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| Request for tenders |  |
| commonwealth of australia represented by the HIGH COURT OF AUSTRALIA (ABN 69 445 188 986)  INTERnal audit Services | |
| *November 2016* | |
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1. Invitation
   * 1. The Commonwealth of Australia represented by the High Court of Australia (High Court) invites interested parties (tenderers) to submit tenders to provide internal audit services (Services) described in the draft contract (Draft Contract) released with this request for tenders (RFT) subject to the terms and conditions set out, or referred to, in this RFT.
     2. Service Providers should offer the most cost-efficient option for providing the Services in accordance with the standards required by the Court.
     3. The High Court will not consider a part tender for the Services.
2. Background and Scope of the Requirement

2.1 The High Court of Australia is seeking internal audit services to provide independent assurance that the Court’s risk management, governance and internal control processes are operating effectively.

2.2 Details of the Court’s administrative services that would be within the scope of the internal audit services are as follows:

The Court’s administrative services are divided into four branches namely: Registry, Public Information, Library and Corporate Services.

* The Registry Branch provides administrative services for the judicial activities of the Court and co-ordinates the case-flow management of the judicial workload of the Court. Offices of the Registry are located in Canberra, Melbourne, Sydney, Adelaide, Brisbane, Darwin, Hobart and Perth. The Canberra, Melbourne and Sydney Registries are staffed by officers of the Court. Offices of the Registry are responsible for the collection of Court filing fees (administered revenue). In 2015-16 $1.9m in court fees was collected.
* The Pubic Information Branch are responsible the management of media enquiries, visitors services and public and educational programs.
* The key functions of the Library and Research Branch are to provide high quality reference and research services to the Court and provide library facilities to legal practitioners appearing before the Court.
* Corporate Services comprises the financial, human resources, information technology and security and building operations.

The Court employs approximately 100 staff and over half of these staff are employed as casuals or non-ongoing employees. The Court has outsourced its payroll processing function.

The Court receives approximately $17.3m in funding from Government per annum and collects $0.6m in other revenue. The Court processes approximately 4,000 supplier invoices per year and the average value of these transactions is $2,110.

The Court has four key administrative IT systems namely: Case Management System, Financial Management Information System, Library Collection Management System and Records Management System.

The Court has a Finance Committee which meets approximately four times a year. The Committee comprises three High Court Justices and the Chief Executive and Principal Registrar. The Committee is responsible for, amongst other things, reviewing and advising where necessary on processes for identifying and managing financial business risks, including appropriate risk management, audit and fraud control frameworks.

2.3 The Court is seeking a Service Provider to provide Internal Audit Services.

The Service Provider will be required to:

* develop a three year audit plan for the High Court. The process for developing the audit plan will generally be:

(i) Reviewing audits topics previously undertaken;

(ii) Undertaking a risk assessment and identify higher risk areas; and

(iii) Consulting with key stakeholders.

* following the endorsement of the plan by the Court’s Finance Committee, develop a more detailed plan for each audit assignment
* undertake the internal audits identified in the annual audit plan. This will be a mix of compliance and performance audits and ICT audits.

The Court estimates that the annual audit program would total 30 days.

The internal auditor is generally not required to attend Finance Committee Meetings. The Finance Committee is provided with a copy of each completed audit report and the Committee monitors the Court’s progress with the implementation of all audit recommendations.

1. Contract
   * 1. The High Court proposes to enter into an agreement substantially in the form of the Draft Contract with the successful tenderer.
2. Tender Preparation
   1. Declaration

Tenderers should make the representations, acknowledgements and offer substantially in the form set out in the Declaration in Attachment A.

* 1. Corporate Details

Tenderers should provide their details by completing Attachment B. Where a tender is lodged by a consortium, a separate Attachment B should be lodged by the tenderer and by each consortium member.

* 1. Price

Tenderers should provide full details of their proposed price structure in Attachment C.

Tenderers from the public sector should note that Competitive Neutrality requires that Government businesses should not enjoy net competitive advantages over their private sector competitors by virtue of public sector ownership.

Tenderers from the public sector should demonstrate in the pricing of their tenders that the requirements of competitive neutrality have been met, including:

* + - 1. payment of relevant taxes and charges;
      2. rates of return; and
      3. cost of funds.
  1. Statement of Compliance

Tenderers should complete the Statement of Compliance in Attachment D. Tenderers should use the responses defined below:

* + - **Complies:** means that the tenderer will comply in full and on time with the condition or obligation.
    - **Does Not Comply:** means that the tenderer will not comply with that condition or obligation.
    - **Partially Complies:** means that the tenderer will comply partially with that condition or obligation.
    - **Not Applicable**: means that the paragraph or clause does not apply to the tenderer.

