the Australian National Audit Office, to the Commonwealth Ombudsman or any other body as authorised or required by law to enable them to carry out their functions; and
- (c) information collected from Tenderers in accordance with the Privacy Act including disclosure to EC members and/or Commonwealth Government departments and agencies to facilitate Tender evaluation.

17 Ambiguities, Discrepancies, Inconsistencies, Errors or Omissions

17.1 DFAT does not and will not accept responsibility for any misunderstanding arising from failure by a Tenderer to comply with the requirements set out in this RFT, or arising from any ambiguity, discrepancy, inconsistency, error or omission contained in a Tender.

18 Ownership of Tenders

18.1 All Tenders become the property of DFAT upon lodgement. Tenderers submit documents in response to this RFT on the basis that DFAT may use, retain and copy the information contained in those documents for the purposes of:

- (a) evaluation and selection of any Tender;
- (b) preparation and negotiation of any resultant Contract with respect to this RFT; and
- (c) verifying the currency, consistency and adequacy of information provided under any other RFT process conducted by DFAT.

18.2 DFAT may disclose the contents of any Tender to its representatives and advisers for the purposes of assisting DFAT with this RFT process. DFAT may, at its discretion, seek appropriate confidentiality obligations from those representatives or advisers where such disclosure is made.

18.3 Nothing in this **Clause 18** affects the ownership of intellectual property in any Tender.

19 Consortia and Joint Venture Tenders

- 19.1 DFAT may, subject to this RFT, consider a Tender from a consortia or joint venture in the form of a joint Tender.
- 19.2 Any joint Tender must set out details of all consortia or joint venture members, including the role that each member would play in the delivery of the requirements, and must nominate a single legal entity which would, if successful, enter into a contract with DFAT.
- 19.3 DFAT may require parent company guarantees from the parent companies of parties to a consortia or joint venture.

20 Associate Tenders

- 20.1 DFAT will, subject to this RFT, consider a tender from two or more parties who have not formed a single legal entity in the form of an Associate Tender on the basis that one party, the Tenderer, acts as the prime contractor and the other party becomes a sub-contractor known as “the Associate”.
- 20.2 An associate tender must set out details of all Associates, including the role that each member would play in the delivery of the Requirements and provide an assurance to DFAT from an authorised representative of the Associate of the Associate’s corporate commitment to and involvement in the provision of the goods and/or services in the form of a one-page Letter of Association attached to the Technical Proposal (**Tender Response Schedule 2**). The letter should clearly outline the proposed role of the Associate in the delivery of the goods and/or services and specify any activities it will be leading. If a Letter of Association is not provided for a proposed Associate, DFAT will delete all references to the Associate in a Tender before the Tender is evaluated.
- 20.3 Tender associates who are approved by DFAT to undertake identified parts of the Requirements will be specified in any resultant Contract if the Tenderer is selected as the Preferred Tenderer and a contractual arrangement successfully negotiated.

21 Subcontractors

- 21.1 If any aspects of the Services will be provided by a subcontractor to the Tenderer, the Tender should set out the details of all proposed subcontractors and their proposed responsibilities in the Technical Proposal (**Tender Response Schedule 2**).
- 21.2 In accordance with the terms of the Draft Contract, DFAT will hold the Contractor responsible for the actions of any subcontractors, and the Contractor will be required to include all relevant provisions of the Contract in any subcontract agreements.

22 Conflict of Interest

- 22.1 Tenderers must notify DFAT immediately after becoming aware of an actual or potential Conflict of Interest in connection with the submission of the Tender or the provision of the Goods and/or Services described in this RFT, or at any time prior to receiving notification of the award of a Contract or the termination of this RFT process.
- 22.2 If the Tenderer has or may have an actual or potential Conflict of Interest, DFAT may, at its discretion:
- (a) exclude the Tender from further consideration.
 - (b) enter into discussions to seek to resolve the conflict of interest; or
 - (c) take any other action it considers appropriate.
- 22.3 DFAT may regard any participant in a Joint Tender under **Clause 19** (Consortia and Joint Venture Tenders) who separately Tenders or participates in a further Joint Tender in response to this RFT as being in a Conflict of Interest situation.

