

CONDITIONS OF TENDER

Request for Tender (RFT)	PROVISION OF AVIATION SCREENING SERVICES AT GOVE AIRPORT
---------------------------------	--

Closing Time:	4PM (CST), 31st MAY 2019
----------------------	--------------------------

RFT Number:	19/04
--------------------	-------

PART 1

TABLE OF CONTENTS

1.	DEFINITIONS	1
2.	STRUCTURE OF REQUEST FOR TENDER.....	1
3.	TENDER BRIEFING/SITE INSPECTION	2
4.	OBTAINING INFORMATION	2
5.	RESPONSIBILITIES OF TENDERER	3
6.	FORMAL REQUIREMENTS	4
7.	CONFORMING AND NON-CONFORMING TENDERS.....	5
8.	LODGEMENT OF TENDER.....	6
9.	OPENING OF TENDERS	6
10.	TENDER EVALUATION PROCESS	7
11.	CLARIFICATIONS AND VARIATIONS.....	8
12.	COMMISSIONS AND INCENTIVES.....	8
13.	CONFIDENTIALITY.....	8
14.	ACCEPTANCE OF TENDER	9
15.	RIGHT TO INFORMATION AND DISCLOSURE	9
16.	OWNERSHIP OF TENDERS.....	10
17.	INFORMATION PRIVACY.....	10
18.	POLICIES PARTICULAR TO THE PRINCIPAL	10
19.	IN-HOUSE TENDERS	10

1. DEFINITIONS

1.1 In these Conditions of Tender, except where the context otherwise requires:

‘Closing Time’ means **4PM, 31st May, 2019** Australian Central Standard Time.

‘Conditions of Tender’ means these Conditions of Tender.

‘Confidential Information’ means any technical, commercial or other information, ideas, concepts, know-how, data, drawings, specifications or designs of any kind:

- (a) owned by the Principal and supplied or made available by the Principal to the Tenderer; or
- (b) created by the Tenderer, from the material supplied or made available to the Tenderer by the Principal for the purposes of submitting the Tender.

‘Contact Person’ means **Les Mitchell, Mobile: 0418839664, Email: lmitchell@ncl.net.au**

‘Contract’ has the meaning given in the General Conditions of Contract.

‘Contract Price’ has the meaning given in the General Conditions of Contract.

‘Contractor’ has the meaning given in the General Conditions of Contract.

‘General Conditions of Contract’ means the General Conditions of Contract (if any) comprising Part 4 of the Request for Tender.

‘GST’ has the meaning given in the General Conditions of Contract.

‘Letter of Acceptance’ has the meaning given in the General Conditions of Contract.

‘Local Government’ has the meaning given in the General Conditions of Contract.

‘Personal Information’ has the meaning given in the *Information Privacy Act 2009*.

‘Principal’ means **Nhulunbuy Corporation Limited**.

‘Relevant Person’ means the Tenderer and each person engaged in the preparation of a Tender on behalf of the Tenderer.

‘Request for Tender’ or **‘RFT’** see Clause 2.1.

‘RTI Act’ means the *Right to Information Act 2009*.

‘Special Conditions of Contract’ means the Special Conditions of Contract (if any) comprising Part 5 of the Request for Tender.

‘Specification’ means the Specification comprising Part 2 of the Request for Tender, including any amendment or addition to the Specification.

‘Tender’ means a tender lodged in response to the Request for Tender.

‘Tenderer’ means any person lodging a Tender.

‘Tender Response’ means the Tender Response comprising Part 3 of the Request for Tender, including any templates or attachments to be completed and included in a Tender.

2. STRUCTURE OF REQUEST FOR TENDER

2.1 The documents comprising the Request for Tender are, collectively :

- (a) Part 1 – Conditions of Tender (read and keep this part); and

- (b) Part 2 – Specification (read and keep this part); and
- (c) Part 3 – Tender Response which, when completed by the Tenderer, comprises the Tender of the Tenderer (complete and return this part); and
- (d) Part 4 – General Conditions of Contract (read and keep this part); and
- (e) Part 5 – Special Conditions of Contract (read and keep this part).