In addition, tenderers should indicate any element of their tender or any part of the Draft Contract which they regard as confidential and provide reasons for requiring confidentiality.

Where a tenderer indicates that it is partially compliant with a provision, the extent of the non compliance should be fully detailed. In addition, a full explanation of the reasons for all non compliance, partial compliance and non applicability should be provided. Tenderers should provide a separate list of provisions in respect of which there is any non compliance.

Where a tenderer indicates that a provision is not applicable to the tenderer, the tenderer should explain the reasons why it is not applicable. A statement that an issue “needs to be negotiated” or other statement that does not fully state the specific requirement or position of the tenderer will be treated by the High Court as meaning “Does Not Comply”.

If a tenderer does not include a statement of non compliance, partial compliance or non applicability relating to any provision, the High Court will assume that the tenderer “Complies” with that matter. If a tenderer does not indicate an element of their tender or a part of the Draft Contract which they regard as confidential and provide reasons for requiring confidentiality, the High Court will assume that the tenderer has no confidentiality requirements.

Tenders should be clear and precise and should reference, where appropriate, the provisions in their tender and the Draft Contract to which each item relates.

Tenderers should not seek to resile from:

* + - 1. provisions with which they have stated they comply; or
      2. any statement or representation made in their tender.

The High Court is under no obligation to negotiate in relation to any provision of the Draft Contract or any confidentiality requirement if a tenderer’s statement of compliance concerning the clause, annexure, schedule or attachment contains (or is assumed under this paragraph 4.4 to contain) a response of “Compliant” or contains (or is assumed under this paragraph 4.4 to contain) no confidentiality requirements.

* 1. Evaluation Criteria Response Schedules

Tenderers should provide their responses to each of the evaluation criteria set out in paragraphs 14.3.a to d by completing the Evaluation Criteria Response Schedules set out in Attachment E.

The information required by Attachment E will form the basis of the High Court’s evaluation of tenders under this RFT.

Tenderers should avoid cross references in their tenders which refer to information which can be located at internet sites or refer to internet links.

* 1. Language

The tender, including all attachments and supporting material, must be written in English.

* 1. Units of Measurement

Measurements should be expressed in Australian legal units of measure.

1. Tendering Entities
   * 1. The High Court will only consider tenders submitted by single legal entities which are in existence or unincorporated joint ventures which have been established at the Tender Closing Time specified in paragraph 6.1.
   1. The High Court may reject a tender if it is submitted on the basis that two or more organisations will be jointly and severally liable.
2. Tender Lodgement
   * 1. Tenders must be lodged on or before 2:00pm Canberra time (Tender Closing Time) in the Australian Capital Territory on 9 December 2016. The Tender Closing Time may be extended by email notification from the High Court. Any extension notice will be given the same distribution as the original RFT.
     2. Tenders must be emailed to: [*tenders@hcourt.gov.au*](mailto:tenders@hcourt.gov.au)to be followed by a phone confirmation by telephoning Margaret Baird on 6270 6840 to acknowledge successful transmission.
     3. The High Court is under no obligation to provide tenderers with confirmation of delivery of tenders.
3. Non Compliant Lodgement
   * 1. **Late Tenders**

Any tender which is received after the Tender Closing Time is late.

* + 1. **Exclusion**

The High Court will only admit to evaluation late tenders that have been received late solely due to mishandling by the High Court.

1. Point of Contact
   * 1. Subject to paragraph 29, the contact officer named below (Contact Officer) is the only point of contact for all matters pertaining to this RFT and the tender evaluation. The Contact Officer is:

Margaret Baird

High Court of Australia

Parkes Place

Parkes ACT 2600

*mbaird@hcourt.gov.au*

* + 1. Tenderers should direct all communications in email through the Contact Officer.
    2. The High Court may send email responses either to the tenderer who lodged any enquiry or to all tenderers on a non attributable basis.
    3. Any notice given by a tenderer to the High Court will be effective upon receipt only if in an email.
    4. The High Court may deliver any written notification to a tenderer by sending it to the email address of that tenderer as specified in their tender or as otherwise subsequently nominated by the tenderer to the Contact Officer.

1. Errors, Alterations and Erasures
   * 1. Tenders in which prices are not clearly and legibly stated may be excluded from consideration.
     2. Any alteration or erasure made to a tender should be initialled by the tenderer or the tender may be excluded from consideration.
     3. Should the tenderer become aware of any discrepancy, error or omission in the tender document submitted and wish to lodge a correction or additional information, that material should be in an email and lodged in the same manner as the tender and prior to the Tender Closing Time. If correcting information is received after the Tender Closing Time, the High Court will consider the information on the same basis as if it were a late tender (see further paragraph 7.2).
2. Unintentional Errors of Form

If the High Court considers that there are unintentional errors of form in a tender, the High Court may request the tenderer to correct or clarify the error.

