



WODONGATAFE

**Wodonga TAFE
Heavy Vehicle Technology Program (HVTP), Logic Innovation Precinct-
Main Works
PRC000203**

DF167 Construction Request for Tender

RFT Documentation:

Part A – Overview

Part B – Conditions of Tendering

Part C – Returnable Schedules

Part D – Contract Document(s)

Part E – Preliminaries & Builder's Requirements

Part F – Drawings, Specifications and Schedules

Request for Tender for use with [VPS Model AS4300-1995/AS2124-1992]

Revision:	Date:	Clause reference:	Details:	Endorsed by:
June 2018	28 June 2018	Not applicable	New document issued.	DTF
December 2018	24 December 2018	18	Domestic dispute resolution arbitration clause added	DTF
February 2019	5 February 2019	18	Minor technical amendment to Domestic dispute resolution arbitration clause.	DTF
August 2020	4 August 2020	3.3	Insert new clause Tender briefing session	DTF
		14, Annexure D Tender Schedule 11	Major Projects Skills Guarantee - Delete and mark Not used (included with Local Jobs First)	
		15, Annexure C 15A, Annexure CA Tender Schedule 17	Local Jobs First - Revise clause and Annexure Social Procurement Framework - Insert new clause, Annexure and Tender Schedule	
		15B 17A	Working for Victoria - Insert new clause Renumber clause as 17A Domestic dispute resolution. Use Annexure for variable item.	
		Annexure B	List mandatory evaluation criteria and evaluation criteria related to policies	
		Annexure F	Insert mandatory evaluation criteria for occupational health and safety management	
		Annexure G	Insert mandatory evaluation criteria for industrial relations management	
		Tender Deed Poll clause 5	Update table to reflect changes in this revision	
		Tender Schedule 7A	Insert new Schedule Occupational health and safety management	
		Tender Schedule 7B	Insert new Schedule Industrial relations management	
		Tender Schedule 8	Delete requirement for contract particulars	
February 2021	8 February 2021	18.1, Tender Schedule 4	Clauses updated based on <i>Prohibition of High-Risk Cladding Products Declaration</i>	DTF
		Annexure A Item 22B	Insert drafting note	
June 2022	16 June 2022	Annexure A Items 22C – 22E	Revise Items - Social Procurement Framework including Building Equality Policy	DTF
		Annexure B	Revise Drafting note related to Social Procurement Framework	
		Annexure CA	Delete Annexure CA and replace with revised Annexure CA – Social Procurement Framework including Building Equality Policy	
		Tender Response Schedule 17	Delete Tender Response Schedule and replace with revised Response Schedule – Social Procurement Framework including Building Equality Policy	
December 2022	1 December 2022	2.1(a)	Tender documents - Amend to note Annexure B to Annexure G thereto.	DTF
		Tender Schedule 7	Industrial relations, work health and safety and quality - Clarify requirements for industrial relations and work health and safety	
		16 Annexure A Items 23-25 Annexure E Tender Form Tender Schedule	Building Code - Delete and mark Not in use.	
		Definition of Building Code	Delete	
		Annexure C Annexure A Item 22AB Tender Schedule 10	Local Jobs First – Revise clause, Annexures and Tender Schedule.	

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Revision:	Date:	Clause reference:	Details:	Endorsed by:
		15B Annexure A Item 22F	Working for Victoria - Delete and mark Not in use.	
		12(a)(ii), Definition of Associate	Conflict of interest – clarify Associates of the Tenderer	
		Schedule 15A Tender Form	Declaration of probity issues - Insert new Tender Schedule.	
		Annexure A Item 14	Drafting note on use of TendersVic.	
		15C, Annexure CB Annexure G	Fair Jobs Code – insert new clause and Annexure CB.	
		Annexure G	Re-number criterion 3 to 3a. Re-number criterion 4 to 3b. Following criterion 3b, insert the alternative criterion '3. Its current Fair Jobs Code Pre-Assessment Certificate (this alternative is available from 1 December 2022)'. Following the alternative criterion 3b, insert criteria 4-6 to support the Fair Jobs Code, effective from 1 December 2022. Insert criteria for suppliers of Construction Services – to apply Fair Jobs Code effective from 1 December 2022	
		Annexure B	Insert drafting note for Fair Jobs Code.	
		Tender Schedule 6	Insert requirements to support Fair Jobs Code.	
		Tender Schedule 7A Option 1	Clarify operation of mandatory evaluation criteria.	
		Tender Schedule 7A Option 2	Clarify operation of mandatory evaluation criteria.	
		Tender Schedule 7B	Clarify operation of Schedule.	
		Tender Schedule 7B Option 1 Supplier of Works	Update to reflect revised industrial relations management criteria that incorporate Fair Jobs Code.	
		Tender Schedule 7B Option 1 Supplier of Construction Services	Insert new Option to this Tender Schedule 7B to incorporate Fair Jobs Code.	
		Tender Schedule 7B Option 2 Supplier of Works	Update to reflect revised industrial relations management criteria that incorporate Fair Jobs Code.	
		Tender Schedule 7B Option 2 Supplier of Construction Services	Insert new Option to this Tender Schedule 7B to incorporate Fair Jobs Code	
		Tender Schedules 7C and 7D	Insert new Schedules for Fair Jobs Code.	
March 2023	03 March 2023	Tender Response Schedule 17	Update Organisation Wider Gender Equality Action Plan (including Progress Report)	DTF
		Tender Response Schedule 17	Update to Project Specific Gender Equality Action Plan (Including Progress Report)	
June 2023	13 June 2023	Annexure C Annexure CA	Local Jobs First – update clauses including definitions Social Procurement Framework – update definitions	DTF
October 2023	11 October 2023	Annexure CA Tender Response Schedule 17	Changes to definitions, minor policy amendments and guidance to Building Equality Policy	DTF
December 2023	December 2023	Annexure CA Tender Response Schedule 17	Changes to definitions, minor policy amendments and guidance to Building Equality Policy Social Procurement Framework – update definitions, clauses and response tables	DTF
September 2024	1 September 2024	Annexure CB	Amendments to Fair Jobs Code	DTF

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Contents

PART A - Overview 7

1. **The Opportunity 7**

2. **Purpose of this Request for Tender..... 7**

3. **Timetable 8**

PART B - Conditions of Tendering 8

1. **Invitation to Tender..... 8**

1.1 Invitation 8

1.2 Tenderer to notify Principal of intention not to tender 8

2. **Tender Documents and Information Documents 8**

2.1 Tender Documents comprise 8

2.2 Ownership 9

2.3 Privacy 9

2.4 Use and disclosure 9

2.5 No liability for Information Documents..... 10

2.6 Return of Information Documents 10

2.7 Data Room 10

3. **Tenderer to fully inform itself 11**

3.1 Tenderer to do 11

3.2 Site visit 12

3.3 Tender briefing session 12

4. **Lodgement of Tender 13**

4.1 Requirement to lodge 13

4.2 Method of Tender submission 13

4.3 Tenderer not present at opening 13

4.4 Acknowledgement of receipt of Tender 13

4.5 Acceptance of Conditions of Tendering 13

5. **Tender submission requirements 14**

5.1 Format 14

5.2 Section 1 – Completed Tender Form 14

5.3 Section 2 – Tender Schedule 1 (Contract Sum breakdown)..... 14

5.4 Section 3 – Tender Schedule 8 (Contract)..... 15

5.5 Section 4 – Remaining Completed Tender Schedules 15

5.6 Evidence of agent’s authority 15

6. **Tender validity period..... 15**

7. **Variations, late, non-conforming and alternative tenders 16**

7.1 Variations to tenders..... 16

7.2 Rejection of late and non-conforming tenders 16

7.3 Alternative tenders..... 16

7.4 Specified proprietary products..... 16

8. **Tender evaluation 17**

8.1 Information requests..... 17

8.2 Interview and meetings..... 17

8.3 Evaluation criteria 17

9. **Process matters 17**

9.1 Questions and requests for clarification 17

9.2 Addenda 18

9.3 Contact with the Principal 18

9.4 Material Changes 19

9.5 Complaints..... 19

9.6	No requirements to return	20
9.7	Debrief	20
10.	Tenderer’s warranty and acknowledgement.....	20
10.1	Tenderer’s warranty.....	20
10.2	Tenderer’s acknowledgement	21
10.3	Proprietary Information	21
11.	No contract and no obligation to consider or accept any tender	21
11.1	No Contract	21
11.2	No obligation.....	22
11.3	Principal not liable	22
11.4	Discretion of Principal.....	23
12.	Probity and competitiveness	25
13.	Disclosure by the Principal.....	26
13.1	Disclosure by the Principal	26
13.2	Public Disclosure and Freedom of Information	27
14.	Not in use.....	27
15.	Local Jobs First	27
15A	Social Procurement Framework.....	27
15B	Not in use.....	27
15C	Fair Jobs Code	27
16	Not in use.....	28
16.	Miscellaneous	28
16.1	Tenderer bears costs.....	28
16.2	Publicity	28
16.3	Notices.....	28
16.4	Goods and services tax	29
16.5	Governing law and jurisdiction	29
17A	Domestic dispute resolution arbitration.....	29
17A.1	Application of this clause	29
17A.2	Definitions	29
17A.3	Resolution procedure	30
17A.4	Notice of complaint	30
17A.5	Negotiation	30
17A.6	Mediation	30
17A.7	Arbitration	30
17.	Definitions and interpretation.....	32
17.1	Definitions.....	32
17.2	Interpretation	35
Annexure A - Tender Particulars		36
Annexure B - Evaluation Criteria		41
Annexure C - Local Jobs First Policy.....		44
Annexure CA- Social Procurement Framework		48
Annexure CB- Fair Jobs Code		52
Annexure D - Not in use.....		55
Annexure E – Not in use		56
Annexure F – Occupational health and safety management evaluation criteria.....		57
Annexure G – Industrial relations management evaluation criteria		61

PART A - Overview

1. The Opportunity

The Principal invites the Tenderer to submit a Tender for Heavy Vehicle Technology Program (HVTP) - Logic Innovation Precinct Main Works

Wodonga TAFE secured funding from the Victoria Government Department for Jobs, Skills, Industry and Regions to expand the learning opportunities within our Heavy Vehicle Technology Program (HVTP) through the provision and upgrade of facilities Wodonga TAFE facilities located at Logic Industrial Estate in Barnawartha North.

The purpose of HVTP is to increase the scale and specialised facilities that will improve heavy vehicle training capacity and capability including the introduction of new training courses tailored to meet emerging industry needs.

The proposed HVTP is to be delivered across two investment stages, this funding supports the delivery of investment Stage One which includes the following;

1. Heavy vehicle 4WD obstacle circuit
2. Heavy Vehicles workshop
3. Main client building, incorporating Data and Cyber Range
4. Carparking (expansion of existing)
5. Stormwater retention basin (expansion of existing)
6. Infrastructure services, Fire, Electrical & Utility

The above works shall be split into two packages that are to be delivered under two separate tenders and therefore two separate contracts.

Package One

1. Heavy vehicle 4WD obstacle circuit as one package; and
5. Stormwater retention

Package Two

2. Heavy vehicle workshop
3. Main client building, incorporating Data and Cyber Range
4. Carparking (expansion of existing)
5. Infrastructure services, Fire, Electrical & Utility

This Tender is for Package Two only

Please note that tender for Package has been released and will not for part of this tender. However, each tenderer is to note that the civil contractor awarded Package One may be used to ensure continuity on site.

Upgrade and extension of existing inground services.

2. Purpose of this Request for Tender

The purpose of this RFT is to:

- provide information to Tenderers about the Heavy Vehicle Technology Program (HVTP) - Logic Innovation Precinct Main Works;

- set out the Conditions of Tendering that will govern the Tender Process;
- invite each Tenderer to submit a fully costed and binding Tender for participation in the Heavy Vehicle Technology Program (HVTP) - Logic Innovation Precinct Main Works], which complies with the Conditions of Tendering; and
- inform Tenderers of the evaluation criteria that the Principal will use to evaluate Tenders.

3. Timetable

The table below sets out a timetable of the key milestones for the Tender Process. The timetable is indicative only and may be subject to change as advised by the Principal.

Milestone	Indicative Date
Release of RFT	18th October 2024
Site Inspection and Briefing	31st October 2024
Closing Time for Tenders	3rd December 2024
Decision on Tenders	18th December 2024
Execution/Award of Contract	20th December 2024

PART B - Conditions of Tendering

1. Invitation to Tender

1.1 Invitation

The Principal invites each Tenderer to submit a conforming tender in accordance with the RFT for the performance of the Works. This document is not an offer by the Principal to any Tenderer.

1.2 Tenderer to notify Principal of intention not to tender

If a Tenderer does not intend to submit a Tender, it must within 14 days of receiving the Tender Documents, notify the Principal accordingly and, if required by the Principal, the Tenderer must return or destroy all Tender Documents and Information Documents in accordance with clause 2.6.

2. Tender Documents and Information Documents

2.1 Tender Documents comprise

The Tender Documents comprise the following:

- (a) these Conditions of Tendering (including the Tender Particulars and Annexure B to Annexure E thereto);
- (b) the Tender Form;
- (c) the Tender Schedules;
- (d) the Formal Instrument of Agreement; and
- (e) the form of Contract (including any Annexures and exhibits).

2.2 Ownership

The Information Documents, and the Intellectual Property Rights in them, are and remain the property of the Principal.

2.3 Privacy

- (a) The Tenderer agrees in respect of Personal Information held in connection with this Tender that it will be bound by the Information Privacy Principles and any applicable Code of Practice with respect to doing any act or engaging in any practice for the purposes of lodging a Tender, in the same way and to the same extent as the Principal would have been bound by the Information Privacy Principles and any applicable Code of Practice in respect of that act or practice had it been directly done or engaged in by the Principal. The Tenderer agrees to immediately notify the Principal where it becomes aware of a breach of this Clause 2.3 by it or any of its agents or employees.
- (b) This Clause 2.3 will continue to have effect after the Closing Time.