2.2 All parts of the Request for Tender must be read and construed together so that all parts are as far as possible consistent. Where the documents are inconsistent, the documents should be read and construed in the order of priority from document (a) to (e) as follows:

- (a) Conditions of Tender;
- (b) Specification;
- (c) Special Conditions of Contract;
- (d) General Conditions of Contract;
- (e) Tender Response.

2.3 The Request for Tender is not an offer. The Request for Tender is an invitation for persons to submit an offer for the supply of the Services particularised in the Specification.

3. TENDER BRIEFING/SITE INSPECTION

- 3.1 Attendance at this meeting to discuss the Request for Tender is not mandatory.
- 3.2 Tenderers are strongly encouraged to attend the site inspection on 15th May, 2019 at 9.30am A submission received from a contractor who has not undertaken a site inspection may be adversely affected in the evaluation process.
- 3.3 The location of the meeting is Main Terminal Building, Melville Bay Road, Nhulunbuy, Northern Territory, 0881.
- 3.4 The site inspection will provide Tenderers with the opportunity to clarify any uncertainties with the Contact Person prior to the Closing Time.
- 3.5 Please confirm with the Contact Person Email: lmitchell@ncl.net.au your attendance at this meeting no later than 14th May 2019.
- 3.6 Travel Arrangements will be at the Tenderers own expense.

4. OBTAINING INFORMATION

- 4.1 The Principal will provide the Tenderer with the Request for Tender. No fee is payable for the supply of the Request for Tender.
- 4.2 Any additional information required by a Tenderer may be obtained from the Contact Person.
- 4.3 Tenderers must not direct requests for information to, or seek to discuss the Request for Tender process with, any Councillor or officer of the Principal other than the Contact Person.
- 4.4 The Principal will not be bound by any advice or information furnished by a Councillor or officer of the Principal with respect to the Request for Tender.
- 4.5 Information provided to the Tenderer by or on behalf of the Principal:
 - (a) will be provided for the convenience of the Tenderer only, and, unless expressly incorporated into the Contract, will not form part of the Contract; and

- (b) is not warranted or represented by the Principal as accurate, correct or adequate.
- 4.6 If the Principal makes information available to a Tenderer, the Principal reserves the right to distribute the information to each Tenderer who has obtained a copy of the Request for Tender from the Principal.
- 4.7 If requested by the Principal, the Tenderer must:
- (a) provide further information relating to the Tender; and
 - (b) give a presentation at a time and place nominated by the Principal:
 - (i) to demonstrate the Tenderer's financial substance, technical capabilities and resources; and
 - (ii) to demonstrate its ability to comply with the terms and conditions of the Contract; and
 - (iii) in relation to anything else relative to the Tender; and
 - (c) allow the Principal and its agents to inspect any facility or equipment the Tenderer proposes to use in complying with the terms and conditions of the Contract; and
 - (d) authorize the Principal and its agents (in writing, if required) to contact any referee nominated by the Tenderer; and
 - (e) authorize the Principal (in writing, if required) to obtain information about the Tenderer, particularly information relevant to the Tenderer's ability to discharge the responsibilities of the Contractor under the Contract, from any third party the Principal considers may be able to provide that information.
- 4.8 The Principal may provide information to Tenderers in electronic format, in addition to the hard copy format.
- 4.9 Where there is an inconsistency between the information in the electronic format and the hard copy information, the latter prevails.

5. RESPONSIBILITIES OF TENDERER

- 5.1 Before submitting its Tender, each Tenderer must:
- (a) carefully read and consider the Request for Tender and any other information made available by the Principal with respect to the Request for Tender and the process of tendering for the Contract; and
 - (b) read and consider all information relevant to the risks, contingencies and other circumstances relevant to the Request for Tender; and
 - (c) inform itself of the nature of the obligations it must discharge under the Contract; and
 - (d) inform itself of the labour, plant and equipment and other items necessary, suitable or desirable to enable the Tenderer to discharge its obligations under the Contract; and
 - (e) not rely upon information provided by or on behalf of the Principal; and
 - (f) independently verify any information provided by or on behalf of the Principal, and satisfy itself that the information is adequate and accurate; and
 - (g) satisfy itself that the information in its Tender is accurate and complete; and
 - (h) satisfy itself that its Tender complies in all respects with the requirements of the Conditions of Tender.