1. Minimum Content and Format Requirements

Subject to paragraph 10, the High Court will exclude a tender from further consideration if the High Court considers that the tender does not comply with the following conditions:

* + - 1. paragraph 1.3 and
      2. paragraph 4.6.

1. Conditions for Participation

The High Court will exclude a tender from further consideration if the High Court considers that the tendererdoes not comply with the conditions set out in paragraph 5.1.

1. Exclusion of Tenders and Tenderers

Subject to paragraphs 11 and 12 the High Court may at any time during the evaluation process reject any:

* + - 1. tenders which are incomplete or clearly non-competitive; and
      2. tenders or tenderers which breach or fail to comply with any provision of this RFT

but the High Court may still consider such tenders and seek clarification under paragraph 27.

1. Evaluation
   * 1. Tenders which have not been excluded from consideration by the High Court will be evaluated by the High Court to identify the option that represents best value for money in accordance with the process and evaluation criteria described in paragraph 14.3. Value for money is a comprehensive assessment that takes into account both cost represented by the assessment of price and value represented by technical assessment in the context of the risk profile presented by each tender, including any request by a tenderer to limit its liability under the Draft Contract.
     2. Tenders will be assessed on the basis of value for money consistent with the High Court’s purchasing policies. Best value for money is the core principle governing the High Court’s procurement and is enhanced by three supporting principles:
        1. encouraging competition;
        2. efficient, effective and ethical use of resources; and
        3. accountability and transparency.
     3. Value for money will be determined through application of the following evaluation criteria:
        1. capacity and capability to meet the Court’s internal audit requirements particularly in relation to IT related internal audit reviews;
        2. experience of the Service Provider and of the Service Provider’s nominated staff in delivering like work of a similar size, type and complexity;
        3. price; and
        4. statement of compliance.
     4. The evaluation criteria are not necessarily listed in any order of importance and may or may not be weighted. In addition, the High Court may use material tendered in response to one evaluation criterion in the evaluation of other evaluation criteria.
     5. If additional evaluation criteria are intended to be applied for the purposes of evaluation, the High Court will notify tenderers who will be given an opportunity to respond.
     6. The High Court may make independent enquiries about any of the matters that may be relevant to the evaluation of any tender.
     7. The tender evaluation process may involve discussions with, and/or visits to, customers or subcontractors of some or all tenderers, whether or not the customers are provided as referees by a tenderer.
     8. The High Court may seek presentations from, or interview, tenderers as part of its evaluation process.
2. Evaluation Process
   * 1. **Step 1 - Receipt and Registration**

The High Court will register tenders following the Tender Closing Time. Tenders lodged otherwise than in accordance with this RFT will be registered separately.

* + 1. **Step 2 - Screening**

Tenders will be screened to identify those which:

* + - 1. have failed to comply with minimum content and form requirements (subject to paragraph 11);
      2. have failed to comply with conditions for participation (paragraph 12);
      3. contain unintentional errors of form; or
      4. are otherwise non-compliant with this RFT.

The High Court may at any stage during the evaluation process reach the view that tenders or tenderers fall within the categories listed in paragraphs a to d above.

* + 1. **Step 3 - Technical Evaluation**

The High Court will conduct a technical evaluation of tenders through application of the evaluation criteria set out in paragraphs 14.3.a to 14.3.d to above.

The High Court may also conduct reference checks.

Clarification of tenders may be sought from tenderers or a shortlist of tenderers and investigations may be undertaken of tenderers. Additional or new information will not be sought unless it is by way of clarification of elements of the information already submitted with the tender.

The High Court may shortlist tenderers following Step 3 for progression to Step 4.

* + 1. **Step 4 - Price**

An assessment of price will be undertaken.

The High Court may shortlist tenderers following Step 4 for progression to Step 5.

* + 1. **Step 5 - Value for Money and Risk**

Value for money is a comprehensive assessment that takes into account both cost represented by the assessment of price and value represented by the technical assessment and an assessment of risk in the context of the risk profile presented by the tender, including any request by a tenderer to limit or cap its liability under the Draft Contract.

The High Court will determine best value for money by a consideration of the technical worth assessment, the price and the High Court’s assessment of:

* + - 1. evaluation criterion 14.3.d(statement of compliance) - this will vary according to the Evaluation Criteria actually used in your RFT;
      2. compliance generally with this RFT; and
      3. any other risks identified in the evaluation process.