2.4 Use and disclosure

- (a) Subject to clause 2.4(b) and 2.4(c), the Tenderer must:
 - (i) not use the Information Documents for any purpose whatsoever except for the Permitted Purpose; and
 - (ii) keep confidential and not copy or duplicate (or allow the copying or duplication of) any Information Documents.
- (b) The Tenderer may disclose the Information Documents to its Associates if the disclosure is required solely for the Permitted Purpose and the Tenderer obtains a binding confidentiality undertaking from each such Associate in the same terms as this clause.
- (c) The provisions of clauses 2.4(a)(ii) and 2.4(d) do not apply to:
 - (i) the disclosure of Information Documents for which the Principal has given its prior written consent;
 - (ii) any Information Document after (but only to the extent that) it becomes generally available to the public other than because of a breach of any provision of these Conditions of Tendering; or
 - (iii) the disclosure of any Information Document to the extent necessary to comply with any applicable law or legally binding order of any governmental agency.
- (d) The Tenderer must:

- (i) notify the Principal immediately if it becomes aware of any unauthorised disclosure, copying or use of any Information Document (suspected or actual);
- (ii) immediately take all reasonable steps to prevent or stop any such suspected or actual unauthorised disclosure, copying or use of any Information Document (including complying with directions of the Principal in this regard); and
- (iii) take all reasonable steps to recover any Information Document that has been disclosed, used or copied without the Principal's consent under these Conditions of Tendering.

2.5 No liability for Information Documents

Each Tenderer acknowledges that:

- (a) the Information Documents have been provided to a Tenderer by the Principal for the information only of the Tenderer;
- (b) an Information Document may be incorrect;
- (c) the Principal requires each Tenderer to make its own enquiries to determine the accuracy and adequacy of any Information Document;
- (d) if the Principal has not prepared and is not the author of an Information Document, the Principal does not adopt the Information Document and merely passes the Information Document on to a Tenderer;
- (e) none of the Principal, the Tender Officer or any of their respective Associates makes any representation that all information in the Principal's or the Tender Officer's control or possession in relation to the Works has been provided to each Tenderer; and
- (f) none of the Principal, the Tender Officer or any of their respective Associates, warrants, guarantees or makes any representation, or assumes any duty of care, or (to the extent permitted by law) accepts any liability, with respect to the completeness, accuracy, adequacy, or correctness of any Information Document.

2.6 Return of Information Documents

Each Tenderer must, if required by the Principal and at the Principal's election, destroy or return to the Principal all Information Documents other than Information Documents which:

- (a) are required to be retained to in accordance with law or a binding requirement of a recognised stock exchange;
- (b) form part of the minutes of, or papers to, a board of the Tenderer; and
- (c) are retained as part of automatic information technology archiving or back-up procedures,

provided that, in each case, the Information Documents are kept confidential and otherwise in accordance with the Conditions of Tendering.

2.7 Data Room

- (a) This clause 2.7 applies if indicated in Item **Error! Reference source not found..**
- (b) The Tenderer acknowledges and agrees that:

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- (i) any Data Room may (either wholly or in part) take the form of a web-based portal or other online facility for gaining access to information (**Electronic Data Room**);
- (ii) it is responsible for ensuring that it has all computer hardware and computer software required to gain access to any Electronic Data Room;
- (iii) its computer hardware and computer software must comply with the requirements specified in Item **Error! Reference source not found.** as updated from time to time as notified by the Principal;
- (iv) it will comply with all directions issued by the Principal in writing from time to time regarding access to or the use of any Electronic Data Room;
- (v) the Principal and its Associates do not warrant, guarantee or make any representation (express or implied), or assume any duty of care, or accept any liability, with respect to the functionality, performance or availability of any Electronic Data Room, or whether any Electronic Data Room will be free of Disabling Code or will cause any Disabling Code to be introduced into any computer systems of the Tenderer or its Associates, and the Tenderer is not entitled to make any claim against the Principal for any liability incurred by them and indemnify the Principal and its Associates in respect of any claim brought by any of the Tenderer's Associates for liability incurred by them arising out of or in connection with the use, functionality, performance or availability of any Electronic Data Room or the introduction of any Disabling Code into any computer systems of the Tenderer or its Associates; and
- (vi) agrees that the information in the Electronic Data Room is an Information Document.

3. Tenderer to fully inform itself

3.1 Tenderer to do

Without in any way limiting what a Tenderer does, a Tenderer must do all of the following prior to submitting its Tender:

- (a) inform itself completely as to:
 - (i) conditions at the Site;
 - (ii) the risks, contingencies and other circumstances which might have an effect on the execution of the Works or the cost of executing the Works;
 - (iii) the Works and the nature of the work and of the plant, equipment, materials, and other items necessary for the execution of the Works, the means of access to and facilities and services at the Site and the means of transport, transport routes and facilities for making deliveries to and from the Site;
 - (iv) the availability and cost of labour, plant, equipment, materials, and other items required (including all relevant industrial conditions) for the Works;

- (v) all applicable Legislative Requirements, taxes, duties, levies, charges, fees, and insurance premiums (including compulsory insurance premiums);
 - (vi) all authority requirements relating to the Contract and the Works; and
 - (vii) all measures necessary to protect the environment from any adverse effect or damage arising from the execution of the Works or the existence or operation of the Works;
- (b) prepare its Tender based on its own investigations, interpretations, deductions, information, and determinations;
 - (c) make its own enquiries to determine the adequacy, accuracy, suitability, and completeness of any Information Document;
 - (d) satisfy itself as to the correctness and sufficiency of its Tender and that the price offered in its Tender covers the cost of complying with all of its obligations under the Contract and of all matters and inputs necessary for the due and proper performance and completion of its obligations under the Contract; and
 - (e) obtain all appropriate professional, commercial and technical advice with respect to the matters referred to in clauses 3.1(a) to 3.1(d),

and any failure by a Tenderer to do any of those things will not relieve the Tenderer of its obligation to perform and complete the Works in accordance with the Contract should the Contract be awarded to it.

3.2 Site visit

This clause 3.2 applies if indicated in Item **Error! Reference source not found.**

A Site visit will be carried out at the time and on the date stated in the Tender Particulars. The Tenderer must comply with any protocols, procedures or requirement notified by the Principal prior to any such Site visit.

If Item **Error! Reference source not found.** indicates that the Site visit is mandatory, the Tenderer must visit and inspect the Site and its surroundings.

Tenderers are required to provide the names and contact details of its representatives that will attend the Site visit, at least 24 hours prior to time and date of the Site visit by contacting the Tender Officer.

Tenderers will only be permitted to have the maximum number of representatives set out in Item **Error! Reference source not found.** attend any Site visit.

3.3 Tender briefing session

This clause 3.3 applies if indicated in Item 11A.

A tender briefing session will be carried out at the location and at time and on the date stated in the Tender Particulars. The Tenderer must comply with any protocols, procedures or requirement notified by the Principal prior to any such tender briefing session.

If Item 11A indicates that the tender briefing session is mandatory, the Tenderer must attend the tender briefing session.

Tenderers are required to provide the names and contact details of its representatives that will attend the tender briefing session, at least 24 hours prior to time and date of the tender briefing session by contacting the Tender Officer.

Tenderers will only be permitted to have the maximum number of representatives set out in Item 11A attend any tender briefing session.

4. Lodgement of Tender

4.1 Requirement to lodge

The complete Tender must be lodged at the Place for Lodgement by no later than the Closing Time.

4.2 Method of Tender submission

- (a) Tenders must be lodged using the method indicated in Item **Error! Reference source not found.**.
- (b) Where Item **Error! Reference source not found.** indicates that the Tender is to be lodged by hand or by post:
 - (i) the Tender must be lodged in a sealed package or packages and marked in accordance with the labelling requirements set out in Item **Error! Reference source not found.**;
 - (ii) the number of hard copies of the Tender set out in Item **Error! Reference source not found.** must be lodged;
 - (iii) an electronic version of the Tender must be lodged in the electronic format(s) specified in Item **Error! Reference source not found.**; and
 - (iv) at all times and for all purposes, the hard copy (if any) of the Tender will take precedence over the electronic version of the Tender and any hard or other electronic copies generated from that electronic version.
- (c) Where Item **Error! Reference source not found.** indicates that Tender submissions are to be lodged electronically by uploading them to the Data Room, via an EPS or via email:
 - (i) the Tender submission must contain the "file name(s)" or "subject" indicated in Item **Error! Reference source not found.**; and
 - (ii) the complete Tender submission must be lodged in the electronic format(s) specified in Item **Error! Reference source not found.**.

Tender submissions lodged in an unspecified electronic format, or that become corrupt, illegible, inadequate, or incomplete as a result of transmission or storage, may not be considered.

4.3 Tenderer not present at opening

Tenderers will not be present at the opening of tenders.

4.4 Acknowledgement of receipt of Tender

An acknowledgement by or on behalf of the Principal or the Tender Officer of receipt of a Tender does not mean or imply that the Tender is a conforming Tender.

4.5 Acceptance of Conditions of Tendering

By lodging a Tender, a Tenderer confirms that it is bound by these Conditions of Tendering.

5. Tender submission requirements

5.1 Format

- (a) The Tender must be compiled in sections and in the following order:
 - (i) Section 1 - Completed Tender Form;
 - (ii) Section 2 - Completed Tender Schedule 1 (Contract Sum breakdown);
 - (iii) Section 3 - Completed Tender Schedule 8 (Contract); and
 - (iv) Section 4 - Remaining Completed Tender Schedules.
- (b) Clauses 5.2 and 5.3 set out in more detail, the information to be provided with the Tender.
- (c) The Tender and all documents forming part of the Tender submission must be in the English language and all measurements and quantities must be in units consistent with the provisions of the *National Measurement Act 1960* (Cth) and the International System of Units.

5.2 Section 1 – Completed Tender Form

- (a) A Tenderer must duly complete and submit the Tender Form included in the Tender Documents.
- (b) The completed Tender Form must be signed by a duly authorised agent of each Tenderer.
- (c) Where a Tenderer comprises 2 or more persons (whether a joint venture, consortium, partnership, or any other unincorporated grouping of 2 or more persons):
 - (i) the Tenderer must include in its Tender submission:
 - A. for each of the persons who comprise the Tenderer, all of those details about the Tenderer that are required by the Tender Documents; and
 - B. a copy of the agreement governing the arrangements between those persons (whether a joint venture agreement, consortium agreement, partnership agreement or otherwise); and
 - (ii) each of those persons is jointly and severally bound by the Tender and these Conditions of Tendering.

5.3 Section 2 – Tender Schedule 1 (Contract Sum breakdown)

- (a) Tenderers must duly complete and submit Tender Schedule 1 (Contract Sum breakdown).
- (b) The completed Tender Schedule 1 (Contract Sum breakdown) must:
 - (i) provide the information required in Tender Schedule 1 (Contract Sum breakdown);

- (ii) be clearly marked-up using the track changes function in Microsoft Word to reflect any alterations to Tender Schedule 1 (Contract Sum breakdown) (other than the inclusion of the information required by Tender Schedule 1 (Contract Sum breakdown));
- (iii) where Item **Error! Reference source not found.** indicates that the Tender is to be lodged by hand or by post, be lodged in a separate, sealed envelope or sealed package and marked in accordance with the labelling requirements set out in Item **Error! Reference source not found.**;
- (iv) where Item **Error! Reference source not found.** indicates that the Tender is to be lodged by Data Room, EPS, or email, be a separate file in a locked and password protected format. The Tenderer must provide the password to the Tender Officer at the date of submission; and
- (v) be signed by a duly authorised agent of the Tenderer.

5.4 Section 3 – Tender Schedule 8 (Contract)

- (a) Tenderers must duly complete and submit Tender Schedule 8 (Contract).
- (b) The completed Tender Schedule 8 (Contract) must:
 - (i) provide the information required in Tender Schedule 8 (Contract); and
 - (ii) be signed by a duly authorised agent of each Tenderer.

5.5 Section 4 – Remaining Completed Tender Schedules

- (a) Tenderers must duly complete and submit all of the remaining Tender Schedules that form part of the Tender Documents and provide all other information required by the Tender Schedules.
- (b) Each completed Tender Schedule must be signed by a duly authorised agent of each Tenderer. Any alterations to the remaining Tender Schedules (other than the inclusion of the information required by the Tender Schedules) must be clearly marked-up using the track changes function in Microsoft Word.

5.6 Evidence of agent’s authority

If requested to do so by the Tender Officer, a Tenderer must produce evidence of the authority of any agent who has signed any part of the Tender on behalf of the Tenderer.

6. Tender validity period

- (a) By submitting a Tender, a Tenderer agrees (without in any way limiting the operation of clause 10) pursuant to the Tender Form executed by the Tenderer:
 - (i) that its Tender (including any Associated Tenders), will remain valid and irrevocable until the date the Tenderer gives written notice that the Tender has been withdrawn;
 - (ii) that it will not give a notice withdrawing its Tender (including any Associated Tenders) any earlier than the period of time set out in Item **Error! Reference source not found.** after the Closing Time; and

- (iii) that any notice withdrawing or purporting to withdraw its Tender (including any Associated Tenders) that is given prior to the expiry of the period of time mentioned in clause 6(a)(ii) will be ineffective.
- (b) Nothing in clause 6(a) limits the operation of clause 11.4 in any way.

7. Variations, late, non-conforming and alternative tenders

7.1 Variations to tenders

A Tenderer may replace, amend or supplement its Tender only if invited to do so by the Principal. The Principal reserves the right to ask for replacement, amended or supplemental Tenders from one or more Tenderers but is under no obligation to do so. The Principal is entitled, in its absolute discretion, to consider and accept a replacement, amended or supplemental Tender from any Tenderer (whether requested by the Principal or not) and without reference to any other Tenderers.

7.2 Rejection of late and non-conforming tenders

- (a) A Tender:
 - (i) that is not received at the Place for Lodgement by the Closing Time as required by clause 4.1;
 - (ii) that does not comply in every respect with the requirements of the Tender Documents (including these Conditions of Tendering); or
 - (iii) that seeks to include a Tenderer's own conditions of tendering or conditions of contract,

may be treated as non-conforming and rejected and/or not considered, regardless of the reason for the late lodgement or the non-conformance.
- (b) Notwithstanding clause 7.2(a), the Principal may consider and accept any Tender (even one that is lodged late or one that might, pursuant to that clause, be liable to be treated as non-conforming and rejected and/or not considered).