- 5.2 In evaluating Tenders and determining with whom it will enter the Contract, the Principal will rely upon Tenderers having complied with the requirements of Clause 5.1.
- 5.3 Failure to comply with any requirement in Clause 5.1 will not relieve the relevant Tenderer of responsibility to complete the Contract in accordance with its terms, and in particular, the price or rate tendered by the Tenderer.
- 5.4 The Principal will not be responsible for the payment of any expenses or losses incurred by the Tenderer in:
- (a) attending any briefing or site inspection under Clause 3; or
 - (b) preparing and lodging its Tender; or
 - (c) participating in any post Tender activities.
- 5.5 A Tender will not be considered if the Tenderer or anybody on its behalf offers or gives anything to:
- (a) any Councillor of the Principal; or
 - (b) any officer or agent of the Principal,
- as an inducement or reward that could influence the actions of the person in relation to the Tender.

6. FORMAL REQUIREMENTS

- 6.1 The Tender must be submitted in writing in the form of the Tender Response.
- 6.2 The Tender Response must be fully completed, and include all supporting documents and materials required by both the Conditions of Tender and the Tender Response.
- 6.3 The Tender Response must contain the Tenderer's:
- (a) full name; and
 - (b) Australian Business Number; and
 - (c) address and facsimile number for the service of notices.
- 6.4 If the Tenderer operates as a firm, the Tender Response must contain:
- (a) the full names and addresses of each member of the firm; and
 - (b) the business name under which the firm trades; and
 - (c) the firm's address and facsimile number for the service of notices; and
 - (d) the firm's Australian Business Number.
- 6.5 If the Tenderer is a corporation, the Tender Response must contain details of the corporation's:
- (a) name; and
 - (b) business name (if applicable); and
 - (c) Australian Business Number; and
 - (d) registered office; and
 - (e) address and facsimile number for the service of notices; and
 - (f) the name, telephone number and address (if different from the address for service of notices) of a natural person who is authorised by the corporation to represent it in relation to the Tender.

- 6.6 If the Tenderer is a consortium or a joint venture, the Tender Response must contain details of:
- (a) the name of each member; and
 - (b) the structure of the consortium or joint venture, including the proposed managerial structure; and
 - (c) the role to be played by each member in complying with the terms and conditions of the Contract; and
 - (d) in the case of a consortium, the member who is to be the principal contractor on behalf of the consortium.
- 6.7 The Tender Response must be duly executed in a manner that binds the Tenderer.
- 6.8 The Contract Price in the Tender Response must be:
- (a) in Australian dollars; and
 - (b) unless otherwise specified in the Tender Response, GST inclusive.
- 6.9 A Tenderer must provide two (2) executed copies of its Tender (one to be marked "ORIGINAL" and each other (if any) to be marked "COPY".) Any brochure or pamphlet which forms part of a Tender must be attached to both the original and each copy of the Tender.
- 6.10 The Tenderer must:
- (a) securely attach (for example, by bulldog clip), but not bind or staple, the original of its Tender; and
 - (b) bind each copy of its Tender; and
 - (c) number consecutively each page of its Tender; and
 - (d) include an index in the Tender.
- 6.11 The identity of the Tenderer is fundamental to the Principal. For the purposes of a Tenderer's Tender, the Tenderer is the person, persons, corporation or corporations:
- (a) who is named as the Tenderer in the Tender Response; and
 - (b) who has duly executed the Tender Response in a manner that binds the Tenderer.
- 6.12 A Tenderer must also provide an electronic copy of the Tender.