1. RFT and Representations
   * 1. This RFT is and will remain the property of the High Court. This RFT may only be used by any person other than the High Court for the purpose of preparing a tender and matters directly relating to any subsequent agreement in respect of the Services.
     2. No representation made by or on behalf of the High Court or the Commonwealth in relation to the RFT will be binding on the High Court or the Commonwealth unless that representation is in writing and is incorporated into formal agreement with the High Court.
     3. Tenderers will have no claim against the High Court, or any officer, employee or adviser of the High Court with respect to the exercise of, or failure to exercise, any right under this RFT.
2. Tender Documents
   * 1. All tender documents (including paper and electronic copies) will become the property of the High Court on submission.
     2. Without prejudice to any other right of the High Court under this RFT or at law, the High Court may disclose or allow the disclosure of any information contained in or relating to any tender (at any time) for any of the following purposes:
        1. evaluating or clarifying the tender;
        2. evaluating any subsequent offer;
        3. negotiating an agreement;
        4. managing an agreement following its execution;
        5. referring any material suggesting collusion by tenderers to the Australian Competition and Consumer Commission (ACCC) and the use by the ACCC of that material to conduct any review it deems necessary; or
        6. anything else related to the above purposes, including audit requirements, compliance with Government reporting requirements and responding to any challenge to the RFT process or audit.
     3. The High Court may disclose or allow at any time the disclosure of any information contained in or relating to any tender:
        1. to its advisers or employees solely in order to evaluate or otherwise assess the tender;
        2. to its internal management personnel for purposes related to the RFT process;
        3. to the High Court’s responsible Minister;
        4. in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
        5. within the High Court’s organisation, or with another agency, where this serves the legitimate interests of the Commonwealth;
        6. where the information is authorised or required by law to be disclosed; or
        7. where the disclosure is required to meet the High Court’s reporting or accountability requirements, including, without limitation:
     + under the *High Court of Australia Act 1979* (Cth);
     + to the Australian National Audit Office or any other auditor appointed by the High Court;
     + in accordance with the *Requirements for Departmental Annual Reports* (published by the Department of the Prime Minister and Cabinet); and
     + to the Commonwealth Ombudsman.
       1. where the information is in the public domain otherwise than by the High Court’s disclosure.
     1. Tenderers should also refer to paragraphs 22.1.b to 22.1.e.
     2. Once a contract is entered into with the successful tenderer, the successful tenderer's tender will not necessarily be treated as confidential. Tenderers should clearly identify in their tender the information that they consider should be protected as confidential information should a contract be entered into with them. The High Court will only consider a request for confidentiality where:
        1. the information to be protected is identified in specific rather than global terms;
        2. the information is by its nature confidential; and
        3. disclosure would cause detriment to the parties concerned.
     3. The High Court will only keep information contained in, or obtained or generated in performing, any contract entered into with the successful tenderer confidential in accordance with the terms of the contract. Tenderers should include in the statement of compliance in Attachment D any request for such information to be treated as confidential following the award of contract to the successful tenderer.
     4. Notwithstanding this paragraph 17, ownership of the intellectual property in each tender will remain unchanged.
     5. Subject to paragraphs 17.2 and 17.3, the High Court will treat as confidential all tenders submitted by tenderers in connection with this RFT.
3. Statements
   * 1. Tenderers should not:
        1. furnish any information;
        2. make any statement; or
        3. issue any document or other written or printed material

concerning the acceptance of any tender in response to this RFT, for publication in any media without the prior written approval of the High Court.

* + 1. The High Court may exclude a tender from further consideration if the tenderer contravenes this requirement.

1. Security, Probity and Financial Checks
   * 1. The High Court may perform such security, probity and financial investigations and procedures as the High Court may determine are necessary in relation to any tenderer, its employees, officers, partners, associates, subcontractors or related entities including consortium members and their officers, employees and subcontractors.
     2. A tender may be rejected by the High Court if the tenderer does not provide, at its cost, all reasonable assistance to the High Court in this regard.
2. Tender Validity Period

Tenderers must hold their tenders open for acceptance by the High Court for a period of at least three months after the Tender Closing Time.

1. Conflict of Interest
   * 1. Where a tenderer identifies that a conflict of interest exists or might arise in the provision of the Services, the tenderer must identify that actual or potential conflict of interest in its Declaration (see Attachment A). A conflict of interest may exist, for example, if:
        1. the tenderer or any of its personnel have a relationship (whether professional, commercial or personal) with a party who is able to influence the RFT process (such as High Court staff); or
        2. the tenderer has a relationship with an organisation which would affect the performance of the contract or would bring disrepute to or embarrass the High Court.
     2. If at any time prior to entering into a formal agreement with the High Court, an actual or potential conflict of interest arises or may arise for any tenderer, that tenderer should immediately notify the High Court in writing.
     3. If a conflict of interest is identified the High Court may:
        1. exclude the tender from further consideration;
        2. enter into discussions to seek to resolve such conflict of interest; or
        3. take any other action it considers appropriate.
2. Tenderer Conduct
   * 1. **Application of law and Commonwealth policy**