7.3 Alternative tenders

- (a) A Tenderer may submit one or more alternative tenders, provided it has also submitted a tender that complies with the requirements of the Tender Documents.
- (b) Notwithstanding clause 7.3(a), the Principal may consider and accept an alternative tender even if the tender that it accompanies as per clause 7.3(a) does not comply with the requirements of the Tender Documents.
- (c) Each alternative Tender (if any) must be marked as such (e.g. "Alternative No 1") and must be submitted as a separate Tender, on a separate Tender Form and with separate completed Tender Schedules. All departures from the Tender Documents and any claimed benefits to the Principal, must be clearly identified.

7.4 Specified proprietary products

- (a) This clause 7.4 applies if indicated in Item **Error! Reference source not found.**
- (b) Where trade names or brands or proprietary products or equipment are referred to in the Tender Documents and a Tenderer wishes to offer different products or equipment, it must clearly and fully describe any proposed departures from the

Tender Documents, the reason for the departure and the effect on the price offered in its Tender, performance requirements and completion dates.

- (c) Tenderers must not offer any items on the basis that they will supply a "similar" or "equivalent" item (or words to like effect).

8. Tender evaluation

8.1 Information requests

- (a) After a Tender has been lodged, the Tender Officer may require a Tenderer to submit further information. Tenderers must respond promptly to all such requests. All responses must be sent to the Tender Officer in the manner stated in clause 9.1.
- (b) Additional information may be requested via a tender information request form. The form will have separate sections for the Principal's/ Tender Officer's request, the Tenderer's response, a record of any subsequent discussion at a tender interview (if applicable), any final resolution and the signature of the Tenderer's authorised agent.
- (c) Completed and resolved tender information request forms will be taken to form part of the Tender. However, any provision in a tender information request form which is not in full conformance with the Tender Documents will have no force or effect unless the particular provision is specifically noted in the tender information request form as a departure from the Tender Documents.

8.2 Interview and meetings

- (a) The Principal may, in its discretion, interview or meet with any one or more of the Tenderers.
- (b) If a Tenderer is called to such an interview or meeting, the Tenderer must be represented at the interview by an authorised person (or persons) who is conversant with all technical, financial, and contractual details of the Tender.

8.3 Evaluation criteria

Without in any way limiting the operation of clause 11 or 12(f)(ii), the Principal will evaluate tenders by taking into account the evaluation criteria identified in Annexure B (not necessarily in order of priority or weighting).

9. Process matters

9.1 Questions and requests for clarification

- (a) If the Tenderer has a question or request for clarification (**Enquiry**), the Enquiry must be directed to the Tender Officer:
- (i) by email at the address set out in Item **Error! Reference source not found.**;
 - (ii) if clause 2.7 applies as indicated in Item **Error! Reference source not found.**, through the Q&A function of the Data Room; or
 - (iii) if an EPS is used as indicated in Item **Error! Reference source not found.**, through any Q&A function of the EPS.
- (b) Where an Enquiry has been made by the Tenderer under clause 9.1(a):

- (i) the Tenderer must ensure that each Enquiry is marked either 'Confidential' (if the Tenderer is of the view that the Enquiry relates to proprietary aspects of the Tender or is commercial-in-confidence) or 'Non-confidential';
- (ii) Enquiries and the Principal's responses will be provided to all Tenderers except where:
 - A. the Enquiry relates to proprietary information relevant to the Tender of the Tenderer making the Enquiry, or is commercial-in-confidence, and the Tenderer has also identified its Enquiry as such in accordance with clause 9.1(b)(i); or
 - B. the Principal, in its absolute discretion, is of the opinion that the Enquiry and the Principal's response will materially impact the integrity or the competitiveness of the Tender Process;
- (iii) if the Principal, in its absolute discretion, is of the opinion that the Enquiry is not proprietary in nature or commercial-in-confidence, the Principal will advise the Tenderer that the Enquiry and the Principal's response will be provided to all Tenderers and that the Tenderer has the opportunity to withdraw the Enquiry. If the Tenderer then reaffirms its request for a response to the Enquiry, the Enquiry and the Principal's response may be provided to all Tenderers; and
- (iv) the Tenderer must ensure that Enquiries are submitted within the enquiry period set out in Item **Error! Reference source not found.**

9.2 Addenda

- (a) At any time prior to the formation of a Contract for the performance of the Works, the Principal or the Tender Officer may (but without being obliged to do so), for any reason, clarify, add to, modify, or otherwise amend the Tender Documents by issuing an Addendum.
- (b) Each Addendum will be issued to all Tenderers, save that:
 - (i) where, after the Closing Time, some but not all Tenderers are short listed, further Addenda might only be sent to the short listed Tenderers; and
 - (ii) where, after the Closing Time, a preferred Tenderer is identified, further Addenda might only be sent to the preferred Tenderer.
- (c) An Addendum may include the text of the request for clarification or other question or matter which led to the Addendum being issued but will not identify the Tenderer who sought the clarification or raised the question.

9.3 Contact with the Principal

- (a) Subject to clause 9.3(b), the Tenderer acknowledges and agrees that it will not, and it will ensure that its Associates do not, make contact with:
 - (i) any governmental agency or officer;
 - (ii) the Principal or any of its Associates;
 - (iii) members of Parliament or their staff;

- (iv) any Project Stakeholders; or
 - (v) the Tender Officer (other than pursuant to the process in clause 9.1),
to discuss any aspect of the Project or any matter relating to or arising out of its Tender, except as provided for in these Conditions of Tendering.
- (b) The Tenderer may contact Project Stakeholders in relation to the Project and matters relating to or arising out of its Tender if it obtains the Principal's prior written consent and provided that:
- (i) the Tenderer gives the Tender Officer at least 3 Business Days written notice of matters which it wishes to discuss at the meeting, including a detailed agenda clearly identifying the purpose of such a meeting;
 - (ii) the Principal may, by written request, require the audio of the meeting to be recorded; and
 - (iii) the Principal may have a representative attend the meeting if it chooses.
- (c) The Tenderer acknowledges and agrees that it will not offer any inducement, fee or reward to the Principal or any of its Associates.

9.4 Material Changes

- (a) The Tenderer must notify the Principal promptly in writing of any:
- (i) material change to any:
 - A. information contained in its Tender;
 - B. additional information submitted to the Principal pursuant to this RFT; or
 - C. information submitted to the Principal in any interview, meeting or workshop conducted pursuant to the RFT;
 - (ii) event which may affect or have an impact on the financial position or capacity of the Tenderer or the ability of the Tenderer to continue to participate in the Tender Process or comply with these Conditions of Tendering; or
 - (iii) circumstances which may affect the truth, completeness, or accuracy of any of the information provided in, or in connection with, the Tender.
- (b) Upon receipt of any written notification pursuant to clause 9.4(a), the Principal reserves the right to:
- (i) assess the change and terminate the Tenderer's further participation in the Tender Process; or
 - (ii) invite the Tenderer to amend its Tender accordingly.

9.5 Complaints

- (a) Should a Tenderer have a complaint of any nature in connection with the Tender Process, the Tenderer must in the first instance notify the Tender Officer providing adequate details of the complaint.

- (b) The Tender Officer, within 14 days of receipt of the complaint, must respond to the Tenderer in writing addressing the complaint.
- (c) Should the Tenderer be dissatisfied with the Tender Officer's response to its complaint, the Tenderer must, within 14 days of receipt of that response, request in writing to the Tender Officer, a conferral with the Principal to be held within 28 days of receipt of the complaint.
- (d) A Tenderer failing to adhere to the notice requirements in clause 9.5(a) and 9.5(c) will relinquish its rights to claim against the Principal arising out of, or in any way in connection with, the Tender Process, except in circumstances of fraud or illegality by the Principal.

9.6 No requirements to return

The Tenderer agrees that the Principal will not be required to return the Tender or any documents, materials, articles and information lodged by the Tenderer as part of, or in support of, its Tender.

9.7 Debrief

The Principal will offer unsuccessful Tenderers the opportunity to participate in a debrief session following the conclusion of the Tender Process. These sessions will take place no later than two months after the conclusion of the Tender Process. Tenderers wishing to participate in a debrief session must submit a request in writing to the Tender Officer.

10. Tenderer's warranty and acknowledgement

10.1 Tenderer's warranty

By submitting a Tender:

- (a) a Tenderer will be taken to represent and warrant that:
 - (i) it has done all of the things mentioned in clause 3.1;
 - (ii) it prepared its Tender based on its own investigations, interpretations, deductions, information, and determinations;
 - (iii) it did not place any reliance upon the completeness, accuracy, adequacy, or correctness of any of the documents, information or other things mentioned in clause 2.5; and
 - (iv) its Tender is accurate and complies in all respects with the Tender Documents and the requirements of all applicable Legislative Requirements; and
- (b) a Tenderer will be taken to have acknowledged and agreed (to the extent permitted by law) that neither the Principal or the Tender Officer, nor any of their respective Associates, has any liability to the Tenderer (whether in contract, in tort, under statute (to the extent permitted by law) or on any other basis) with respect to or as a result of or arising from:
 - (i) any incompleteness or inadequacy of, or any inaccuracy or error in, or omission from; or
 - (ii) any use of or reliance by the Tenderer upon,

any of the Tender Documents, any other Information Documents, information or any oral information provided.

10.2 Tenderer's acknowledgement

By submitting a Tender, a Tenderer will also be taken to have acknowledged and agreed that:

- (a) in considering its Tender and in entering into any contract with the Tenderer (should that happen), the Principal will be relying upon the representations and warranties given by the Tenderer in the Tender Form and in these Conditions of Tendering; and
- (b) the successful Tenderer will be subject to the Shared Reporting Process set out in the Contract, under which details of the successful Tenderer's performance under the Contract may be made available by the Principal to other government departments or agencies or municipal, public or statutory authorities.

10.3 Proprietary Information

- (a) The Tenderer warrants that it has the authority to grant the rights granted to the Principal under clause 10.3(c) and that exercise of those rights by the Principal or any person authorised by the Principal in accordance with, or as contemplated by, these Conditions of Tendering will not infringe the Intellectual Property Rights or other rights of any person.
- (b) The Tenderer must indemnify the Principal against any liability or claim arising from any breach of the warranties set out in clause 10.3(a).
- (c) The Tenderer grants, and will procure that each of its Associates with a relevant interest grants, to the Principal and its Associates an irrevocable, perpetual, non-exclusive, transferable, free of charge licence to use, reproduce, develop, communicate or modify or sub-licence the whole or any part of any Tender for the purposes of the Tender Process provided that, subject to these Conditions of Tendering and the Tender Documents, the Principal may not (other than pursuant to clause 13.2(a)) provide the whole or any part of any Tender to a competing Tenderer.
- (d) Without limiting the application of clause 10.3(c), if the Tenderer has been nominated as the preferred Tenderer, the Tenderer also licenses the Principal and its Associates to make publicly available:
 - (i) the broad concept plan, design documents and any other fly through sketches or drawings of any element of the Project;
 - (ii) the key functional and operational characteristics;
 - (iii) the aggregate capital and/or operating cost;
 - (iv) the proposed risk allocation; and
 - (v) other high level commercial or technical information,
 in relation to that Tenderer's Tender.

11. No contract and no obligation to consider or accept any tender

11.1 No Contract

- (a) Subject to clause 11.1(b), by submitting a Tender, a Tenderer acknowledges that:

- (i) no contract exists or will arise between the Principal and a Tenderer in respect of the Works, performance of the work under the Contract or any part thereof or the Tender Process unless and until the Principal and the successful Tenderer enter into a Contract for the performance of the Works;
 - (ii) the rights, powers and discretions given to the Principal and the Tender Officer in these Conditions of Tendering are not pursuant to any contract between the Principal or Tender Officer and the Tenderer but rather are rights, powers, and discretions that the Principal and the Tender Officer have as part of the Tender Process;
 - (iii) before any Contract for the performance of work under the Contract is entered into, the Principal may require that a conformed contract document be prepared that takes into account any changes to the Tender Documents and the outcomes of any negotiations during the Tender Process; and
 - (iv) no other document issued and no other representation made or conduct engaged in, by or on behalf of the Principal (other than as set out in clause 11.1(a)(i)) will be deemed to be acceptance of a Tenderer's Tender or to create any contractual or other legal relationship between the Principal and a Tenderer or otherwise oblige the Principal to enter into a Contract with the Tenderer.
- (b) Despite clause 11.1(a), by submitting a Tender a Tenderer is bound by the terms of the Tender Form.

11.2 No obligation

- (a) Without limiting a Tenderer's obligations under clauses 6 and 8, the Principal and the Tender Officer have no contractual or other legal obligation to a Tenderer arising out of RFT with respect to:
- (i) the consideration, evaluation, acceptance, or rejection of any Tender; or
 - (ii) the failure to consider, evaluate or accept any Tender.
- (b) In particular, the Principal and the Tender Officer are under no obligation to:
- (i) receive, consider, or evaluate any Tender;
 - (ii) receive, consider, or evaluate any Tender in any particular way or within any particular time;
 - (iii) accept the lowest Tender or any Tender; or
 - (iv) give any reasons for any decision they make in respect of the Tender Process.