23 Unlawful Inducements

- 23.1 Tenderers, their officers, employees, agents and advisers must not violate any applicable laws or Commonwealth policies in relation to unlawful inducements in connection with the preparation of a Tender or participation in this RFT process. Submission of the Tender by the Tenderer constitutes a warranty by the Tenderer in this regard.
- 23.2 If a Tenderer is found to have violated any applicable laws or Commonwealth policies regarding the offering of inducements connected with the preparation of its Tender or its participation in this RFT process, DFAT may remove the Tender from further consideration.
- 23.3 Tenderers must not seek information on the evaluation from any individuals or companies involved in the evaluation during the evaluation or any time after the evaluation, except consistent with **Clause 40** (Debriefing) of this **Part 2**. Any such contact during the evaluation process will be considered an attempt to influence the outcome of this RFT process and may result in exclusion of the Tender from further consideration.

24 Collusive Tendering and Improper Assistance

- 24.1 Tenderers, their officers, employees, agents and advisers must not engage in any collusive Tendering, anti-competitive conduct or any similar conduct with any other Tenderer or person in relation to the preparation of a Tender or participation in this RFT process.
- 24.2 Tenders compiled with the assistance of current DFAT employees or Former DFAT Employees will be excluded from consideration.
- 24.3 If a Tenderer is found to have engaged in any collusive tendering or other anti-competitive practices with any other Tenderer or any other person in the preparation of its Tender or its participation in this RFT process, DFAT may remove the Tender from further consideration.

25 False or Misleading Claims

- 25.1 Tenderers should be aware that giving false or misleading information to the Commonwealth is an offence under Part 7.4 of the *Criminal Code Act 1995 (Cth)*.
- 25.2 If a Tenderer is found to have made false or misleading claims or statements or to have obtained improper assistance connected with the preparation of its Tender or its participation in this RFT process, DFAT may exclude the Tender from further consideration.

26 Public Statements

- 26.1 Tenderers should not make any public statements or provide any information to the media or any other third party in relation to this RFT or any Contract arising out of this RFT, without the prior written approval of DFAT.

27 Minimum Form and Content Requirements

- 27.1 DFAT will exclude a Tender from further consideration if DFAT considers that the Tender does not comply with the Minimum Content and Format Requirements specified in **Part 1 (Service Specific Conditions of Tender)**.

28 Conditions for Participation

- 28.1 DFAT will exclude a Tender from further consideration if DFAT considers that the Tenderer does not satisfy any of the Conditions for Participation specified in **Part 1 (Service Specific Conditions of Tender)**.

29 Evaluation of Tenders

- 29.1 Tenders will be evaluated on the basis of best value for money consistent with Commonwealth policies and the terms of this RFT.

29.2 The criteria to be applied for the purposes of evaluation are set out in **Part 1** of this RFT.

30 Security, Probity and Financial Checks

30.1 DFAT and/or a consultancy engaged by DFAT may perform any security, probity and financial investigations and procedures it may, in its sole discretion, determine necessary in relation to Tenderers, their employees, officers, partners, associates, subcontractors or related entities and their officers, employees and subcontractors.

30.2 Tenderers may be required to provide the telephone number and email address of the tendering entity's nominated contact point for the financial assessment. If required, following tender submission, a DFAT-appointed financial assessor will contact the tendering entity's nominated contact point for the following information, at a minimum:

- (a) Complete annual financial statements for the last **three (3)** financial years, with all supporting notes.
- (b) Descriptions of any recent changes of substance in the Tenderer's financial position that are not reflected in the most recent financial information.
- (c) Details of any other tendering opportunities currently being pursued by the tendering entity or related entities within the group.
- (d) Details of any existing cross guarantees or overdrafts; and
- (e) Details of any significant events, matters or circumstances that may significantly affect the Tenderer's capacity to perform the Services.