Tenderers must familiarise themselves with all relevant Commonwealth legislation and policies relating to the RFT process and the provision of the Services including:

* + - 1. Division 137.1 of the *Criminal Code* which makes it an offence to knowingly provide false or misleading information to a Commonwealth entity;
      2. the *Freedom of Information Act 1982* (Cth)which gives members of the public rights of access to certain documents of the Commonwealth;
      3. the *Auditor-General Act 1997* (Cth) which allows the Auditor-General to conduct a review or examination, at any time, of any aspect of the operations of Australian Government agencies;
      4. the *Ombudsman Act 1976* (Cth) which authorises the Ombudsman to investigate the administrative actions of Australian Government departments and agencies and to investigate the actions of certain Australian Government contractors;
      5. the *Privacy Act 1988* (Cth) which aims to ensure that contractors and their subcontractors do not engage in an act or practice that would breach the Information Privacy Principles if done by the Commonwealth. The Privacy Act also imposes obligations directly on contractors and subcontractors to comply with the National Privacy Principles; and
      6. the *Public Interest Disclosure Act 2013* (Cth) which aims to promote the integrity and accountability of the Commonwealth public sector.

Where tenderers are currently named as not complying with the *Equal Opportunity for Women in the Workplace Act 1999* (Cth), the High Court may exclude their tenders from further consideration.

The High Court will not enter into a contract with suppliers which have had a judicial decision against them (not including decisions under appeal) relating to employee entitlements and have not paid the claim. Tenderers should provide confirmation of this issue in the Declaration in Attachment A.

* + 1. **False and Misleading Claims**

The attention of tenderers is drawn to Division 137 of the Criminal Code and tenderers are advised that giving false or misleading information is an offence.

Tenderers must not make false or misleading statements in their tenders.

* + 1. **Collusive Bidding**

Tenderers, consortium members and their respective officers, employees, agents and advisers must not engage in any collusive bidding (other than bidding by consortia to the extent permitted by this RFT), anti-competitive conduct or any other similar unlawful conduct with any other tenderer or any other person in relation to the preparation or lodgement of their tender.

The High Court may also involve the ACCC to provide assistance to the High Court in relation to any competition issues concerning a tenderer or related to a tender.

* + 1. **Unlawful Inducements**

Tenderers and their officers, employees, agents or advisers must not have violated and must not violate any applicable laws or High Court policies regarding the offering of inducements in connection with the preparation of their tender.

* + 1. **Improper Assistance**

Tenderers must not use the improper assistance of any High Court employee or use information obtained unlawfully or in breach of an obligation of confidentiality to the High Court in preparing their tenders.

1. Future Matters
   * 1. All information (Information) in or regarding this RFT concerning current or past requirements, volumes, location, environment or other relevant matters has been prepared from information available to the High Court and may not have been independently verified. In addition, the High Court does not guarantee that any Information will remain true at any future point in time.
     2. Tenderers should note that Information in this RFT concerning requirements including expected volumes, location, environment or other relevant matters may be based on projections from available historical information which may not be accurate and may assume trends or events or other matters that may not be valid or eventuate as and when expected or at all.
     3. The High Court will have no liability to any tenderer should any Information be inaccurate or incomplete or if actual volumes, locations, environments or other relevant matters vary from the High Court’s current expectations.
     4. Tenderers should make their own independent assessments of actual workload requirements under any resultant agreement and all prices will be presumed by the High Court to have been based upon tenderers’ own independent assessments.
2. Return of Information

The High Court may require that, at any stage, all written or electronically stored information (whether confidential or otherwise and without regard to the type of media on which such information was provided to any tenderer) provided to tenderers (and all copies of this information made by tenderers) must be:

* + - 1. returned to the High Court - in which case the tenderer must promptly return all such information to the address identified by the High Court; or
      2. destroyed by the tenderer - in which case the tenderer must promptly destroy all such information and provide the High Court with written certification that the information has been destroyed.

1. No Contract or Undertaking

Nothing in this RFT will be construed to create any binding contract (express or implied) between the High Court and any tenderer until a formal written agreement, if any, is entered into by the parties. Any conduct or statement whether prior to or subsequent to the issue of this RFT is not, and this RFT is not, and will not be deemed to be:

* + - 1. an offer to contract; or
      2. a binding undertaking of any kind by the High Court (including, without limitation, an undertaking that could give rise to any promissory estoppel, quantum meruit or on any other contractual, quasi contractual or restitutionary grounds or any rights with a similar legal or equitable basis whatsoever).