7. CONFORMING AND NON-CONFORMING TENDERS

- 7.1 A Tenderer may lodge non-conforming Tenders only if it has lodged a conforming Tender.
- 7.2 Each non-conforming Tender must be accompanied by a clear summary of all points of difference between the non-conforming Tender and the conforming Tender.
- 7.3 Each non-conforming Tender must be submitted on a separate Tender Response.
- 7.4 A Tender may be considered as non-conforming if the Tenderer has failed to supply any of the information required by the Conditions of Tender, does not comply with any of the requirements of the Conditions of Tender or has been lodged subject to any condition or qualification.
- 7.5 If more than one conforming Tender is lodged, each Tender must be accompanied by a clear summary of all points of difference between each conforming Tender.
- 7.6 The Principal will not be obliged to consider any Tender that does not comply with the requirements of the Conditions of Tender.

8. LODGEMENT OF TENDER

8.1 Each Tender must be submitted in a sealed envelope, addressed to:

“Chief Executive Officer
Nhulunbuy Corporation Limited
PO Box 345
Nhulunbuy, NT, 0880

and clearly marked with the number and title of the Tender as shown on the front cover of the Conditions of Tender.

8.2 Tenders must be lodged in the container marked “Tender Box” at:

Nhulunbuy Corporation
Shop 3 / 4, Number 9 Westal Street
Nhulunbuy NT 0880

8.3 Where a Tenderer lodges a non-conforming Tender:

- (a) the conforming and non-conforming Tenders must be submitted in separate envelopes; and
- (b) the non-conforming Tender must be clearly marked, “ALTERNATIVE TENDER” (in addition to being marked in conformity with Clause 8.1).

8.4 Tenders must be in the Tender Box by the Closing Time.

8.5 The Principal may extend the Closing Time at its discretion.

8.6 The Principal reserves the right to consider a Tender which is not in the Tender Box by the Closing Time if, in the opinion of the Principal, there is satisfactory evidence that:

- (a) the Tender was dispatched by prepaid post or courier service in sufficient time to effect delivery to the Tender Box by the Closing Time under normal circumstances; and
- (b) at the Closing Time the Tender was still in the course of delivery.

8.7 A Tender will not be accepted if it is submitted only:

- (a) electronically; or
- (b) by facsimile; or
- (c) electronically and by facsimile.

8.8 A Tenderer must not alter or add to the Tender Response unless required by the Conditions of Tender.

8.9 A Tender is irrevocable for 90 days after the Closing Time.

8.10 The period in Clause 8.9 may be extended by mutual agreement between the Tenderer and the Principal.

8.11 Each Tender constitutes an offer by the Tenderer to the Principal to supply the Services required under, and otherwise to satisfy the requirements of, the Specification on the terms and conditions of the Contract.

9. OPENING OF TENDERS

9.1 Tenders will be opened after the Closing Time.

9.2 Tenders will not be opened publicly.

10. TENDER EVALUATION PROCESS

10.1 Tenders will be evaluated by reference to the sound contracting principles in section 104 of the *Local Government Act 2009*, namely:

- (a) value for money; and
- (b) open and effective competition; and
- (c) the development of competitive local business and industry; and
- (d) environmental protection; and
- (e) ethical behaviour and fair dealing.

10.2 Each Tender will be evaluated using the information provided in the Tender Response.

10.3 If a Tender Response for a Tender is not fully completed or does not include all supporting documents and materials required by the Conditions of Tender or the Tender Response, the Tender may be rejected.

10.4 In evaluating Tenders, the Principal may:

- (a) require presentations from Tenderers; and
- (b) conduct interviews with Tenderer's staff and subcontractors; and
- (c) contact Tenderers' referees; and
- (d) investigate a Tenderer's structure and management, and that of any relevant subsidiary or related corporation; and
- (e) make its own assessment of the Tenderer's ability to comply with the terms and conditions of the Contract at the tendered price; and
- (f) verify that the Tenderer holds all necessary permits, licences, approvals and certifications necessary to enable it lawfully to comply with the terms and conditions of the Contract.

10.5 Tenderers must give the members of the evaluation panel of the Principal any cooperation and assistance reasonably requested of them to facilitate consideration of their Tenders.

10.6 Compliance criteria for the Request for Tender are specified in Item 3.1 of the Tender Response. Each Tender will be assessed on a Yes/No basis as to whether each of the compliance criterion is satisfied by the Tenderer or not. If a Tender Response is assessed as "No" in respect of a criterion, the Tender may be rejected.