30.3 Tenderers must provide DFAT's financial assessor with further details of relevant financial data and other relevant information concerning the Tenderer, if so requested by the financial assessor. Failure to do so may result in the Tender not being assessed further. The financial information of Tenderers will be treated confidentially. The report on the financial capacity of each Tenderer will be provided to the EC and/or the Delegate.

30.4 At their own cost, Tenderers will be expected to provide reasonable assistance to DFAT regarding any security, probity and financial investigations and procedures, including supplying further information to DFAT on request.

31 Tender Prices

31.1 Tenderers must provide their Tender prices in **Tender Response Schedule 3**. Tendered prices should be inclusive of all costs of complying with this RFT and all costs associated with the due and proper completion of the proposed Contract, and:

- (a) be inclusive of all taxes duties and charges, excluding goods and services tax ('GST'), if applicable. GST payable should be separately identified in **Tender Response Schedule 3** and will not form part of the Price Assessment;
- (b) be inclusive of all necessary insurances;
- (c) be inclusive of any escalation, any allowance for foreign exchange rate variations or other price risks;
- (d) remain unalterable for the period of Tender validity as listed in RFT Dates and Times;
- (e) not vary according to the mode of payment;
- (f) take into account the liability, indemnity and other relevant provisions regarding risk in the Draft Contract; and
- (g) include detailed information on assumptions used in preparing the pricing.

31.2 Tenderers should seek their own independent tax advice in relation to this RFT and the Draft Contract.

31.3 DFAT may use the pricing information provided in **Tenderer Response Schedule 3** for the Price Assessment.

31.4 DFAT is not bound to accept the lowest price (or any) Tender.

32 Insurances

32.1 Tenderers are required to confirm in their Tenders they hold the insurances specified in this RFT and the Draft Contract or confirm that they are willing to obtain those insurances if selected as the preferred Tenderer prior to any resultant Contract.

33 Competitive Neutrality

33.1 Competitive neutrality requires that Government businesses should not enjoy net competitive advantages over their private sector competitors by virtue of public sector ownership.

33.2 Tenderers from the public sector should demonstrate in the pricing of their Tender that the requirements of competitive neutrality have been met, including (without limitation) payment of relevant taxes and charges, rates of return and cost of funds.

34 Tenderer Personnel

34.1 Individuals with conflicting commitments and current and Former DFAT Employees should not be included in the Tender as Tenderer Personnel or as individuals who will be engaged by the Tenderer if selected as the Preferred Tenderer.

34.2 DFAT may reject any Tender which does not disclose the fact that a proposed team member has an existing and continuing commitment to another project (DFAT or otherwise).

34.3 DFAT reserves the right to reassess any Tender if, following submission, the membership of a Tender changes (including withdrawing consortium members).

35 Referee Checks

35.1 Tenderers must provide the name and contact details of Referees, or the completed referee reports (whichever is appropriate) from referees who can attest to the performance of the Tenderer and its Personnel in the provision of services comparable to the Services within the last five years.

35.2 Tenderers must ensure that nominated Referees do not have an actual or potential Conflict of Interest and are available to be contacted within **three (3)** weeks of the Closing Time.

35.3 If a Tenderer wishes to nominate a current or Former DFAT Employee as a referee it must request and receive approval to do so from via the Contact Mailbox prior to submitting its Tender.

35.4 DFAT may, at its discretion and/or by its authorised representative, contact any referee nominated by a Tenderer in its Tender, and may seek additional written or verbal comments from that referee.

35.5 DFAT may also seek information about any Tenderer from any other source, including from within Commonwealth Government departments or agencies, whether or not the individuals or organisations contacted are nominated by the Tenderer.

36 Police Checks

36.1 Tenderer Personnel, including those who will have contact with children under any resultant Contract, may be required to provide Police Clearance Certificates.