1. No High Court Liability
   * 1. Participation in any stage of this RFT process, or in relation to any matter concerning this RFT will be at each tenderer's sole risk, cost and expense. The High Court will not be responsible in any circumstance for any costs or expenses incurred by any tenderer in preparing or lodging a tender or in taking part in the RFT process or taking any action related to the RFT process.
     2. Neither the High Court nor its officers, employees or advisers will be liable to any tenderer or any other person on the basis of any promissory estoppel, quantum meruit or on any other contractual, quasi contractual or restitutionary grounds or any rights with a similar legal or equitable basis whatsoever or in negligence as a consequence of any matter or thing relating or incidental to a tenderer's participation in this RFT process, including instances where:
        1. a tenderer is not engaged to undertake the provision of the Services;
        2. the High Court decides not to outsource all or any of the Services;
        3. the High Court exercises or fails to exercise any of its other rights under or in relation to this RFT; or
        4. the High Court makes information available or provides information to a tenderer relating to its assets, procedures, plans, tenders, existing arrangements for provision of the Services or any possible future arrangements.
2. High Court's Rights
   * 1. Neither the lowest priced tender, nor any tender, will necessarily be accepted by the High Court. Acceptance of any tender will be subject to the execution of a formal agreement.
     2. The High Court may at any stage of the RFT process, including during the evaluation process:
        1. vary the RFT and/or the Information (as defined in paragraph 23), including the timing and processes referred to in this RFT or in the Information;
        2. seek amended or call for new tenders;
        3. forward any clarification of the meaning of the content of this RFT and/or the Information to all known tenderers on a non-attributable basis and without disclosing any confidential information of a tenderer;
        4. allow or not allow another legal entity to take over a tender in substitution for the original tenderer where an event occurs which has the effect of substantially altering the composition or control of the tenderer or the business of the tenderer;
        5. shortlist tenderers;
        6. obtain clarification or additional information from tenderers or anyone else (including a formal presentation in support of their tender and/or a demonstration of existing components of their proposed solution) and use this information for the evaluation of the tenders;
        7. provide additional information to tenderers;
        8. negotiate with one or more tenderers (including negotiating with all tenderers without shortlisting) in respect of all or part(s) of the Services or discontinue negotiations;
        9. if the High Court considers that no tender offers value for money in accordance with the RFT or otherwise that it is in the public interest to do so, terminate the RFT process, and:
           1. not proceed with the procurement;
           2. negotiate with one or more tenderers or non-tenderers; or
           3. enter into a contract or other binding relationship outside the RFT process.
        10. add to, alter, delete or exclude the Services to be supplied under the Draft Contract; and/or
        11. publish or disclose the names of tenderer(s) (whether successful or unsuccessful).
     3. Where negotiations to limit a tenderer's liability occur after the nomination of a preferred tenderer, any additional direct or indirect costs borne by the High Court arising out of this limitation of liability may be reflected by the High Court in a commensurate adjustment to the terms of the Draft Contract.
     4. Without limiting the High Court's other rights under this RFT or at law, tenderers should note that it is Commonwealth policy to develop coordinated procurement contracting arrangements for the acquisition of certain Services and services by Commonwealth departments and agencies.
     5. Without limiting its other rights under this RFT or at law, if the High Court concludes that a preferred tenderer has retracted, or attempts to retract, information, representations, agreements or understandings under which material technical, commercial, financial, corporate, relationship management, legal, contractual or other issues were resolved or understood by the High Court to be resolved, in whole or in part, during negotiations, the High Court may disqualify or set aside the preferred tenderer’s tender and/or exercise any other right given by this RFT.
     6. The High Court will not be liable or in any way responsible for any losses, costs, expenses, claims or damage resulting from the exercise of any of the High Court’s rights under this RFT whether or not the High Court has informed a tenderer of its exercise of the rights.
     7. The establishment of a time or date in this RFT does not create an obligation on the part of the High Court to take any action or create any right in any tenderer that any action be taken on the date established.
3. Debriefing of Tenderers
   * 1. All tenderers will be offered the opportunity for a verbal debriefing. Details for arranging the debriefing will be given to tenderers in writing at the conclusion of the RFT process.
     2. Tenderers will be debriefed against any evaluation criteria contained in this RFT. Tenderers will not be provided with information concerning other tenders, except for publicly available information and except in so far as comparative statements can be made without breaching confidentiality.
4. Complaints
   * 1. If a tenderer has a complaint concerning this RFT or the High Court’s management of any aspect of the RFT process, the tenderer should notify the High Court complaints officer in writing of the existence of that complaint. The written notice should also provide details of the complaint.
     2. On receipt of a notification of a complaint under this clause the High Court complaints officer will, within 10 days, notify the tenderer of the identity of the relevant High Court complaints officer for this RFT and of the next steps for the tenderer to take in order to pursue the complaint. The High Court complaints officer will be an officer of the High Court who is and has been independent of the RFT process.
5. Applicable Law
   * 1. The law applying in the Australian Capital Territory applies to this RFT and to the RFT process. The courts of the Australian Capital Territory have non-exclusive jurisdiction to decide any matter related to this RFT.
     2. Each tenderer should ensure that it has complied with all relevant laws and with Australian Government policy in preparing and lodging its tender and taking part in the RFT process.