The compliance criteria in the Tender Response relate to the fundamental requirements of the Request for Tender. Compliance with the criteria is usually assessed on a Yes/No basis, that is, either the compliance criteria are satisfied or not. The compliance criteria identified in the Tender Response are suggested compliance criteria only and it may be necessary to insert additional compliance criteria in the Tender Response depending upon the nature, complexity and risk of the Goods/Services/Goods and Services the supply of which is sought by Council.

10.7 Qualitative criteria for the Request for Tender are specified in Item 3.2 of the Tender Response. The qualitative criteria may be weighted to indicate the relative degree of importance that the Principal places on the technical aspects of the supply of the Services. Each Tenderer must address each of the qualitative criteria specified in Item 3.2 of the Tender Response. If a Tenderer fails to address any of the qualitative criteria in Item 3.2 of the Tender Response, its Tender may be rejected.

The qualitative criteria listed in Item 3.2 of the Tender Response are generic criteria that relate to the technical attributes of the Good/Services/Goods and Services and the organisational capacity of the Tenderer to supply the Goods/Services/Goods and Services in accordance with the terms and conditions of the Contract. The examples in Item 3.2 of the Tender Response are the most routinely used qualitative criteria. These qualitative criteria are examples only and the qualitative criteria for a Tender may vary depending upon the nature of the Goods/Services/Goods and Services the supply of which is sought by Council. If weightings are assigned to specific qualitative criteria, the weightings should reflect the relative importance of the individual qualitative criterion and, when added together, should equal 100.

11. CLARIFICATIONS AND VARIATIONS

11.1 The Principal may issue to Tenderers before the Closing Time:

- (a) additional information; and
 - (b) information clarifying or correcting information previously provided,
- to assist them in preparing their Tenders.

11.2 If the Principal issues information to Tenderers under Clause 11.1, each Tenderer must take the information into account in the preparation of its Tender.

11.3 After the Closing Time, the Principal may (without limiting its options):

- (a) request clarification or further information from any Tenderer; and
- (b) invite all Tenderers to change their Tenders in response to an alteration to the Specification or any of the terms and conditions of the Contract; and
- (c) negotiate with one or more Tenderers upon any aspect of their Tenders.

12. COMMISSIONS AND INCENTIVES

12.1 A Tender will not be considered if anybody offers or gives anything to a Councillor of the Principal, or any officer or agent of the Principal, as an inducement for the purpose of seeking to influence the manner in which the Tender is evaluated or the Contract awarded.

13. CONFIDENTIALITY

13.1 The Tenderer:

- (a) acknowledges that the Confidential Information is sensitive and valuable, and will remain at all times the property of the Principal; and
- (b) must not use the Confidential Information for any purpose other than preparing its Tender; and
- (c) must not copy any material comprising or containing Confidential Information, other than where (and then only to the extent that) copying is necessary to enable it to prepare its Tender; and
- (d) must allow access to the Confidential Information by Relevant Persons only to the extent necessary to enable the Tender to be prepared; and
- (e) must obtain the Principal's written consent before disclosing Confidential Information to a person other than a Relevant Person.

13.2 The consent of the Principal to disclosure of the Confidential Information by the Tenderer may be given or withheld on such terms and conditions as the Principal considers appropriate.

- 13.3 The Tenderer's obligation under this Clause 13 continues after closure of tenders and award of the Contract.
- 13.4 The Principal reserves the right to retrieve from a Relevant Person any Confidential Information held by that person, subject to the Principal having given written notice to the Tenderer in writing that the Relevant Person is to be denied access to the Confidential Information.
- 13.5 Failure or delay by the Principal in enforcing strict compliance with this Clause 13 or pursuing a remedy under this Clause 13 will not constitute a waiver or implied variation of the entitlement or remedy.
- 13.6 This Clause will not apply to an item of Confidential Information where the Tenderer can establish that:
- (a) the item has been transferred to the public domain through no fault of the Tenderer; or
 - (b) the item was already in the Tenderer's possession when it was supplied or made available by the Principal, and not acquired directly or indirectly from the Principal; or
 - (c) it has received from the Principal written notification that the Principal no longer requires the Tenderer to keep the item confidential.