36.2 If requested in **Part 1 (Services Specific Conditions of Tender)** of this RFT, Tenderer is to submit a Police Clearance Certificates for all Tenderer Personnel with its Tender. These Police Clearance

Certificates must comply with the requirements set out in **Clause 36.3 (a) and (b)**.

36.3 Within **fourteen (14)** days written notice from DFAT, the Preferred Tenderer should provide DFAT with original Police Clearance Certificates for Tenderer Personnel. Each Police Clearance Certificate must:

- (h) be provided for each country in which the individual has lived for **12 months** or longer over the last **five (5)** years and for the individual's country of citizenship; and
- (i) be dated no earlier than **twelve (12)** months before the Tender Closing Time.

36.4 Tenderers should obtain consent to a criminal record check from their Tenderer Personnel and provide information on the purpose for which it will be used.

36.5 DFAT reserves the right to require the Tenderer to replace any Tenderer Personnel whose Police Clearance Certificate shows conviction of criminal offences of, or relating to child abuse, and/or set the Tenderer's Tender aside and commence negotiations with another Tenderer. Nominated replacement Tenderer Personnel should have qualifications and experience equal to or higher than those personnel being replaced and should be acceptable to DFAT.

37 Standards

37.1 Where an Australian Standard (or in its absence, an international standard) is specified in **Part 1** of this RFT as being applicable to the goods and services being procured, Tenderers must demonstrate their capability to meet that standard in their Tenders. Tenderers should note that, under any resultant Contract, the Contractor will be required to substantiate that its provision of the goods and services meet the applicable standard in accordance with Rules 10.10 and 10.38 of the CPRs.

37.2 Where this RFT relates to the procurement of construction-related Services that are to be provided in Australia, the Tenderer:

- (a) must comply with the Commonwealth Building Code 2013, and at the time it lodges its Tender, the tenderer must:
 - i) not have been precluded from Tendering for Australian Government-funded building and construction work;
 - ii) fully complied with any adverse Court or Tribunal decision or Order (not including decisions under appeal) for a breach of workplace relations law, work health and safety law, or workers' compensation law; and
 - iii) submit in its Tender a copy of its letter of compliance with the Building Code as issued by the Australian Building and Construction Commission or its Self-Declaration made under section 11 of that Code; and.
- (b) If applicable, be accredited under the Australian Government's Building and Construction Work Health and Safety (WHS) Scheme., and include in its Tender a statement that it is so accredited. More information on this scheme is at:
<http://www.fsc.gov.au/sites/fsc/needaccredited/accreditationscheme/pages/theaccreditationscheme>.

38 Contract Negotiations

38.1 Following the selection of a Preferred Tenderer, DFAT may enter into contract negotiations with the Preferred Tenderer.

38.2 Without limiting DFAT's rights, during contract negotiations, DFAT may:

- (a) engage in detailed discussions with one or more Tenderers in person or via email;

- (b) request a Tenderer to improve or consolidate any aspect of a Tender;
- (c) request a Tenderer to provide revised pricing to reflect negotiation outcomes (including submitting a best and final offer);
- (d) decline to consider a Tenderer's revised pricing if DFAT considers that the Tenderer has changed the underlying basis on which the Tenderer's pricing was calculated;
- (e) reject the Preferred Tenderer's Tender, discontinue negotiations with that Tenderer and/or re-enter negotiations with other Tenderers (including or excluding the Preferred Tenderer) if in DFAT's view during final negotiations, the Preferred Tenderer retracts or attempts to retract agreements under which material business, financial, technical and legal issues were resolved during negotiations, or in DFAT's opinion the Tenderer is not negotiating in good faith;
- (f) request the Tenderer to negotiate in good faith a proportionate reduction to the Tendered price if the Statement of Requirements is reduced as a result of constraints imposed on DFAT either before or after the Closing Time; and
- (g) take into account the outcome of negotiations in finalising the evaluation of Tenders and in making a selection decision in declaring the Preferred Tenderer.