ATTACHMENT A - DECLARATION BY TENDERER

## Offer

The tenderer offers to provide the Services at the price proposed in its tender and on the terms and conditions set out in the RFT and in the Draft Contract save only for the matters detailed in its Statement of Compliance.

The tenderer undertakes not to withdraw, vary or otherwise compromise its offer for a period of three months from the closing date set out in the RFT.

## Conflict of Interest

The tenderer represents that, having made all reasonable enquiries, it either:

* does not have any known actual or potential conflicts of interest in respect of the RFT, its tender or the provision of the Services; or
* has in this Declaration declared all such actual or potential conflicts to the High Court.

The tenderer represents that, having made all reasonable enquiries, the following represents its only known actual or potential conflicts of interest in respect of the RFT, its tender or the provision of the Services:

* *List*

The tenderer undertakes to advise the High Court in writing of all actual or potential conflicts of interest in respect of the RFT, its tender or the provision of the Services immediately upon becoming aware of the same.

## Improper Assistance

The tenderer represents that:

* this tender has been compiled without the improper assistance of any High Court employee and without the use of information obtained unlawfully or in breach of an obligation of confidentiality to the High Court and
* it has not contravened paragraph 22.1.(a) of the RFT.

## Further Representations and Acknowledgements

The tenderer makes the following further representations to the High Court:

* it has examined the RFT, the Draft Contract, all documents referred to in the RFT and all other information made available to it and all applicable legislation and policies
* it has examined all further information which is obtainable by making reasonable enquiries relevant to the risks, contingencies and other circumstances having an effect on its tender;
* it has satisfied itself as to the correctness and sufficiency of its tender;
* it has relied entirely on its own enquiries and has not relied on any representation, warranty or other conduct by or on behalf of the High Court, except as expressly provided in the RFT or in notices received by it;
* it has accepted and has fully complied with the provisions of the RFT including the terms and conditions in the RFT and it has accepted and will execute the Draft Contract, in each case save only for the matters detailed in Attachment D; and
* its tender is fully compliant with the requirements of the RFT, the documents attached to or comprised in the RFT and all documents to which it refers save only for the matters detailed in Attachment D.

The tenderer acknowledges that:

* the High Court may exercise any of its rights set out in the RFT, at any time;
* the statements, opinions, projections, forecasts or other information contained in the RFT may change;
* the RFT is a summary only of the High Court’s requirements and is not intended to be a comprehensive description of it;
* neither the release of the RFT or any addendum nor the lodgement or acceptance of any tender nor any agreement made subsequent to the RFT will imply any representation from or on behalf of the High Court that any information contained in the RFT is or was complete, accurate or up to date at any point in time or that there has not been a material change since the date of the RFT or since the date as at which information is stated to be applicable;
* except as required by law and only to the extent so required, neither the High Court, nor its respective officers, employees, advisers or agents will in any way be liable to any person or body for any loss, damage, cost or expense of any nature arising in any way out of or in connection with any representations, opinions, projections, forecasts or other statements, actual or implied, contained in or omitted from the RFT; and
* the tenderer has sought its own professional advice as appropriate and has not construed the RFT as investment, legal, tax or other advice.

## Confidentiality

The tenderer acknowledges that the High Court may disclose, and consents to the High Court disclosing, any information provided by the tenderer, whether confidential or not:

* to its advisers or employees solely in order to evaluate or otherwise assess the tender;
* to its internal management personnel solely in order to evaluate or otherwise assess the tender;
* by the High Court to the responsible Minister;
* by the High Court, in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
* by the High Court within the High Court’s organisation, or with another agency, where this serves the legitimate interests of the Commonwealth;
* where the information is authorised or required by law to be disclosed;
* where the information is in the public domain otherwise than by a High Court disclosure; and
* where the disclosure is required to meet the High Court’s reporting or accountability requirements, including, without limitation:
  + - under the *High Court of Australia Act 1979* (Cth);
    - to the Australian National Audit Office or any other auditor appointed by the High Court;
    - in accordance with the *Requirements for Departmental Annual Reports* (published by the Department of the Prime Minister and Cabinet); and
    - to the Commonwealth Ombudsman.