11.3 Principal not liable

- (a) Without limiting clauses 11.2 or 16.1, in no circumstances will the Principal or the Tender Officer or any of their respective Associates be liable to a Tenderer (whether a Tenderer is successful or unsuccessful) whether in contract, tort (including negligence or misrepresentation), under statute (to the extent permitted by law) or otherwise, for any costs, losses, expenses, liabilities or damages incurred or suffered by any Tenderer:

- (i) in responding to the RFT, and in submitting any Tender or in otherwise acting in reliance upon these Conditions of Tendering;
 - (ii) arising out of or in connection with:
 - A. any Tenderer's participation in or response to any discussions, negotiations, interviews, enquiries or requests for details or information whether before or after the Closing Time; or
 - B. any Tenderer's participation in the Tender Process generally; or
 - (iii) arising out of or in connection with the exercise, or failure to exercise, by the Principal or the Tender Officer of any of their rights, powers and discretions under these Conditions of Tendering, including rights under clause 11.4.
- (b) Without limiting clause 11.3(a), any Tenderer that is not selected as the successful Tenderer will have no recourse against the Principal or the Tender Officer or their respective Associates, in relation to any decisions of the Principal or the Tender Officer:
- (i) to select another Tenderer as the successful Tenderer;
 - (ii) to not select any of the Tenderers as the successful Tenderer; or
 - (iii) to not proceed with the Works.

11.4 Discretion of Principal

- (a) The Principal (either itself or through the Tender Officer) reserves the right in its absolute discretion, and without limiting any other rights which the Principal may have whether under these Conditions of Tendering or otherwise, to do any one or more of the following without giving reasons:
- (i) withdraw any RFT;
 - (ii) amend these Conditions of Tendering, any other Tender Documents, the scope of the Works and/or the scope of work under the Contract;
 - (iii) vary, suspend, or terminate the Tender Process;
 - (iv) extend the Closing Time;
 - (v) change the Place for Lodgement;
 - (vi) reject or refuse to consider or evaluate any Tender or all Tenders;
 - (vii) terminate at any time the further participation in the Tender Process by any Tenderer;
 - (viii) reject or accept any Tender notwithstanding whether such Tender is the lower priced, higher ranked, or otherwise;
 - (ix) award the Project to any Tenderer, including a Tenderer which did not have the highest ranked Tender as against the RFT evaluation criteria or other relevant evaluation criteria;
 - (x) accept or reject the whole of any part of any Tender to the extent, in the case of part-acceptance, that part of the Tender is capable of

OFFICIAL

such partial acceptance (whether a conforming Tender or an Associated Tender);

- (xi) consider and accept a Tender regardless of whether:
 - A. any Tenderer or any of its Associates has breached these Conditions of Tendering; or
 - B. any member of a competing Tenderer has breached these Conditions of Tendering;
- (xii) at any time, vary or alter any process or procedure regarding the consideration or the evaluation of any Tender or Tenders (including the evaluation criteria);
- (xiii) adopt different approaches with different Tenderers;
- (xiv) require additional information or further offers from any one or more Tenderer;
- (xv) negotiate on any aspect of a Tender before accepting or rejecting any Tender;
- (xvi) invite best and final offers from any one or more Tenderers;
- (xvii) invite further or other persons to tender for the performance of the Works;
- (xviii) select a Tenderer as a preferred Tenderer, or elect not to select any Tenderer as a preferred Tenderer, or having selected a Tenderer as a preferred Tenderer, terminate that selection and select one or more other Tenderers as preferred Tenderer or preferred Tenderers;
- (xix) negotiate with one or more Tenderers and enter into the Contract without prior notice to any other Tenderer;
- (xx) not proceed with the Works;
- (xxi) proceed with the Works on the basis of a different scope of work or on terms different from those stated in the Tender Documents or change the procurement method of the Project (including public sector delivery or any part of the Project in any way it sees fit;
- (xxii) negotiate with and enter into a contract with any person (including someone other than a Tenderer) for the performance of work under the Contract and/or any other work without prior notice to the Tenderer;
- (xxiii) allow any Tenderer to clarify, alter, amend, add to, or change its Tender or Associates after the Closing Time, without notifying or offering the same opportunity to others;
- (xxiv) in evaluating any Tender or selecting a preferred Tenderer, have regard to:
 - A. the Principal's and its Associates' knowledge and previous experience and dealings with any Tenderer or any its Associates; or
 - B. information concerning a Tenderer or any of its Associates which is in the public domain, or which is obtained by the

Principal or its Associates through its or their own investigations;

- (xxv) hold discussions, interviews, meetings, or workshops with any one or more Tenderers at any time during the Tender Process;
 - (xxvi) issue Addenda or Information Documents;
 - (xxvii) suspend or terminate the Tenderer's participation in the Tender Process if the Principal forms the view that the Tenderer or any of their respective Associates has breached these Conditions of Tendering;
 - (xxviii) waive any requirement or obligation under these Conditions of Tendering; and
 - (xxix) take such other action as it considers, in its absolute discretion, appropriate in relation to the Tender Process.
- (b) No Tenderer is entitled to enquire into the basis of the Principal's decisions under clause 11.4(a).
- (c) To the extent permitted by law, Tenderers will have no claim against the Principal or the Tender Officer arising out of the Principal's or the Tender Officer's exercise, or failure to exercise, any rights or discretions under these Conditions of Tendering.

12. Probity and competitiveness

- (a) By submitting a Tender, the Tenderer warrants that:
- (i) the Tenderer and each of its Associates are not a member of, or otherwise involved with, a competing Tenderer in respect of the Project;
 - (ii) as at the Closing Time, no actual, potential or perceived probity issues (including any actual, potential or perceived conflicts of interest) exist or are likely to arise in respect of the Tenderer or each of its Associates or its involvement in the Project, including any relationships between the Tenderer and a competing Tenderer (including the existence of related parties, common directors, advisers or employees), other than those probity issues disclosed and described in its Tender; and
 - (iii) it will not place itself and will procure that its Associates do not place themselves, in a position that may or does give rise to an actual, potential or perceived probity issue at any time during the Tender Process.
- (b) If any actual, potential, or perceived probity issue arises, or appears likely to arise, including after lodgement of its Tender, the Tenderer must:
- (i) immediately notify the Principal in writing as soon as such actual, potential or perceived probity issue becomes apparent to the Tenderer and provide details of such probity issue; and
 - (ii) if the actual, potential, or perceived probity issue arises prior to the lodgement of its Tender, fully disclose and describe such probity issue in its Tender.

- (c) If a notice is given under clause 12(b)(i), the Principal will, in its absolute discretion, decide on the appropriate course of action. The Tenderer must take all steps required by the Principal to prevent, end, avoid, mitigate, resolve or otherwise manage the actual, potential or perceived probity issue.
- (d) The Principal may conduct checks and investigations to satisfy itself that there are no actual, potential or perceived probity issues which may preclude a person from becoming a Tenderer or a preferred Tenderer (**Probity Check**).
- (e) The Tenderer consents to such Probity Checks and investigations, agrees to procure the consents of its directors and to procure the consents of such Associates as are requested by the Principal, and as are required by law to be obtained in connection with such Probity Checks and investigations. Such Probity Checks and investigations may include:
 - (i) investigations into commercial structure, business, and credit history;
 - (ii) prior contract compliance and performance;
 - (iii) any criminal records or pending charges;
 - (iv) interviews with any referees nominated; and
 - (v) research into any relevant activity that is or might reasonably be expected to be the subject of regulatory investigation.
- (f) The Tenderer acknowledges and agrees that the Principal:
 - (i) is not under any obligation to provide to the Tenderer the results of any Probity Checks or investigations;
 - (ii) may take into account any matters revealed by any Probity Checks and investigations in evaluating any Tender; and
 - (iii) may reject any Tender, suspend, or terminate the Tenderer's participation in the Tender or take such other action as it considers appropriate, in its absolute discretion, in light of matters revealed by any Probity Checks and investigations.
- (g) Nothing in this clause 12 detracts from or limits the Tenderer's obligations or responsibilities for complying with all probity requirements which relate to the Tender Process.
- (h) The Tenderer must ensure that each of its Associates complies with the requirements of this clause 12 as though it were a Tenderer.

13. Disclosure by the Principal

13.1 Disclosure by the Principal

The Tenderer acknowledges and agrees that the Principal or any of its Associates may publish or disclose (on the internet or otherwise), and consents to such publication or disclosure, details of:

- (a) the Tenderers (including any of their Associates);
- (b) the identity of any preferred Tenderer(s) (including any of their Associates);
- (c) the status of the Tender Process at any time; and

- (d) the value of the Contract.

13.2 Public Disclosure and Freedom of Information

- (a) The Tenderer acknowledges and agrees that disclosure by either of the Principal or any of its Associates of any information provided by the Tenderer or any of its Associates may be required and consents to such disclosure:
 - (i) under any current legislation including;
 - A. the *Freedom of Information Act 1982* (Vic);
 - B. the *Ombudsman Act 1973* (Vic); and
 - C. the *Audit Act 1994* (Vic);
 - (ii) under any future legislation;
 - (iii) in the course of the official duties of a relevant Minister or Department, the Principal or the Victorian government;
 - (iv) to satisfy requirements of parliamentary accountability;
 - (v) in annual reports of the Principal;
 - (vi) pursuant to policies of the Victorian government; or
 - (vii) to satisfy any other recognised public requirement,
(each a **Public Disclosure Obligation**).
- (b) The Tenderer must use all reasonable endeavours to assist the Principal and its Associates in meeting their Public Disclosure Obligations.

14. Not in use

15. Local Jobs First

- (a) This clause 15 applies if indicated in Item **Error! Reference source not found..**
- (b) If this clause 15 applies, the alternative indicated in Item **Error! Reference source not found.** and Annexure C applies.

15A Social Procurement Framework

- (a) This clause 15A applies if indicated in Item 22B.
- (b) If this clause 15A applies, the provisions set out in Annexure CA apply.

15B Not in use

15C Fair Jobs Code

The provisions set out in Annexure CB apply.

16 Not in use**16. Miscellaneous****16.1 Tenderer bears costs**

All costs of tendering are to be borne by the Tenderer.

16.2 Publicity

Except to the extent it is not possible to comply with this clause 16.2 while complying with the law or the binding requirement of a recognised stock exchange, the Tenderer must not make, and must procure that none of its respective Associates make, a media release or other public announcement or statement in relation to the Project without the prior written consent of the Principal.

16.3 Notices

- (a) Subject to clause 16.3(b), all communications (including notices, demands, consents, approvals, or requests) under or in connection with these Conditions of Tender (**Notice**):
- (i) must be, in writing and signed by the party making the communication or by the solicitor for, or any attorney, director, secretary or authorised agent of, and on behalf of, that party; and
 - (ii) must be:
 - A. delivered or posted by prepaid express post to the address, of the addressee, specified in the Tender Documents (in the case of the Principal), and the Tender (in the case of the Tenderer); or
 - B. sent by email to the email address specified in the Tender Documents (in the case of the Principal), and the Tender (in the case of the Tenderer),

or to the address, or email address (as the case may be) last notified by the intended recipient to the sender.
- (b) A Notice given to a person in accordance with clause 16.3(a) is treated as having been given and received by the addressee:
- (i) in the case of prepaid express post, on the third Business Day after the date of posting to an address within Australia and on the fifth Business Day after the date of posting by airmail to an address outside Australia;
 - (ii) in the case of delivery by hand, on delivery at the address of the addressee as provided in the Tender Documents (in the case of the Principal), and the Tender (in the case of the Tenderer), or to such other address last notified by the intended recipient to the sender, unless that delivery is outside Business Hours, in which case that communication is taken to be received at 9.00 am on the next Business Day; and
 - (iii) in the case of delivery by email, the first to occur of:
 - A. receipt by the sender of any email acknowledgement from the intended recipient's information system showing that

the Notice has been delivered to the email address of that recipient;

- B. the time that the Notice enters an information system which is under the control of the intended recipient; and
- C. the time that the Notice is first opened or read by an employee or officer of the intended recipient,

but if the result is that a Notice would be taken to be given or made on a day that is not a Business Day or after Business Hours, the Notice will be taken to have been duly given or made at the start of business on the next Business Day.

16.4 Goods and services tax

A Tenderer must quote all prices exclusive of GST as well as providing a breakdown of the prices and rates to show the GST applicable to all prices and rates.

16.5 Governing law and jurisdiction

- (a) These Conditions of Tendering and a Tenderer's agreement to be bound by them, are governed by and are to be construed according to the laws of Victoria.
- (b) Each Tenderer will irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of Victoria (and the courts to which appeals from those courts may be made) and waives any right to object to any proceedings being brought in those courts.

17A Domestic dispute resolution arbitration

17A.1 Application of this clause

This clause applies only:

- (a) if this RFT is a covered procurement; and
- (b) to suppliers with their principal place of business in relevant jurisdictions (both suppliers and relevant jurisdictions as defined in clause 17A.2).

17A.2 Definitions

For the purpose of this clause 17A:

- (b) the following terms have the meaning attributed to them in Chapter 15 of the Comprehensive and Progressive Agreement for the Trans-Pacific Partnership (TPP-11) (Chapter 15):
 - (i) **covered procurement**;
 - (ii) **supplier**;
- (c) **measures** means the Victorian Government's measures to implement the procurement requirements of international agreements, a list of which is published at <https://www.buyingfor.vic.gov.au/measures-implementing-procurement-requirements-international-agreements>
- (d) **public interest certificate** refers to a certificate issued on behalf of the Principal stating that it is not in the public interest for this RFT to be suspended

while a complaint by a supplier is being managed in accordance with this clause; and

- (e) **relevant jurisdictions** refers to those jurisdictions to which the measures apply, a list of which is published at <https://www.buyingfor.vic.gov.au/relevant-jurisdictions-domestic-dispute-resolution-international-agreements>, as at the date this RFT is issued.

17A.3 Resolution procedure

Any complaint or challenge by a supplier that there has been a failure of the procuring entity to comply with one or more measures (**complaint**) shall be resolved in accordance with this clause.

17A.4 Notice of complaint

A supplier who has a complaint may deliver to the Principal a notice of complaint which must include:

- (a) a demand that the complaint be reviewed and resolved in accordance with this clause; and
- (b) a description of the nature and circumstances of the complaint and a statement of the relief sought and, if compensation is claimed, the amount claimed from the Principal.

(notice of complaint).

17A.5 Negotiation

A representative of each of the supplier and the Principal, each having authority to resolve the complaint, must, within 21 days of delivery of the notice of complaint, meet and negotiate in good faith to resolve the complaint.