39 Operation of the Contract

39.1 DFAT intends to enter into a contract with the Preferred Tenderer substantially in the form of the Draft Contract located at **Part 3** of this RFT.

39.2 Any resultant Contract entered into between DFAT and any Preferred Tenderer will alone govern the legal relationship between the parties.

40 Debriefing

40.1 Following the rejection of a Tender or the award of a Contract, DFAT will promptly inform Tenderers of the decision. Tenderers requiring a debriefing should contact the Contact Officer at the email address specified on the cover page of this RFT within **14 days**. Debriefings will be made available to Tenderers after Contract award outlining the reasons their Tender was successful or unsuccessful.

41 Application of Law and Commonwealth Policy

41.1 This RFT is to be construed in accordance with, and any matter related to this RFT process is to be governed by, the laws of the Australian Capital Territory ('ACT'). The ACT will have sole jurisdiction for any dispute resolution.

41.2 Tenderers must at all times abide by Commonwealth Law and Australian Government Policies.

41.3 DFAT reserves the right in its absolute discretion to exclude from consideration any Tender:

- (a) where any of the Tenderer's Personnel have been convicted of, or are being investigated for, a criminal offence;
- (b) on the grounds of bankruptcy, insolvency or significant deficiencies in performance of any substantive requirement or obligation under a prior contract in accordance with Rule 10.16 of the CPRs;
- (c) which is late, incomplete (including those with electronic files that cannot be read or decrypted) or which DFAT believes to potentially contain any virus, worm, malicious code, disabling features or anything else that might compromise the integrity or security of AusTender and/or DFAT's computing environment; and

- (d) where the Tenderer is on the World Bank List or a Relevant List, or is or becomes the subject of an formal or informal investigation or temporary suspension which may lead to it becoming so listed.

42 DFAT's Rights

42.1 Despite any other provision in this RFT, DFAT retains the right to:

- (a) alter, vary or amend any part of this RFT;
- (b) suspend or terminate this RFT if DFAT considers it is in the public interest to do so;
- (c) seek additional information or clarification from any Tenderer, and/or provide additional information or clarification to any Tenderer;
- (d) seek and/or contact any referee, whether or not nominated by the Tenderer;
- (e) determine a shortlist of Tenderers at any time after the Closing Time;
- (f) add or remove any Tenderer from consideration at any time after the Closing Time;
- (g) in its absolute discretion conduct or engage a third party to conduct a financial viability assessment on the Tenderer to assess the Tenderer's financial capacity and financial viability in accordance with the information provided at **Tender Schedule 3** and **Tender Schedule 4**.
- (h) negotiate or decline to negotiate with any Tenderer, and discontinue negotiations at any time (including for non-provision of Police Clearance Certificates);
- (i) negotiate with one or more Tenderers simultaneously;
- (j) terminate negotiations with the Preferred Tenderer and commence negotiations with any other Tenderer (including but not limited to where required Police Clearance Certificates are not provided by the Preferred Tenderer or where the Tenderer becomes listed or is or becomes the subject of any formal or informal investigation or temporary suspension by the World Bank or similar donor of development funding);
- (k) require the Preferred Tenderer to provide an Unconditional Financial Undertaking or Performance Guarantee prior to entry into any resultant Contract.
- (l) require the Preferred Tenderer to replace any Personnel whose Police Clearance Certificate shows conviction of criminal offences of, or relating to, child abuse where DFAT in its absolute discretion considers that the individual poses an unacceptable risk to children's safety or well-being; and
- (m) allow, or refuse to allow, a Preferred Tenderer to enter into any resultant Contract in the name of a different legal entity to that which submitted the Tender.

43 Complaints

43.1 Any complaints arising out of this RFT process should be made in writing to the DFAT Contact Mailbox.

43.2 All complaints related to this RFT process will be dealt with in accordance with DFAT's Policy on Complaints Handling (available at www.dfat.gov.au).

RFT PART 3: DRAFT CONTRACT

Attached

Attached