## Equal opportunity for women

The tenderer represents that it is not currently named as not complying with the *Equal Opportunity for Women in the Workplace Act 1999* (Cth).

## Employee entitlements

The tenderer represents that, having made all reasonable enquiries, as at the date of this Declaration, there are currently no unsettled judicial decisions against the tenderer in respect of unpaid employee entitlements (not including decisions under appeal).

## Acknowledgement

The tenderer acknowledges that the High Court has received this tender in reliance on this Declaration. The tenderer acknowledges that the High Court may suffer loss if any of the representations, undertakings, consents or other statements in this Declaration or the tenderer’s tender are misleading or deceptive.

**Dated:**

**Duly Authorised to Sign tenders for and on Behalf of** (state full name of tenderer)

|  |
| --- |
| **SIGNATURE OF REPRESENTATIVE** |
|  |

|  |
| --- |
| **NAME OF REPRESENTATIVE (In Block Letters)** |
|  |
| **POSITION OF REPRESENTATIVE (In Block Letters)** |
|  |

|  |  |
| --- | --- |
| **SIGNATURE OF WITNESS** | **ADDRESS OF WITNESS** |
|  |  |

|  |  |
| --- | --- |
| **REFER ENQUIRIES TO:** (Name in Block Letters) | **TELEPHONE NO.** |
|  |  |

ATTACHMENT B - TENDERER DETAILS

|  |  |  |
| --- | --- | --- |
| Tenderer Name |  | |
| Registered Office |  | |
| Principal Place of Business |  | |
| Date and Place of Incorporation |  | |
| Trading and Business Names |  | |
| Australian Business Number |  | |
| Registered for GST? | Yes | No |
| Office Hours |  | |

## Contact Person

|  |  |
| --- | --- |
| Name: |  |
| Position |  |
| Address: |  |
| Phone Number: |  |
| Email: |  |

ATTACHMENT C - PRICING SCHEDULE

The tenderer agrees to carry out the Services as described in the Draft Contract, with the following fee structure hereunder:

|  |  |  |  |
| --- | --- | --- | --- |
| Item | Hourly Rate Exc GST | Estimated No of Hours\* | Total Cost Exc GST |
| Managing Director/Partner |  | 10 |  |
| Audit Manager |  | 50 |  |
| Senior Consultant |  | 110 |  |
| Subject matter Specialist Consultant (eg IT, tax) |  | 55 |  |
| Other |  |  |  |
| **TOTAL PRICE** |  |  |  |

\*This is an indicative estimate provided for comparison purposes only.

ATTACHMENT D - STATEMENT OF COMPLIANCE

A response (in accordance with paragraph 4.4 of the RFT) should be provided in respect of each provision of the Draft Contract. If appropriate, compliance may be indicated against groups of provisions (eg “clauses 1 to 15 inclusive: 'Complies' ”).

In addition, tenderers should indicate any element of their tender or any part of the Draft Contract which they regard as confidential and provide reasons for requiring confidentiality.

|  |  |
| --- | --- |
| **Paragraph/Clause/Annex/ Attachment Number** | **Tenderer's Reasons** |
| *Draft Contract provisions* | |
|  |  |
| *Tender and/or Draft Contract confidentiality requirements* | |
|  |  |

ATTACHMENT E - EVALUATION CRITERIA RESPONSE SCHEDULE

General requirements

Tenderers should demonstrate their appreciation of the tasks required for the performance of the Services required under the Draft Contract.

Tenderers should provide full details of the skills and qualifications of their proposed personnel.

Tenderers should provide full details of their organisation’s relevant previous experience in similar projects.

At a minimum, tenderers should provide the information requested below.

Specific requirements

The High Court is always striving to ensure that its administrative policies and procedures are aligned with best practice taking a risk management approach to ensure that the processes are appropriate taking into consideration the size and complexity of the organisation.

1. What approach do you adopt when auditing a small agency to ensure that recommended process improvements are fit for purpose?

In addition to the more conventional compliance and financial controls audits the High Court is seeking to undertake internal audit reviews in the following areas.

* IT security audit (incorporating elements such as information security, data loss prevention and mobile device configuration)
* Business continuity integration and governance
* Disaster recovery audit
* Tax compliance (GST and FBT)

1. Can you please outline when you have undertaken audit work of a similar nature for a small to medium sized government agency in the past three years.
2. Tenderers should provide the following information in respect of two nominated referees:

| **Referee 1** |  |
| --- | --- |
| Name of Agency: |  |
| Contact person:(name & title) |  |
| Telephone no.: |  |
| Description of services provided: |  |

| **Referee 2** |  |
| --- | --- |
| Name of Agency: |  |
| Contact person: (name & title) |  |
| Telephone no.: |  |
| Description of services provided: |  |