17A.6 Mediation

- (a) If the complaint is not resolved within 42 days of delivery of the complaint, either the supplier or the Principal may by written notice to the other party refer the complaint for mediation under the ACICA Mediation Rules (**mediation notice**).
- (b) The mediation will take place in Melbourne, Australia.
- (c) The mediator will be selected from the list of mediators established by the Victorian Government for the purposes of this clause and published at <https://www.buyingfor.vic.gov.au/arbitrators-available-dispute-resolution-under-international-agreements> (if such list is established) and otherwise in accordance with the ACICA Mediation Rules.

17A.7 Arbitration

- (a) If the complaint is not finally resolved by mediation in accordance with clause A17.6 within 28 days of delivery of the mediation notice, the supplier may request that the complaint be determined by arbitration in accordance with the ACICA Arbitration Rules in force at the time subject to the provisions of this clause.
- (b) The tribunal shall comprise one arbitrator.
- (c) The arbitrator must be selected from the list of arbitrators established by the Victorian Government to hear complaints under this clause and published at

<https://www.buyingfor.vic.gov.au/arbitrators-available-dispute-resolution-under-international-agreements> (if such list is established) and otherwise in accordance with the ACICA Arbitration Rules.

- (d) The language of the arbitration shall be English.
- (e) The place of arbitration shall be Melbourne, Australia.
- (f) There shall be no hearing in any arbitration commenced pursuant to this clause unless there are exceptional circumstances (as determined by the arbitrator) or either the arbitrator or the parties require a hearing to take place.
- (g) The powers of the tribunal constituted in accordance with this clause include the power:
 - (i) to take into account, when resolving a complaint and determining whether relief ought to be awarded to the supplier, any overriding adverse consequences for the interests concerned, including the public interest;
 - (ii) subject to clause 17A.7(h), on application of the supplier to award compensation or make any other award which is within the lawful power of the tribunal (**corrective action**), however any compensation awarded to the supplier must not exceed the costs listed in Item 26; and
 - (iii) on application of the Principal, to award compensation for the costs reasonably incurred by the Principal in defending the complaint;
- (h) If:
 - (i) a public interest certificate has been issued in respect of this RFT; and
 - (ii) this RFT has not reached the stage where a contract has been entered into with a supplier,then:
 - (iii) the tribunal must consider whether the award of corrective action would result in significant delay to this RFT, and if so, whether awarding compensation would be a more appropriate remedy than an award of corrective action; and
 - (iv) if the tribunal is satisfied that an award of corrective action would result in a significant delay to this RFT and that awarding compensation is a more appropriate remedy, then the tribunal may refuse to award corrective action.
- (i) Any award rendered in arbitration proceedings conducted in accordance with this clause may, no earlier than 90 days after the date of the award, be provided by the Principal to a supplier (other than the supplier to whom the award relates) in a sanitised form if requested in writing by the supplier.
- (j) The Principal is not obliged to disclose the award if the award is subject to judicial challenge or otherwise the subject of court proceedings.
- (k) Where an arbitration conducted pursuant to this clause is subject to the *Commercial Arbitration Act 2011 (Vic)*, the parties agree that an appeal may be made under section 34A of that Act.

17. Definitions and interpretation

17.1 Definitions

In these Conditions of Tendering unless separately defined below, or the context indicates otherwise, capitalised terms used in these Conditions of Tendering have the same meaning given to those terms in the Contract (notwithstanding that in the Contract they may appear italicised and not capitalised) and the following terms have the meaning assigned to them below:

Addendum refers to an addendum issued by the Principal or the Tender Officer under clause 9.2.

Associated Tender refers to any alternative, non-conforming, consolidated, replaced, amended or supplemental tender.

Associate refers to any officer, employee, agent, consultant, contractor, nominee, licensee, or advisor and:

- (a) in the case of a Tenderer, includes Not Applicable[but excludes the Principal and its Associates; and
- (b) in the case of the Principal includes:
 - (i) Bon Consulting ;
 - (ii) any government or any governmental, semi-governmental or local government authority, local council, department, commission, public authority, agency, minister statutory corporation or instrumentality,

but excludes the Tenderer and its Associates.

BCA Volume One refers to Volume One of the National Construction Code Series including any variations or additions in the Appendix Victoria set out in the Appendices to that Volume.

Building Code refers to the *Code for the Tendering and Performance of Building Work 2016* in force pursuant to section 34 of the *Building and Construction Industry (Improving Productivity) Act 2016* (Cth).

Business Day refers to a day in Melbourne that is not a Saturday, Sunday or a public holiday gazetted in the *Public Holidays Act 1994* (Vic).

Business Hours refers to between 9:00am and 5:00pm on a Business Day.

Closing Time refers to the closing time and date identified in Item **Error! Reference source not found.**, or such later closing time or date as the Principal or the Tender Officer may notify in writing.

Code of Practice refers to a code of practice as defined in, and approved under, the *Privacy and Data Protection Act 2014* (Vic).

Conditions of Contract refers to the conditions of contract, including any general and special conditions of contract, identified in Item **Error! Reference source not found.**

Contract refers to a contract for the performance of the Works.

Data Room refers to any data room operated by or on behalf of the Principal containing information relevant to the Project and includes any Electronic Data Room. This definition applies if clause 2.7 applies as indicated in Item **Error! Reference source not found.**

Disabling Code refers to any computer software known as a back door, time bomb, logic bomb, trojan horse, worm, drop dead device, virus, or any other computer software or configuration intended or designed to:

- (a) permit access to or use of the computer systems or associated data of a Tenderer other than as expressly authorised by the Tenderer; or
- (b) disable, damage, corrupt or erase, or disrupt or impair the normal operation of, computer systems or associated data of a Tenderer.

This definition applies if clause 2.7 applies as indicated in the Tender Particulars.

Electronic Data Room has the meaning given in clause 2.7(b)(i). This definition applies if clause 2.7 applies as indicated in the Tender Particulars.

Electronic Procurement System or **EPS** means any electronic procurement system being used by the Principal for the Tender Process identified in Item **Error! Reference source not found.**

Enquiry has the meaning given in clause 9.1(a).

Formal Instrument of Agreement refers to the formal instrument of agreement which forms part of the Tender Documents.

Information Document refers to any document, data or information (whatever its form including electronic, oral or all material contained in any Data Room (if applicable)) given to or made available to a Tenderer during the Tender Process (including at any on Site meeting or Site visit) in connection with:

- (a) the invitation to submit a tender and the Tender Documents;
- (b) the Works or the work under the Contract;
- (c) any oral or written advice, representations or information given by or on behalf of the Principal during the Tender Process; and
- (d) all material contained in any Data Room (if applicable),

including any document, data or information marked "for tenderer's information only", "for information only" or similar.

Information Privacy Principles refer to the principles so identified and set out in the *Privacy and Data Protection Act 2014* (Vic).

Item refers to an item in the Tender Particulars.

Ministerial Direction refers to the directions titled " Ministerial Directions for Public Construction Procurement in Victoria" issued pursuant to Part 4 of the *Project Development and Construction Management Act 1994* (Vic) on 1 July 2018, as amended or replaced from time to time.

Notices has the meaning given in clause 16.3(a).

Permitted Purpose means to:

- (a) submit a Tender (or consider and determine whether or not to submit a Tender) in accordance with these Conditions of Tendering; or
- (b) comply with an obligation under the RFT.

Personal Information refers to information or an opinion (including information or an opinion forming part of a database) that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Principal refers to the person identified as the Principal in Item **Error! Reference source not found.**

Probity Checks has the meaning given in clause 12(d).

Project refers to the project described in Item **Error! Reference source not found.**

Place for Lodgement refers to the place for lodgement stated in Item **Error! Reference source not found.**

Prohibited Cladding Products refers to:

- (a) aluminium composite panels with a core of less than 93% inert mineral filler (inert content) by mass in external cladding as part of a wall system; and
- (b) expanded polystyrene products used in an external insulation and finish (rendered) wall system.

Project Stakeholders means:

- (a) the stakeholders listed in Item **Error! Reference source not found.**;
- (b) any government or any governmental, semi-governmental or local government authority, local council, administrative or judicial body or tribunal, department, commission, public authority, agency, minister statutory corporation or instrumentality having jurisdiction over or involvement in any part of the Project; and
- (c) any person notified by the Principal to a Tenderer to be a Project Stakeholder to the extent they have jurisdiction over or involvement in any part of the Project.

Public Disclosure Obligation has the meaning given in clause 13.2(a).

Request for Tender or **RFT** refers to the documentation issued to a Tenderer in relation to which it may submit a Tender for delivery of the Project.

Tender refers to any tender lodged in response to the invitation to submit a tender, whether a conforming Tender or an Associated Tender.

Tender Documents refers to the documents listed in clause 2.1 and any other document issued to a Tenderer by the Principal or the Tender Officer after the issue of the Tender Documents by way of an Addendum and expressly stated to be a Tender Document.

Tender Form refers to the tender form which forms part of the Tender Documents.

Tender Officer refers to the person so identified in Item **Error! Reference source not found.**, or any other person from time to time appointed as notified by the Principal to be the Tender Officer for the purposes of these Conditions of Tendering.

Tender Particulars refers to the particulars set out in Annexure A to these Conditions of Tendering.

Tender Process refers to the procurement process for the Project, including the RFT phase.

Tender Schedules refers to the tender schedules referred to in clause 2.1(c) which form part of the Tender Documents.

Tenderer refers to a person invited to lodge a tender for the performance of the Works described in the Tender Documents.

work under the Contract refers to the work which the Tenderer is or may be required to execute under the Contract.

Works refers to the physical works which are to be the subject of the Contract and as described in general terms in Item **Error! Reference source not found.** (and more particularly described in the Tender Documents).

17.2 Interpretation

In these Conditions of Tendering:

- (a) headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:
 - (b) an obligation or liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally;
 - (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
 - (d) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
 - (e) "**person**" includes an individual, the estate of an individual, a corporation, a government, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
 - (f) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and in the case of a trustee, includes a substituted or an additional trustee;
 - (g) a reference to a clause, schedule or annexure is a reference to a clause, schedule, or annexure in these Conditions of Tendering;
 - (h) a reference to a document (including the Tender Documents or any one of them) is to that document as varied, novated, ratified or replaced from time to time;
 - (i) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments, and replacements;
 - (j) "**includes**" in any form is not a word of limitation;
 - (k) the meaning of "**or**" will be that of the inclusive, being one, some or all of a number of possibilities;
 - (l) a reference to "**\$**" or "**dollar**" is to Australian currency; and
 - (m) the term "**may**" when used in the context of a power, right or remedy exercisable by the Principal means that the Principal can each exercise that power, right or remedy in their absolute and unfettered discretion and the Principal has no obligation to do so.

Annexure A - Tender Particulars

TENDER PARTICULARS		
Item No	Tender Particulars	
	Closing Time (Clause 17.1)	Closing Time: [14:00 (Australian Eastern Standard Time unless otherwise stated) Closing Date: 3 rd December 2024
	Conditions of Contract (Clause 17.1)	VPS Special conditions of Contract for use with AS 2141-1922 (September 2024)
	Tender Officer (and contact details) (Clauses 9.1 and 17.1)	Name: Peter Hanes Telephone: 02 6053 3640 Facsimile: Email: procurement@wodongatafe.edu.au]
	Principal (Clause 17.1)	Wodonga Institute of TAFE]
	Place for Lodgement (Clause 17.1)	procurement@wodongatafe.edu.au]
	Project (Clause 17.1)	Heavy Vehicle Technology Program (HVTP), Logic Innovation Precinct – Main Works
	Works (Clause 17.1)	<ul style="list-style-type: none"> • Heavy vehicle workshop • Main client building, incorporating Data and Cyber Range • Carparking (expansion of existing) • Infrastructure services, Fire, Electrical & Utility
	Project Stakeholders (Clause 17.1)	Nil
	Electronic Procurement System - Does an EPS apply? (Clause 17.1)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>(if nothing stated, No)</i> EPS Details: N/A
	Data Room- Does clause 2.7 apply? (Clause 2.7)*	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>(if nothing stated, Yes)</i> Required computer hardware and software: N/A]

TENDER PARTICULARS		
Item No	Tender Particulars	
1.	Site visit - Does clause 3.2 apply? (Clause 3.2)*	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>(if nothing stated, Yes)</i> Details of Site visit Site: Wodonga TAFE Logical Innovations Australia 45 Albertson Rd, Barnawartha North Vic 3691 Date and time: 10:00 31st October 2024 Maximum number of representatives: 5 Mandatory? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
11A	Tender briefing session - Does clause 3.3 apply? (Clause 3.3)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>(if nothing stated, No)</i> Details of tender briefing session Location: Wodonga TAFE Logical Innovations Australia 45 Albertson Rd, Barnawartha North Vic 3691 Date and time: 10:00 24th October 2024 Maximum number of representatives: 5 Mandatory? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Method of Tender submission (Clauses 4.2(a))	By hand <input type="checkbox"/> By post <input type="checkbox"/> Data Room <input type="checkbox"/> EPS <input type="checkbox"/> Email <input checked="" type="checkbox"/> <i>(if nothing stated, by hand)</i>
	Labelling and copy requirements for Tender Submissions (Clause 4.2)	For Tenders lodged by hand or post:

TENDER PARTICULARS		
Item No	Tender Particulars	
		The Tender package or packages must be marked: Private and Confidential Tender for: Logic Innovations – Main Works Tenderer: <i>Tenderer's name</i> Closing Time: <i>Closing Time</i> Number of hard copies: 0] For Tenders lodged electronically via the Data Room, EPS or email: PRC000203]
	Electronic formats (Clauses 4.2(b)(iii) and 4.2(c)(ii))	[PDF, WORD or Excel only
	Are departures from the Contract applicable? (Clause 5.4 and Tender Schedule 8)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (if nothing stated, No)
	Parent Company Guarantee (Tender Schedule 14)	Is / Is not required (A parent company guarantee is required if no selection is made.)
	Validity Period of Tender (Clause 6(a))	90 business days (if nothing stated, 90 business days)
	Specified proprietary products- Does clause 7.4 apply? (Clause 7.4)*	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (if nothing stated, Yes)
	Enquiry period (Clause 9.1(b)(iv))	At least [5] Business Days prior to the Closing Time
	Not in use	Not in use
	Does Local Jobs First apply to this Tender? (Clause 15)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (if nothing stated, 'Yes' applies)
	Local Jobs First requirements: (Clause 15 and Annexure C Clause 1.1)	Alternative 1: Standard Projects without Major Projects Skills Guarantee <input type="checkbox"/> Alternative 2: Standard Projects with Major Projects Skills Guarantee <input checked="" type="checkbox"/> Alternative 3: Strategic Projects without Major Projects Skills Guarantee <input type="checkbox"/>