14. ACCEPTANCE OF TENDER

- 14.1 The Principal will not be bound to accept the lowest or any Tender.
- 14.2 The Principal may accept a Tender from a Tenderer by giving written notice in the form of a Letter of Acceptance to the Tenderer who submitted the Tender to the Principal.
- 14.3 The Contract will not come into existence until the Principal has given written notice in the form of a Letter of Acceptance to the Tenderer.
- 14.4 When the Contract comes into existence the Tenderer becomes the Contractor for the purposes of the General Conditions of Contract.
- 14.5 The Principal reserves the right to accept a Tender in part or in whole.

15. RIGHT TO INFORMATION AND DISCLOSURE

- 15.1 The RTI Act provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies (including Local Governments).
- 15.2 The RTI Act requires that documents be disclosed upon request, unless the documents are exempt or, on balance, disclosure is contrary to the public interest.
- 15.3 Information provided by the Tenderer is potentially subject to disclosure to third parties pursuant to the RTI Act.
- 15.4 If disclosure under the RTI Act, or general disclosure of information provided by the Tenderer, would be of substantial concern to the Tenderer, because it would disclose trade secrets, information of commercial value, the purpose or results of research or other information of a confidential nature, including Personal Information, this should be indicated by the Tenderer in its Tender. The Principal cannot guarantee that any information provided by the Tenderer will be protected from disclosure under the RTI Act.
- 15.5 The Tenderer must familiarise itself with the relevant provisions of the RTI Act dealing with the requirements for disclosure of information by agencies, and the grounds on which access to information may be refused.
- 15.6 The Principal accepts no responsibility for the accuracy or adequacy of any information it provides to Tenderers concerning the content or effect of the RTI Act.

- 15.7 The Principal reserves the right to disclose, by publication by means of media of its choosing upon award of any contract details of the name and address of the Contractor, a description of the relevant goods, services or goods and services, the commencement date of the Contract and the Contract Price or value.

16. OWNERSHIP OF TENDERS

- 16.1 Each Tender Response (including all supporting documentation and materials submitted by a Tenderer as part of, or in support of, a Tender) becomes the property of the Principal on submission and will not be returned to the Tenderer.
- 16.2 However, the Tenderer shall retain copyright and other intellectual property rights in respect of the Tender except to the extent specified in the Contract.
- 16.3 The Principal may reproduce the Tender for the purposes of evaluation.

17. INFORMATION PRIVACY

- 17.1 The Principal is bound by the provisions of the *Information Privacy Act 2009*.
- 17.2 By submitting a Tender, the Tenderer warrants that it has obtained the consent of each individual whose Personal Information is included in the Tender for:
- (a) the inclusion of their Personal Information in the Tender; and
 - (b) the use of the Personal Information by the Principal for the purpose of evaluating and awarding the Tender; and
 - (c) the disclosure of the Personal Information to other parties (including professional advisors) as may be involved in assisting the Principal with the evaluation of the Tender.
- 17.3 The Tenderer must indemnify the Principal against any claim, damage or loss (including legal costs and expenses) that the Principal may incur as a consequence of a breach by the Tenderer of the warranty in Clause 17.2.
- 17.4 Any Personal Information exchanged between the Tenderer and the Principal must be dealt with in accordance with the *Information Privacy Act 2009*.
- 17.5 The Tenderer must immediately notify the Principal upon becoming aware of any breach of this Clause 17.

18. POLICIES PARTICULAR TO THE PRINCIPAL

- 18.1 Tenders will be evaluated by reference to criteria which are particular to the Principal as follows:
- (a) **(Insert applicable policies (if any) of the Principal, for example, regional price preference policy, ecologically sustainable development policy, community service obligations, occupational health and safety, access and equity etc.)**

19. IN-HOUSE TENDERS

- 19.1 The Principal reserves the right to submit an in-house Tender.

Provision of Security Screening Services at Gove Airport – Tender No. 19/04

nhulunbuy corporation

Version Date:	01/05/2019
Revision Number:	2019.04