

CONDITIONS OF TENDERING AND TENDER PROCESS

PART 1: GENERAL

WCT1

Interpretation and Context

WCT1.1

The provisions of Section 1 (Definitions and Interpretation) of the Conditions of Contract for Consultancy Services ("CCCS") apply to these Conditions Of Tendering ("these Conditions").

WCT1.2

These Conditions are to be read in conjunction with the Schedule To Conditions Of Tendering ("the Schedule") and the Amendments To Conditions Of Tendering, if any, included in the Tender Documents.

PART 2: TENDER PROCESS

WCT2

Submission of Tenders

WCT2.1

Tenders will close at the Time of Tender Closing stated in the Schedule. Each Tender must be enclosed in a sealed envelope, identified as a Tender for the particular Contract and addressed as required by the Schedule.

WCT2.2

Tenders are to be placed in the Tender Box located at the Customer Services One Stop Shop, Level 2, Admin Wing of the Waitakere City Council offices at:

Waitakere Central
6 Henderson Valley Road
Henderson
WAITAKERE CITY

Tenders which are too large to be placed in the Tender Box will be accepted if delivered to this address prior to the Time of Tender Closing, and a written receipt recording the date and time of receipt is given by the Council Officer who accepts delivery.

WCT2.3

Tenders are to be prepared in the form and contain the information required by these Conditions and the Tender Documents. Further detail is included in Part 4 of these Conditions.

WCT2.4

Every Tender must be signed by or on behalf of the Tenderer. The signatory warrants that he or she has authority to bind the Tenderer.

WCT2.5

The cost of preparing and submitting a Tender will be borne by the Tenderer.

WCT2.6

Each Tender will constitute an irrevocable offer and remain open for acceptance by the Client from the Time of Tender Closing until the expiry of the period of Validity of Tender set out in the Schedule notwithstanding any discussions or negotiations between the Tenderer and the Client at any time during that period.

WCT2.7

Tender Prices are to be stated exclusive of Goods and Services Tax.

WCT2.8

The original copies of all Tenders submitted to the Client will be the property of the Client.

WCT3

Tender Deposit

WCT3.1

If required by the Schedule, each Tender shall be accompanied by a deposit in New Zealand currency or some other security acceptable to the Client for the amount stated in the Schedule as security for performance by the Tenderer of its obligations under these Conditions.

WCT3.2

The Tender Deposit of the successful Tenderer will be refunded with the first progress payment.

WCT3.3

Tender Deposits received from other Tenderers will be refunded or returned within 10 Working Days after acceptance of the successful Tender or, if no Tender has been accepted as soon as practicable after the expiry of the period of Validity of Tender.

WCT3.4

No interest will be payable on Tender Deposits.

WCT4

Alternative Tenders

WCT4.1

As a means of encouraging or permitting innovation, Tenderers are invited to submit Alternative Tenders that propose methods and/or materials which differ from those specified in the Tender Documents. The Client reserves the right to only consider an Alternative Tender if the Price is certain. The Client is not obliged to consider any Alternative Tender.

WCT4.2

An Alternative Tender must contain a statement to the effect that it is submitted as an Alternative Tender and outline in what respects it differs from the original method, form or materials specified in the Tender Documents with sufficient particularity to enable evaluation.

WCT4.3

Alternative Tenders will be evaluated generally in accordance with Section 2.8 of Transfund New Zealand's "Competitive Pricing Procedures Manual". Consideration will be given to the benefits that may arise from acceptance of alternative proposals especially in terms of environmental impact, quality, durability, and cost/whole-life value.

WCT5

Tagged and other Non-Conforming Tenders

WCT5.1

Tenders submitted subject to tags, conditions or endorsement may be considered.

WCT5.2

The Client may:

- (a) Request the Tenderer to withdraw any tag, condition or endorsement without any adjustment to the Tender Price.
- (b) Request the Tenderer to withdraw any tag, condition or endorsement with adjustment of the Tender Price provided that the adjustment is for an amount that would have been reasonably expected if the Tender had been submitted without endorsement.
- (c) Assign a price to any tag, condition or endorsement.

WCT5.3

The Client would prefer Tenderers to price any tags, conditions or endorsements in their Tender and submit those Prices as alternatives to a fully conforming base Tender.

WCT5.4

All tags, conditions or endorsements must be outlined in a separate document included with the Tender.

PART 3: GENERAL CONDITIONS OF TENDER

WCT6

Rights reserved by the Client

WCT6.1

The Client reserves the right to:

- Reject all or any Tenders.
- Refuse to accept the lowest Tender.
- Re-advertise for Tenders.
- Waive any irregularities or informalities in the Tendering process.
- Amend the closing date, the acceptance date or any other date in the Tender Documents (except the date at which the period of Validity of Tender expires).
- Amend the Tender Documents and any associated documents by the issue of a written amendment notice.
- Seek clarification of any Tender.
- Suspend or cancel, (in whole or in part), the Tender process
- Consider or reject any late or non-conforming Tender, at the Client's sole discretion. Consideration of late Tenders will be in accordance with the Client's policy in relation to late Tenders.
- Enter into discussions and/or negotiations with any one or more Tenderers at any time and upon any terms and conditions.