TENDER PARTICULARS		
Item No	Tender Particulars	
		Alternative 4: Strategic Projects with Major Projects Skills Guarantee <input type="checkbox"/> <i>(if no alternative is ticked the alternative is 'Alternative 4')</i>
22A	Requirements for Projects when Local Jobs First Policy applies (Annexure C Clause 1.4) <i>J</i>	(a) Nil (b) [10 per cent of the total number of estimated hours of work on the Project be undertaken by apprentices, trainees or cadets] (c) Nil <i>If nothing stated:</i> (a) <i>Minimum local content requirement:</i> <i>90% for a construction works project</i> <i>80% for a services project or a maintenance project</i> <i>80 per cent for the maintenance or operations phase</i> (b) <i>10 per cent of the total number of estimated hours of work on the Project be undertaken by apprentices, trainees or cadets</i>
22AB	Tender reference number to use in the Victorian Management Centre (Annexure C Clause 1.5(g))	63325
22B	Does Social Procurement Framework apply to this tender? (Clause 15A and Annexure CA) <i>J</i>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>(if nothing stated, 'No' applies)</i>
22C	Social Procurement Framework requirements (Clause 15A and Annexure CA Clause 1.3)	<input type="checkbox"/> Alternative 1 - Social Procurement Framework without Building Equality Policy <input checked="" type="checkbox"/> Alternative 2 – Social Procurement Framework plus Building Equality Policy <input type="checkbox"/> Alternative 3 - Building Equality Policy only
22D	Is a Social Procurement Commitment Proposal required? (Annexure CA Clause 1.3(a))	<input type="checkbox"/> All Tenders must include a Social Procurement Commitment Proposal <input checked="" type="checkbox"/> A Social Procurement Commitment Proposal is required upon request <i>(if nothing stated, Tenderers must include a Social Procurement Commitment Proposal)</i>
22E	Is the Tenderer permitted to identify and respond to Social Procurement Framework Outcomes in addition to the Social Procurement Framework	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>(If nothing stated, No applies)</i>

Request for Tender for use with VPS Model [\[AS4300-1995/AS2124-1992\]](#)

TENDER PARTICULARS		
Item No	Tender Particulars	
	Outcomes nominated by the Principal at Tender Schedule 17? (Annexure CA Clause 4(g))	
22F	Not used	Not used
23.	Not used	Not used
24.	Not used	Not used
25.	Not used	Not used
26.	Domestic dispute resolution arbitration, compensation awarded to the supplier must not exceed Clause 17A.7(g)(ii)	<input type="checkbox"/> The costs reasonably incurred by the supplier in the preparation of the tender giving rise to the complaint. <input checked="" type="checkbox"/> The costs reasonably incurred by the supplier in bringing the complaint.

Annexure B - Evaluation Criteria

Mandatory evaluation criteria

Mandatory Criteria (Conformance Criteria)	Description
1. Tender Form	<ul style="list-style-type: none"> Completion and return of the Tender Form (Tender Deed Poll), including (but not limited to) company details, acknowledgement of addenda and probity and conflicts of interest warranty and insurances.
2. Collusive Tendering	<ul style="list-style-type: none"> Completion and return of the Collusive Tendering Statutory Declaration – <i>Tender Schedule 16</i>
3. Occupational Health and Safety Management	<ul style="list-style-type: none"> Completion of <i>Tender Schedule 7A</i>
5. Supplier Code of Conduct	<ul style="list-style-type: none"> Completion and return of the Commitment to the Victorian State Government Supplier Code of Conduct – <i>Tender Schedule 15</i>
6. Value for Money	<ul style="list-style-type: none"> Value for money will be the primary determinant of the procurement outcome, after taking into account all of the individual evaluation criteria including price.
7. Industrial Relations Management	<ul style="list-style-type: none"> Completion and return of Tender Schedule 7B Industrial Relations Management Submission of an Industrial Relations Plan in accordance with Ministerial Direction 3.7.
8. Environmental Management System	<ul style="list-style-type: none"> Demonstrate compliance with an environmental management system such as ISO14001, through certification and is able to maintain certified for the duration of the Contract – Refer Tender schedule 22
9. Quality Management System	<ul style="list-style-type: none"> Demonstrate compliance with a quality management system such as ISO9001, through certification and is able to maintain certified for the duration of the contract - Refer Tender Schedule 22

Demonstrated compliance, to the satisfaction of the Principal, with the occupational health and safety management evaluation criteria as set out in Annexure F.

Demonstrated compliance, to the satisfaction of the Principal, with the industrial relations management evaluation criteria as set out in Annexure G).

Other evaluation criteria

Value for money, after taking into account all of the individual evaluation criteria including price.

Other Weighted Evaluation Criteria	Description
10. Price	<ul style="list-style-type: none"> • An assessment of the Tender in regard to the following Price components: <ul style="list-style-type: none"> - Fixed Lump Sum Price or Schedule of Rates - Tender Options; and - Departures & Qualifications from the Contract and Specifications
11. Program	<ul style="list-style-type: none"> • The extent to which the Tenderer’s Preliminary Construction Program and Milestone dates demonstrates: <ul style="list-style-type: none"> • An understanding of the overall construction including staging, activity durations and milestones; and • critical path activities • The tenderer can demonstrate its ability to maintain program and deliver the Project in accordance with the Project’s timeline objectives
12. Construction Methodology	<ul style="list-style-type: none"> • The extent to which the Tenderer demonstrates adequate management of: <ul style="list-style-type: none"> • Site Establishment, staging, traffic management and general methodology in order to minimise disruption to the ongoing operations of the site • Provision of necessary temporary access roads • Management and protection of Cultural Heritage • Breakthrough / interface / connection works in and adjacent existing facilities; • Any identified risks; • Defect rectification and handover processes to ensure the built works are in accordance with the Contract, are free from defects and will allow the Principal to commence their operational commissioning upon Practical Completion; • An outline of how the Tenderer intends to work collaboratively with Wodonga TAFE, its Consultants and Associates throughout the construction phase to ensure “best for project” outcomes.

<p>13. Previous Performance & Key Personnel</p>	<ul style="list-style-type: none"> • An assessment of the company’s past performance in delivering similar construction works (type and value) for Agencies within the Victorian Government, other governments or non-government organisations. • Consideration of past performance may include: <ul style="list-style-type: none"> ○ experience on similar projects and performance; ○ references provided by the tender participant; or ○ performance reports about the tenderer from previous work that are held by the Agency or the Victorian Government • Completion and return of the Commitment to the Victorian State Government Supplier Code of Conduct – <i>Tender Schedule 15</i> • An assessment of the Nominated Key Personnel of each Tenderer against the following sub-criteria: Tenderers current workload
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Local Jobs First Policy – the following evaluation criteria apply if Item **Error! Reference source not found.** indicates that Clause 15 applies:

- (i) industry development, including commitments made in relation to the Victorian Industry Participation Policy; and
- (ii) where the Major Projects Skills Guarantee applies, job outcomes, including, if applicable, job outcomes provided by the Major Projects Skills Guarantee.

Social Procurement Framework – the following evaluation criterion applies if Item 22B indicates that Clause 15A applies:

- (i) the Social Procurement Commitments made in relation to the Social Procurement Commitment Proposal.

Weightings to apply to components of the evaluation process

The following weightings apply to components of the evaluation process:

Criteria	Tender Schedule	Weighting
Price	Tender Schedule 1	40%
Program	Tender Schedule 3	15%
Construction Methodology	Tender Schedule 20	20%
Previous Performance & Key Personnel	Tender Schedules 2 and 13	10%
Local Jobs First	Tender Schedule 10	10%
Social Procurement	Tender Schedule 17	5%
Total		100%

Annexure C - Local Jobs First Policy

1.1 Overview

- (a) The Local Jobs First Policy issued under the *Local Jobs First Act 2003* supports businesses and workers by ensuring that small and medium size enterprises are given a full and fair opportunity to compete for both large and small government contracts, helping to create job opportunities, including for apprentices, trainees and cadets. The Local Jobs First Policy is implemented by Victorian Government departments and agencies to help drive local industry development.
- (b) The Local Jobs First Policy comprises the Victorian Industry Participation Policy and the Major Projects Skills Guarantee.
 - (i) Victorian Industry Participation Policy seeks to ensure that small and medium-sized business are given full and fair opportunity to compete for government contracts.
 - (ii) Major Projects Skills Guarantee is a policy that provides job opportunities for apprentices, trainees, and cadets on high value construction projects.
- (c) The Local Jobs First Policy applies to the full range of Victorian Government projects that meet financial thresholds.
- (d) The Local Jobs First Policy applies to standard projects above the threshold values of:
 - (i) \$3 million or more in metropolitan Melbourne, and
 - (ii) \$1 million or more in regional Victoria, or
 - (iii) any project valued at less than \$3 million that the LJF Minister has declared to be a standard project.
- (e) The Local Jobs First Policy applies the full range of Victorian Government projects that meet financial thresholds. A Local Jobs First Strategic Project is a project with a budget of \$50 million or more or any other project declared by the Minister to be a strategic project under the *Local Jobs First Act 2003*. Individual project agreements for amounts less than \$50 million may form part of a strategic project.
- (f) The Major Projects Skills Guarantee applies to construction works projects with a budget of \$20m or more.
- (g) The Local Jobs First Policy may take one of four forms:
 - (i) Alternative 1 – standard project without Major Projects Skills Guarantee;
 - (ii) Alternative 2 – standard project with Major Projects Skills Guarantee;
 - (iii) Alternative 3 – Strategic Project without Major Projects Skills Guarantee; and
 - (iv) Alternative 4 – Strategic Project with Major Projects Skills Guarantee.

The form of the Local Jobs First Policy that applies to this RFT is the alternative indicated in Item 22.

- (h) For further information, Tenderers should refer to the Local Jobs First Policy and LJF Guidelines which can be found at www.localjobsfirst.vic.gov.au.

1.2 Definitions

Apprentice refers to a person whom an employer has undertaken to train under a Training Contract.

Cadets refers to those persons enrolled in a recognised tertiary level organisation and who receive structured learning opportunities as part of their engagement to a Local Jobs First project (e.g. cadets in architecture, quantity surveying, or engineering) but which is not under a Training Contract.

Contestable Items refers to goods or services in a procurement process where there are competitive international and local suppliers. 'Competitive' means the suppliers are able to offer comparable goods or services that meet the specifications provided in this RFT. Contestable items can be goods or services at any stage of a project, including maintenance.

Industry Capability Network (Victoria) refers to Industry Capability Network (Victoria) Limited ACN 007 058 120 of Level 11, 10 Queens Road, Melbourne VIC 3004.

LIDP refers to Local Industry Development Plan.

LJF Department has the meaning given in section 3(1) the *Local Jobs First Act 2003*.

LJF Guidelines means the Local Jobs First Supplier Guidelines, available at www.localjobsfirst.vic.gov.au.

LJF Minister means the Minister with responsibility for administering the *Local Jobs First Act 2003*'

Local Content has the meaning given in section 3(1) of the *Local Jobs First Act 2003*.

Local Jobs First means the policy made under section 4 of the *Local Jobs First Act 2003*.

Project refers to the work as described in this RFT.

Project Total Estimated Labour Hours means the total estimated labour hours as provided in the employment commitments section of the LIDP. .

Trainee Trainee means an employee engaged by an employer (other than an Apprentice or Cadet) employed under a Training Contract registered with VRQA that combines training with paid employment in an entry level role related to a Local Jobs First applicable project. For a Trainee to be counted towards the MPSG requirement for a project they must be undertaking a course that relates directly to their role on a Local Jobs First Project and is consistent with the Training Contract. Professional Traineeships (an employee who is not in an entry level role and is undertaking professional development training) cannot count towards the Major Project Skills Guarantee.

Training Contract has the meaning given in the *Education and Training Reform Act 2006*.

Victorian Management Centre (VMC) means the cloud-based secure online platform that enables the registration of projects and associated tenders, the submission of LIDPs, collection, analysis and reporting of local content and jobs data, including, MPSG (if applicable) and, supply chain monitoring and reporting

VRQA means the Victorian Registration and Qualification Authority.

1.3 Contestable Items

- (a) The Local Jobs First Policy requires that government agencies consider Local Content and job commitments, particularly in respect of Contestable Items, as a key criterion in tender evaluation and other relevant procurement processes.
- (b) Consideration should be given to contestable and non-contestable items in establishing local content commitments.
- (c) The Contestable Items within the scope of this invitation are included in the LIDP template

1.4 Requirements for Local Jobs First projects

The requirements for this RFT are indicated in Item 22A.

1.5 Local Industry Development Plan

- (a) All Tenderers must prepare a LIDP in accordance with the Local Jobs First Policy and LJF Guidelines.
- (b) The assessment of the Tender will consider whether and how Tenderers comply with the Local Jobs First Policy. This is done through assessment of Tenderers' LIDPs.
- (c) A LIDP must be submitted to the Industry Capability Network (Victoria) and will be made available to the Principal and the LJF Department.
- (d) A LIDP must:
 - (i) specify how the requirements of the Local Jobs First Policy will be met;
 - (ii) identify total content and Local Content for the Project;
 - (iii) identify total and local jobs for the Project;
 - (iv) for strategic projects, identify how any other specific requirements determined by the LJF Minister as applying to the Project will be met; and
 - (v) include any other matter required to be included in the LIDP by the Local Jobs First Policy.
- (e) In developing the LIDP, Tenderers must consult in good faith with Industry Capability Network (Victoria).
- (f) All Tenderers must be registered in the Victorian Management Centre (VMC) managed by the Industry Capability Network (Victoria).
- (g) All Tenderers must complete and submit an LIDP by completing the form on the Victorian Management Centre, available at <https://icnvic.force.com>, using the tender reference number indicated in Item 22AB.
- (h) The Principal cannot accept a Tender that does not include a compliant LIDP.
- (i) To demonstrate that the LIDP submitted is completed correctly and includes all required information, Tenderers must submit, as part of a Tender, an acknowledgement letter of their LIDP from Industry Capability Network (Victoria).

