Conditions of Tender

Small Scale Minor Works

November 2023

Conditions of Tender

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| Contract name: |  |
| Contract number: |  |

1. Meanings assigned to words and expressions in the Conditions of Contract will apply to those words and expressions used in the Tender Documents and, except where the context otherwise requires, ‘include’ is not a word of limitation.
2. The ‘Tender Documents’ comprise:
3. the Tender Form
4. the letter of invitation to tender (if any)
5. these Conditions of Tender
6. the Australian Standards® Code of Tendering (AS 4120-1994) as amended by these Conditions of Tender
7. the Conditions of Contract for Small Scale Minor Works, and
8. such specifications, drawings and any other information issued by the Principal for the purposes of tendering and which may be inspected or obtained at the place of closing of Tenders.
9. AS4120-1994 is available for purchase at the Standards Australia Webstore, <https://www.standards.org.au/>.
10. A Tender is made on the basis that the Tenderer has full knowledge of all matters relating to the Contract.
11. The Principal is not bound by any oral advice or information given in respect of the Tender but is bound only by written advice or information which may be given electronically.
12. The Principal is not bound to accept the lowest or any Tender but may accept a Tender which appears to be best ‘value for money’, or not accept any Tender. A Tender is not accepted until the date of notification in writing to the Tenderer. The Contract commences on the date of such notification in writing. Any Tender, or any part thereof, lodged at an incorrect Tender Box, after the closing time or received by a means other than expressly provided for in the Tender Documents, may not be considered.
13. Without derogating from Clause 6 and notwithstanding Clause 6.6 of AS 4120-1994, in considering or accepting any Tender, the Principal may, without being under any obligation to do so, in its absolute discretion and at any time, seek clarification in respect of any aspect of a Tender, shortlist or prefer any one or more Tenderers, and discuss or negotiate with or receive final offers from any one or more Tenderers, in such a manner and as to such aspects of the Tender, as the Principal determines.
14. The Tenderer must provide such additional information as may be requested by the Principal, including relating to compliance with the [Ethical Supplier Threshold and Ethical Supplier Mandate](https://www.business.qld.gov.au/running-business/marketing-sales/tendering/supply-queensland-government/ethical-supplier-requirements/threshold).
15. The Right to Information Act 2009 (Qld) (RTI Act) provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies. The RTI Act requires that documents be disclosed upon request, unless the documents are exempt or on balance, disclosure is contrary to public interest.
16. Information contained in a Tender is potentially subject to disclosure to third parties. In the assessment of any disclosure required by the Principal pursuant to the RTI Act, the Tenderer accepts that any information provided in its Tender, including information marked as confidential, will be assessed for disclosure in accordance with the terms of the RTI Act.
17. Notwithstanding any other provision of the Tender Documents or a Tender, if a Tender is accepted, the Principal may publish on a Queensland Government website or by any other means, Contract information including:
18. the name and address of the Principal and the successful Tenderer
19. a description of the goods and/or services to be provided pursuant to the Contract
20. the date of award of Contract (including the relevant stages if the Contract involves more than one stage)
21. the Contract value (including the value for each stage if the Contract involves more than one stage and advice as to whether any non‑price criteria were used in the evaluation of Tenders), and
22. the procurement method used.
23. For open Tenders, the Principal may publish the names of all Tenderers and the lump sum Tender sums tendered.
24. The law governing the Tender Documents and any subsequent Contract, if applicable, is the law of Queensland and the parties submit to the non‑exclusive jurisdiction of the Courts of Queensland.
25. All information contained in the Tender Documents which is not in the public domain, is to be treated as confidential (‘Confidential Information’). Confidential Information contained in the Tender Documents is only to be used for the purpose of preparing a Tender in response to the Invitation to Tender and the Tender Documents.
26. A party issued with Tender Documents:
27. must ensure that only appropriate employees have access to the Confidential Information. In all such cases, the party is to inform such employees of the confidential nature of the information and that it must not be disclosed
28. must not and must ensure that its employees and agents do not at any time disclose such Confidential Information directly or indirectly to any person whatsoever for any reason, or use or permit it to be used directly or indirectly for any reason, and
29. fully indemnifies the Principal against any loss, costs, expenses, demands or liability, whether direct or indirect, arising out of disclosure or unauthorised use of Confidential Information by the party, its employees and agents.
30. Information relating to the Tenderer relevant to the evaluation criteria that may be held by any Government Department or Instrumentality, may be obtained by or made available to the Principal and the Tender evaluation panel for its information and verification, and for the purposes of Tender evaluation.
31. The Tenderer must comply with the Ethical Supplier Threshold and the Ethical Supplier Mandate and the Tenderer must complete the Ethical Supplier Threshold questionnaire on the Tender Form. Any response indicating non‑compliance with the Ethical Supplier Threshold criteria will result in the Tender not being considered as a conforming Tender.
32. The Principal may decline to consider or accept a Tender from a Tenderer who, at the date of submission of the Tender and any time prior to the award of a Tender, is subject to a current sanction under the Ethical Supplier Mandate according to the online [supplier check tool](https://www.forgov.qld.gov.au/finance-and-procurement/procurement/buy-for-queensland-government/complete-a-supplier-check) released and current at the time and date at which Tenders were invited.
33. Notwithstanding any other provision of the Tender Documents or a Tender, the Tenderer acknowledges and agrees that the Principal may refer matters of non‑compliance with the Ethical Supplier Mandate to the Queensland Government Procurement Compliance Branch within the Department of Energy and Public Works, who may publish information about sanctions imposed on the Tenderer under the Ethical Supplier Mandate.