- (j) A Tender cannot be evaluated if an acknowledgement letter is not supplied

1.6 Use of the Local Industry Development Plan

- (a) Any post-Tender changes in a Tenderer's LIDP commitments will require further Industry Capability Network (Victoria) assessment and an acknowledgement letter. Tenderers should refer to the LJF Guidelines for further details
- (b) The contents of a successful Tenderer's final LIDP will be included in the agreement to be entered into between that Tenderer and the Principal. Further, the Tenderer's LIDP information will be recorded centrally for Industry Capability Network (Victoria) certification of the LIDP outcomes reported.

1.7 Weighting of commitments to Local Jobs First Policy

In evaluating a Tender for an agreement for a project, the Principal will give weighting to the following parts in the specified amounts indicated in Annexure B - Evaluation Criteria.

1.8 Further information and assistance

- (a) The LJF Department has prepared the LJF Guidelines for Suppliers on the application of the Local Jobs First Policy to projects.
- (b) Industry Capability Network (Victoria) provides free services to assist Tenderers in identifying and developing the above information. Tenderers are advised that Industry Capability Network (Victoria) will be available to assist them in implementing the Local Jobs First Policy. For further information or assistance, Tenderers can contact Industry Capability Network (Victoria):

Level 11, 10 Queens Road Melbourne VIC 3004
(03) 9864 6700
https://icn.org.au/vic_home

- (c) Tenderers must attend any briefing provided by the Principal on the Local Jobs First Policy.

1.9 Project Total Estimated Labour Hours

- (c) The LIDP must contain sufficient information to demonstrate to the reasonable satisfaction of the Agency that a minimum of 10 per cent of the Project Total Estimated Labour Hours will be undertaken by Apprentices, Trainees, or Cadets (either separately or in any combination).
- (d) Where the agreement includes significant maintenance or ongoing service components as part of the work under the agreement, the value of the maintenance or ongoing service components will be included as part of the overall agreement value for the purposes of calculating the Project Total Estimated Labour Hours to determine whether the Tenderer's LIDP satisfies the minimum 10 per cent requirement.

Annexure CA- Social Procurement Framework

1. Overview

1.1 Social Procurement Framework Overview

- (a) The Victorian Government is committed to social procurement. Victoria's Social Procurement Framework aims to increase the value of procured goods, services and construction by delivering social and sustainable outcomes that benefit all Victorians. These outcomes broadly relate to:
 - (i) fair and inclusive employment;
 - (ii) supplier diversity; and
 - (iii) environmental sustainability.
- (b) Value for money underpins government procurement. It is achieving a procurement outcome at the best possible price — not necessarily the lowest price — based on a balanced judgement of financial and non-financial factors relevant to the procurement. The Victorian Government recognises environmental, social and economic factors as a core component of value for money.
- (c) For the Tenderer, the Social Procurement Framework is an opportunity to work with government to deliver social and sustainable outcomes, while continuing to grow its business by participating in government procurement. The Victorian Government considers that all Tenderers can deliver one or more of these outcomes when doing business with government.

1.2 Building Equality Policy Overview

- (a) The Building Equality Policy (**BEP**) is a mandatory policy applicable to all publicly funded construction projects with a total budget allocated over the life of the project of \$20 million (exclusive of GST) or more and when the tender is released to market after 1 January 2022.
- (b) BEP is comprised of three actions that seek to address the structural and cultural barriers to attracting and retaining women in meaningful employment in the building and construction industry. Under the Building Equality Policy, Contractors are required to undertake the following actions:
 - Action 1 – meet project specific gender equality targets
 - Action 2 – engage women as apprentices and trainees to perform building and construction work
 - Action 3 – implement Gender Equality Action Plans
- (c) The BEP is implemented through the Social Procurement Framework aligning with the Women's Equality and Safety objective.

1.3 Social Procurement Framework – Alternative applying

The Social Procurement Framework may take one of three forms:

Alternative 1 – Social Procurement Framework without Building Equality Policy

Alternative 2 - Social Procurement Framework plus Building Equality Policy

Alternative 3 - Building Equality Policy only

The form of the Social Procurement Framework that applies to this Request for Tender is the alternative indicated in Item 22C.

2. Definitions

Building Equality Policy or **BEP** refers to the Victorian government's Building Equality Policy, as amended from time to time and accessible at <https://www.buyingfor.vic.gov.au/building-equality-policy>.

Building Equality Policy Actions refers to the three actions that seek to address the structural and cultural barriers to attracting and retaining women in meaningful employment in the building and construction industry. Under the Building Equality Policy, Contractors are required to:

Action 1 – meet project specific gender equality targets

Action 2 – engage women as apprentices and trainees to perform building and construction work

Action 3 – implement Gender Equality Action Plans.

Building Equality Policy Commitment refers to a commitment made by the Tenderer, as set out in the Social Procurement Commitment Proposal, to deliver the Building Equality Policy Actions.

Gender Equality Action Plan or GEAP refers to a plan containing strategies and measures for meeting mandatory actions to promote gender equality. There are two GEAPs – an Organisation Wide Gender Equality Action Plan and a Project Specific Gender Equality Action Plan.

Organisation Wide Gender Equality Action Plan refers to the organisation wide plan prepared by the entity undertaking the onsite building and construction work to be submitted with the Social Procurement Commitment Proposal.

Project Specific Gender Equality Action Plan refers to project specific plan to be submitted with the Social Procurement Commitment Proposal.

Social Procurement Commitment refers to a commitment made by a Tenderer, as set out in the Social Procurement Commitment Proposal, to deliver a Social Procurement Framework Outcome.

Social Procurement Commitment Proposal refers to the plan submitted by a Tenderer as described in clause 4, in response to this Request for Tender, by completing Tender Schedule 17.

Social Procurement Framework means Victoria's Social Procurement Framework, as amended from time to time and accessible at www.buyingfor.vic.gov.au/social-procurement-framework.

Social Procurement Objective means to an objective listed in Tables 1 and 2 of the Social Procurement Framework.

Social Procurement Framework Outcome means an outcome listed in Tables 1 and 2 of the Social Procurement Framework.

3. Social Procurement Commitment Proposal

- (a) This clause 3 applies if Item 22D indicates that a Social Procurement Commitment Proposal is required. If required, the Social Procurement Commitment Proposal in the form set out at Tender Schedule 17 must be submitted as part of the Tender.
- (b) The Social Procurement Commitment Proposal is where the Tenderer:
 - (i) provides information about its current performance, at the time of this Request for Tender, in relation to delivering Social Procurement Framework Outcomes;
 - (ii) proposes Social Procurement Commitments; and
 - (iii) details how it plans to comply with, report on and demonstrate its compliance with proposed Social Procurement Commitments.
- (c) Where the Building Equality Policy applies, the Social Procurement Commitment Proposal is also where the Tenderer:
 - (i) details how it plans to comply with the targets specified in Actions 1 and 2 of the Building Equality Policy Actions;
 - (ii) confirms it has completed and submitted its Organisation Wide Gender Equality Action Plan and workplace gender audit results, and Project Specific Gender Equality Action Plan (Action 3); and
 - (iii) details how it plans to comply with, report on and demonstrate its compliance with the Building Equality Policy Commitments.
- (d) The Social Procurement Commitment Proposal must contain sufficient information to demonstrate to the reasonable satisfaction of the Principal how the Tenderer will comply with its Social Procurement Commitments if successful.
- (e) The Social Procurement Framework Outcomes identified in Table 1 of Tender Schedule 17 are prioritised by the Principal for this Request for Tender.
- (f) If indicated in Item 22E, in addition to the Social Procurement Framework Outcomes prioritised in Table 1 of Tender Schedule 17, Tenderers may also identify and respond to other Social Procurement Framework Outcomes in the Social Procurement Commitment Proposal.

4. Principal's use of the Social Procurement Commitment Proposal

- (a) The Tenderer's Social Procurement Commitment Proposal will be evaluated and weighted as set out in Annexure B – Evaluation Criteria.
- (b) The Principal may, at its discretion, request further information from, or hold discussions with, the Tenderer regarding its Social Procurement Commitment Proposal.
- (c) The Tenderer's Social Procurement Commitment Proposal (including any Social Procurement Commitments and Building Equality Policy Commitments) will be included and form part of the Tenderer's obligations under the Contract to be entered into between the successful Tenderer and the Principal.

5. Further information and assistance

- (a) Tenderers can access further information and resources about the Social Procurement Framework available at <https://www.buyingfor.vic.gov.au/social-procurement-framework-supplier-guidance>.
- (b) Tenderers can access further information and resources about the Building Equality Policy available at <https://www.buyingfor.vic.gov.au/building-equality-policy-suppliers>.
- (c) Tenderers are strongly encouraged to attend any briefing provided by the Principal on the Social Procurement Framework and the Building Equality Policy. Where it is not practicable for a Tenderer to attend such a briefing, the Tenderer is responsible for:
 - (i) reading any briefing materials provided by the Principal to the Tenderer; and
 - (ii) providing confirmation to the Principal that it has read and understood the briefing materials (if requested).

Annexure CB- Fair Jobs Code

1. Overview

- 1.1 The Fair Jobs Code aims to improve employment outcomes for persons employed by suppliers and service providers to the Victorian Government. The Fair Jobs Code is implemented by Victorian Government departments, agencies and public bodies to help promote fair labour standards and ensure compliance with employment law.
- 1.2 The Fair Jobs Code applies to:
- a) threshold procurement contracts (refer Definitions within this Annexure CB); and
 - b) high value procurement contracts (refer Definitions within this Annexure CB).
- 1.3 For further information, Tenderers should refer to the Fair Jobs Code and FJC Guidelines which can be found at <https://www.buyingfor.vic.gov.au/fair-jobs-code-suppliers-and-businesses>.

2. Definitions

FJC Department means the Department of Jobs, Precincts and Regions (and its successor Government department) as the Department responsible for the Fair Jobs Code.

FJC Guidelines means the Fair Jobs Code guidelines, available at <https://www.buyingfor.vic.gov.au/fair-jobs-code-suppliers-and-businesses>.

FJC Plan or FJC Plan Addendum means the Tenderer's Fair Jobs Code Industrial Relations and Occupational Health and Safety Plan, addressing industrial relations, occupational health and safety requirements and commitments and standards, as required by the Fair Jobs Code.

FJC Plan Template or FJC Plan Addendum Template means the template Tenderers must follow when submitting a FJC Plan or FJC Plan Addendum (as applicable) as part of a Tender. The FJC Plan Template and FJC Plan Addendum Template is available at <https://www.buyingfor.vic.gov.au/fair-jobs-code-tools-and-templates-suppliers-and-businesses>.

Fair Jobs Code means the Fair Jobs Code, available at <https://www.buyingfor.vic.gov.au/fair-jobs-code>.

Fair Jobs Code Unit means the Fair Jobs Code Unit, an administrative group within the FJC Department with responsibilities in relation to the Fair Jobs Code.

high value procurement contract means a contract between a Tenderer and a Victorian Government agency with a value of \$20 million or more (exclusive of GST).

Significant Subcontractor means an entity engaged, or to be engaged, under a subcontract directly with a successful Tenderer, where the value of that subcontract is \$1 million or more (exclusive of GST).

threshold procurement contract means a contract between a Tenderer and a Victorian Government agency with a value of \$1 million but less than \$20 million(exclusive of GST).

3. Fair Jobs Code Pre-Assessment Certificate

- 3.1 All Tenderers submitting Tenders for threshold procurement contracts or high value procurement contracts must hold a valid Pre-Assessment Certificate issued by the Fair Jobs Code Unit in accordance with the Fair Jobs Code and FJC Guidelines.

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- 3.2 A copy of each Tenderer's Pre-Assessment Number must be included in that Tenderer's Tender.
- 3.3 Tenderers that do not hold a valid Pre-Assessment Certificate may not be considered for this RFT.
- 3.4 If a Tenderer is unable to secure a valid Pre-Assessment Certificate, it must notify the Tender Officer as soon as possible prior to submitting its Tender.
- 3.5 The Principal may use its discretion to enter into a Contract with a Tenderer that does not have a valid Pre-Assessment Certificate subject to sections 4.3 or 4.4 of the Fair Jobs Code.

4. Fair Jobs Code Plan or Fair Jobs Code Plan Addendum

- 4.1 In addition to the Pre-Assessment Certificate, all Tenderers submitting Tenders for high value procurement contracts must submit:
 - a) for suppliers of construction related services – a FJC Plan (for clarity, a supplier of construction related services provides professional services related to the delivery of construction works); or
 - b) for suppliers of construction works - a FJC Plan Addendum (for clarity, a supplier of construction works is a provider of works for construction, maintenance, rehabilitation, alteration, extension or demolition of any improvements on land)using the FJC Plan Template or FJC Plan Addendum Template (as applicable) at the time of submitting its Tender.
- 4.2 Tenderers that do not submit a FJC Plan or FJC Plan Addendum (as applicable) will not be considered for this RFT.
- 4.3 Commitments made under the FJC Plan or FJC Plan Addendum (as applicable) are binding and will form part of the Contract entered into between a successful Tenderer and the Principal. The Principal and the State will monitor the delivery of the FJC Plan or FJC Plan Addendum (as applicable) to ensure that the commitments are fulfilled.

5. Agreement and continuing Fair Jobs Code obligations

- 5.1 All successful Tenderers will be required to maintain a valid Pre-Assessment Certificate throughout the Contract entered into between that Tenderer and the Principal.
- 5.2 Any Contract between a successful Tenderer and the Principal will include contractual requirements to support the implementation of the Fair Jobs Code.

6. Changes to Pre-Assessment Certificate Status

- 6.1 If a Tenderer's Pre-Assessment Certificate is revoked or lapses after Tenders are submitted, but before Contracts are awarded, the Tenderer must notify the Principal as soon as practicable but not less than 10 business days after the revocation or expiry date.
- 6.2 A Tenderer will not be awarded a Contract if they do not have a valid Pre-Assessment Certificate unless an exception applies.

7. Significant Subcontractors

- 7.1 If a Tenderer intends to engage Significant Subcontractor/s to perform any part of any Contract entered into with the Principal for this RFT, then that Tenderer must provide in its Tender:
- (a) details of each proposed Significant Subcontractor/s and what roles/responsibilities they will have under the agreement; and
 - (b) Pre-Assessment Certificate numbers for each proposed Significant Subcontractor.

8. Further information and assistance

- 8.1 The FJC Guidelines provide guidance on the application of the Fair Jobs Code and are available at <https://www.buyingfor.vic.gov.au/fair-jobs-code-suppliers-and-businesses>.

The Fair Jobs Code Unit provides information to assist Tenderers regarding Pre-Assessment Certificates and FJC Plans or FJC Plan Addendums (as applicable). For further information or assistance, Tenderers can contact the Fair Jobs Code Unit:

Ph: 13 22 15

vic.gov.au/fairjobscode

fairjobscode@ecodev.vic.gov.au

Annexure D - Not in use

Annexure E – Not in use

Annexure F – Occupational health and safety management evaluation criteria

Occupational health and safety (OHS) management criteria for suppliers of Works

The supplier of Works must **demonstrate**:

- 1 the supplier of Works or Construction Services' organisational-specific OHS policy, at the least, states:
 - a clear commitment to providing for the health and safety of all employees and other workers and others who may be affected by their activities, and achieving legal compliance, through effective risk management;
 - the means by which that commitment will be met (e.g. risk assessment, safe systems of work, training);
 - the respective responsibilities and roles of stakeholders at all levels within and external to the organisation in ensuring safety; and
 - a commitment to continuous improvement and policy review, including a date or time within which the policy will be reviewed.
- 2 details of the governance (management) structure and process that provide for:
 - the gathering and analysis of relevant information;
 - reports on relevant matters to be provided to the officers, in a timely fashion (e.g. regular reporting on some matters and timely reporting of incidents);
 - advice to be provided to the officers (from sources within and external to the business);
 - monitoring, auditing, and review of performance; and
 - confirmation that information provided to officers allows them to have the required knowledge and understanding of each of the elements of the due diligence definition (e.g. as to hazards and risks, required resources and policies).
- 3 expertise and knowledge of OHS advisors:
 - the supplier of Works has expertise and knowledge available to it covering all key aspects of OHS relevant to the business and activities of the supplier of Works; and
 - advisor(s) are suitably qualified taking into consideration the nature of the activities of the supplier of Works.
- 4 consultation and issue resolution procedures:
 - 4a management representation for consultation, issue identification and response;
 - 4b elected Health and Safety Representative;
 - 4c consultation and issue resolution procedures;
 - 4d Health and Safety Committee, either:
 - details of any Health and Safety Committee and the charter or constitution or rules that show how the Committee operates; or
 - certification that there has been no request for the establishment of a Health & Safety Committee;
 - 4e consulting and working with other parties.
- 5 currency of awareness of OHS.
- 6 induction and training:
 - 6a that they have in place appropriate processes for induction and training; and
 - 6b that they have in place appropriate records for induction and training.
- 7 hazard identification and risk control:

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- 7a that they have in place appropriate the means by which hazards and risks associated with the activities are identified, assessed, and controlled; and
- 7b that they have in place appropriate the means for compliance with specific requirements, such as by completed Job Safety Analysis, safe work method statements and the means of coordinating safety activities on site.
- 8 that they have in place appropriate safety management procedures for the safety of independent suppliers of Works and of the employees of independent contractors and others.
- 9 emergency response:
 - 9a that they have in place appropriate emergency response procedures including review and testing requirements, the availability of suitable first aid facilities, and employee first aid training, and
 - 9b that they have in place appropriate effective dissemination of emergency response information and of testing of emergency response procedures in the past 12 months.
- 10 incident notification, investigation, and response procedures:
 - 10a that they have in place appropriate system for the notification of all incidents internally and (where relevant) to the employer with management and control of the workplace;
 - 10b that they have in place appropriate system for the notification of incidents to WorkSafe Victoria; and
 - 10c that they have in place appropriate system for investigating incidents to determine causes, identify and implement appropriate action to prevent a recurrence.
- 11 evidence of enforcement activity, or where there has been no enforcement activity a signed statement to that effect.
- 12 Workers Compensation insurance, providing evidence of currency of insurance, premium rate, and industry classification (e.g. premium notice).

Occupational health and safety (OHS) management criteria for suppliers of Construction Services as designers of buildings and structures

The supplier of Construction Services as designers of buildings and structures must **demonstrate**:

- 1 OHS duties of designers of buildings and structures:
 - 1a the corporate position on OHS in design and how it is disseminated;
 - 1b commitment to addressing health and safety in design at project level;
 - 1c systematic approach to address health and safety risks in design;
 - 1d the means by which the supplier builds, maintains, and continuously enhances OHS knowledge and capabilities from a design perspective; and
 - 1e management review of overall OHS performance in design project.

Suppliers of Construction Services as designers of buildings and structures must also demonstrate compliance with Criteria 2 – 12 listed for Occupational health and safety (OHS) management criteria for suppliers of Construction Services.

Occupational health and safety (OHS) management criteria for suppliers of Construction Services

Note: if the supplier of Construction Services is not being engaged to perform design work, then they do not need to be assessed against Criterion 1.

The supplier of Construction Services must **demonstrate**:

- 2 the supplier of Construction Services' organisational-specific OHS policy, at the least, states:
 - a clear commitment to providing for the health and safety of all employees and other workers and others who may be affected by their activities, and achieving legal compliance, through effective risk management;
 - the means by which that commitment will be met (e.g. risk assessment, safe systems of work, training);
 - the respective responsibilities and roles of stakeholders at all levels within and external to the organisation in ensuring safety; and
 - a commitment to continuous improvement and policy review, including a date or time within which the policy will be reviewed.
- 3 details of the governance (management) structure and process that provide for:
 - the gathering and analysis of relevant information;
 - reports on relevant matters to be provided to the officers, in a timely fashion (e.g. regular reporting on some matters and timely reporting of incidents);
 - advice to be provided to the officers (from sources within and external to the business);
 - monitoring, auditing, and review of performance; and
 - confirmation that information provided to officers allows them to have the required knowledge and understanding of each of the elements of the due diligence definition (e.g. as to hazards and risks, required resources and policies).
- 4 expertise and knowledge of OHS advisors, covering:
 - the supplier of Construction Services has expertise and knowledge available to it covering all key aspects of OHS relevant to the business and activities of the supplier of Works; and
 - advisor(s) are suitably qualified taking into consideration the nature of the activities of the supplier of Works.
- 5 consultation and issue resolution:
 - 5a management representation for consultation, issue identification and response;
 - 5b elected Health and Safety Representative;
 - 5c consultation and issue resolution procedures,
 - 5d Health and Safety Committee, either;
 - details of any Health and Safety Committee and the charter or constitution or rules that show how the Committee operates; or
 - certification that there has been no request for the establishment of a Health & Safety Committee;
 - 5e consulting and working with other parties.
- 6 currency of awareness of OHS.
- 7 that they have in place appropriate induction and training processes and records.
- 8 hazard identification and risk control:
 - 8a that they have in place appropriate means by which hazards and risks associated with the activities are identified, assessed and controlled; and

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- 8b that they have in place appropriate means for compliance with specific requirements, such as by completed Job Safety Analysis, safe work method statements and the means of coordinating safety activities on site.
- 9 emergency management:
- 9a that they have in place appropriate procedures for the safety of independent contractors and of the employees of independent contractors and others; and
- 9b that they have in place appropriate effective dissemination of emergency response information and of testing of emergency response procedures in the past 12 months.
- 10 incident notification, investigation, and response:
- 10a that they have in place appropriate system for the notification of incidents internally and (where relevant) to the employer with management control of the workplace;
- 10b that they have in place appropriate system for the notification of incidents to WorkSafe Victoria; and
- 10c that they have in place appropriate system for investigating incidents to determine causes, identify and implement appropriate action to prevent a recurrence.
- 11 evidence of enforcement activity, or where there has been no enforcement activity a signed statement to that effect.
- 12 Workers compensation insurance, providing evidence of currency of insurance, premium rate and industry classification (e.g. premium notice).

Criteria 2 – 10 may be demonstrated by:

- certification under an approved assurance system listed in Approved assurance systems (Instruction 3.7.5) available at <https://www.dtf.vic.gov.au/ministerial-directions-and-instructions-public-construction-procurement/evaluation-criteria-direction-and-instruction-37>, or
- submission of evidence as described in the *Detailed Guide on the mandatory OHS criteria*, available at <https://www.dtf.vic.gov.au/ministerial-directions-and-instructions-public-construction-procurement/mandatory-evaluation-criteria-occupational-health-and-safety-management-attachment-1-instruction-37>.

Criteria 11 – 12 can only be demonstrated by:

- submission of current information as described in the *Detailed Guide on the mandatory OHS criteria*, available at <https://www.dtf.vic.gov.au/ministerial-directions-and-instructions-public-construction-procurement/mandatory-evaluation-criteria-occupational-health-and-safety-management-attachment-1-instruction-37>.

Annexure G – Industrial relations management evaluation criteria

Industrial relations management criteria for suppliers of Works

The supplier of Works must demonstrate that it **has in place**:

1. An Industrial Relations Policy Statement that details:
 - a. the organisational structure for each project identifying the senior personnel, their responsibilities and the reporting lines;
 - b. the contact details of the people responsible for managing workplace relations matters;
 - c. the process for consulting and communicating with the workforce, including strategies to communicate with and manage the relationship with employees, subcontractors, construction unions and representatives of building associations;
 - d. the disputes resolution and grievance procedure; and
 - e. the process for managing subcontractor compliance with legal obligations.
2. A project specific Industrial Relations Plan that:
 - a. assesses the workplace relations risks specific to that project;
 - b. outlines approaches tailored to manage those specific risks;
 - c. outlines a contingency plan to respond to unforeseen risks;
 - d. outlines the proposed approach to compliance with legal obligations under relevant Commonwealth and State legislation, and industrial instruments including:
 - i. Commonwealth workplace relations legislation;
 - ii. applicable enterprise agreements and modern awards;
 - iii. applicable project agreements;
 - iv. Victorian long service leave legislation;
 - v. Victorian occupational health and safety legislation;
 - vi. Victorian workers compensation legislation;
 - vii. Victorian and Commonwealth equal opportunity, anti-discrimination and charter of human rights and responsibilities legislation;
 - viii. legislation relating to the operation of superannuation;
 - ix. Victorian legislation relating to the use of labour hire; and
 - x. Victorian legislation relating to wage theft;
 - e. proposed approach to managing employee's entitlements;
 - f. outlines policies and procedures that detail the approach that will be taken to the selection, engagement and management of subcontractors; and
 - g. outlines strategies that will be put in place to ensure subcontractors comply with their legal obligations.
 - h. outlines the proposed approach to ensure that an employment relationship or a proposed employment arrangement is not knowingly or recklessly misrepresented as an independent contracting arrangement
(*applies when contract to which this industrial relations management plan applies is values at \$1 million or more*); and
 - i. outlines the proposed approach to ensure that immigration laws are complied with, and to ensure legal obligations are met when engaging employees who have a working visa
(*applies when contract to which this industrial relations management plan applies is values at \$1 million or more*);

Demonstration that the supplier of Works has **submitted**:

- 3a. the Industrial Relations Self-Assessment Checklist in the form of Schedule 1 of the Detailed Guide on the Mandatory Industrial Relations Management Criteria; and
- 3b. a Declaration of Compliance with the Industrial Relations Management Criteria in the form of Schedule 2 of the Detailed Guide on the Mandatory Industrial Relations Management Criteria.

OR

3. its current Fair Jobs Code Pre-Assessment Certificate.

When the Fair Jobs Code applies, demonstration that:

4. the Supplier of Works **holds** a current Fair Jobs Code Pre-Assessment Certificate when the value of Works is \$1 million or more (exclusive of GST),
5. a subcontractor proposed for a subcontract valued at \$1 million or more (exclusive of GST) **holds** a Fair Jobs Code Pre-Assessment Certificate,

unless sections 4.3 or 4.4 of the Fair Jobs Code apply.

6. the supplier of Works has **submitted to the satisfaction of the Agency** a Fair Jobs Code Plan Addendum when the value of the Works is \$20 million or more (exclusive of GST). The Fair Jobs Code Plan Addendum is required in addition to any other industrial relations management plan or occupational health and safety management plan as may be required by this Tender. The supplier of Works must submit a Fair Jobs Code Plan Addendum using the template issued by the Fair Jobs Code Unit available at <https://www.buyingfor.vic.gov.au/fair-jobs-code-tools-and-templates-suppliers-and-businesses>.

Industrial relations management criteria for suppliers of Construction Services

The following industrial relations management criteria apply from 1 September 2024

When the Fair Jobs Code applies, demonstration that:

1. the Supplier of Construction Services holds a current Fair Jobs Code Pre-Assessment Certificate when the value of Services is \$1 million but less than \$20 million (exclusive of GST);
2. a subcontractor proposed for a subcontract valued at \$1 million or more (exclusive of GST) holds a Fair Jobs Code Pre-Assessment Certificate;

unless sections 4.3 or 4.4 of the Fair Jobs Code apply.

the supplier of Construction Services has submitted to the satisfaction of the Agency a Fair Jobs Code Plan when the value of the Services is \$20 million or more (exclusive of GST). The supplier of Construction Services must submit a Fair Jobs Code Plan using the template issued by the Fair Jobs Code Unit available at <https://www.buyingfor.vic.gov.au/fair-jobs-code-tools-and-templates-suppliers-and-businesses>.