WCT6.2

The failure or omission by the Client at any time to enforce or require strict or timely compliance with any provision of the Tender Documents shall not affect or impair that provision in any way or the Client's right to avail itself of the remedies it may have in respect of a breach of any such provision.

WCT6.3

The Client will not be bound to give any reasons for decisions made as a result of this Tender or as an outcome of Tender evaluation.

WCT6.4

The Tenderer acknowledges that the evaluation methodology may be used only as a guide, to assist the Client in decision making and that the Tenderer with the highest evaluation score will not necessarily be awarded the Tender.

WCT7

Shortlisting and Negotiation

WCT7.1

If the Client in its discretion decides to shortlist or negotiate with any Tenderer then it may:

- Notify the Tenderer of its preferred status and the expected timeframe for negotiations.
- Advise other Tenderers that:
 - Their Tenders have been unsuccessful, or
 - That their Tenders are shortlisted but not preferred.

WCT7.2

Any failure to reach agreement between the Client and the preferred Tenderer may result in a re-evaluation of other shortlisted Tenderers. Negotiation would then commence with the Tenderer selected from this re-evaluation.

WCT7.3

This process will be repeated until a Tender is accepted, until the Client elects to abort the Tender process, or until expiry of the period of Validity of Tender, whichever first occurs.

WCT8

Issue of documents

WCT8.1

Tender Documents issued to Tenderers (except schedules of quantities for use in the preparation of Tenders) remain the property of the Client.

WCT8.2

A non-refundable Tender Document fee of the amount set out in the Schedule will be charged upon issue of the Tender Documents.

WCT8.3

Notices to Tenderers may be issued by the Client of its own volition, or as a result of a request for information or clarification. (See clause WCT10.1.)

WCT9

Tenderers to inform themselves

WCT9.1

The Tender Documents generally show, and where necessary specifically show, the extent of the Services included in this Contract. It is not intended, nor is it practicable, that every detail or individual item of work required to complete the Contract is included. Tenderers are expected to be thoroughly experienced in Contracts of this nature, and to draw on this experience when preparing their Tenders.

WCT9.2

The Tendered Price must, except where otherwise provided, allow for all the Consultant's obligations under the Contract as set out in the Tender Documents and all of the Consultant's costs, margin and profit.

WCT9.3

Tenderers should satisfy themselves as to: the nature of the Site so far as is evident from such inspection and from an examination of such data as may be made available by the Client or upon reasonable enquiry, the nature of the Services and/or Works, the equipment necessary for the completion of the Services and/or Works and the means to access the Site. Tenderers should also obtain all necessary information as to risks, contingencies and other circumstances which may influence their Tender.

WCT9.4

If specified in the Schedule a site inspection must be attended before submission of Tenders. This site inspection must be attended, and confirmed by both parties, in the presence of the Engineer or Engineer's Representative or other person nominated by the Client.

WCT9.5

Each Tenderer will be deemed to have examined the Site, the Tender Documents and any other information supplied in writing and to have satisfied itself, as far as is practicable for an experienced Consultant, before Tendering, as to the correctness and sufficiency of the Tender for the Services and of the Rates / Prices stated in the Tender. No claim for additional payment will be recognised where based on the conditions or requirements that would reasonably have become known to the Consultant by a thorough Site inspection.

WCT9.6

The Tenderer acknowledges that:

- While every effort has been made to ensure that any information relating to the Tender supplied by the Client or its agents, employees or consultants is correct, such information is supplied on an indicative basis only. No claim for compensation or damages on the grounds that any information so supplied is incorrect, incomplete, inaccurate or misleading, will be entertained.
- Prior to putting forward its Tender a full opportunity for inspection and investigation was afforded by the Client. The Consultant shall therefore be deemed to have allowed in the Tendered Price for all matters concerning the Site and its surroundings including, but not limited to, the physical conditions, existing structures and utilities, access, services, and requirements of all relevant authorities.
- The Tenderer has relied solely upon its own judgement, after such inspection and investigation, and not upon any representation, warranties or statements made by the Client or any agent, employee or consultant of the Client.

WCT10

Ambiguities in Tender Documents or Tenders

WCT10.1

Where the Tender Documents are ambiguous or unclear, the issue of an explanatory notice may be requested. If an explanatory notice is issued, it will be sent to all Tenderers as a Notice to Tenderers.

WCT10.2

In the absence of any Notice to Tenderers, Tenders may be submitted subject to any reasonable interpretation of any ambiguity or uncertainty in the Tender Documents, endorsed upon or attached to the Tender.

WCT10.3

Tenders are to be based on the Tender Documents and interpreted as relating to the Tender Documents unless clearly endorsed otherwise.

WCT11

Information accuracy

WCT11.1

The Tenderer warrants that:

- All information provided by the Tenderer will be complete and accurate in all material respects.
- That the provision of information to the Client, and the use of it by the Client for the evaluation of Tenders and for the negotiation of any resulting contractual agreement, will not breach any third party intellectual property rights.

WCT11.2

The Client is under no obligation to check any Tender for errors.

WCT11.3

Without limiting WCT11.2, if the Client becomes aware of errors in extension of unit rates or in summation of items the Client may draw the error to the attention of the Tenderer and may:

- Seek confirmation of the Tendered Price, or
- Request withdrawal of the Tender, should the Tendered Price not be confirmed, or
- Adjust the Tendered Price to that calculated from the correct extension of unit rates or summation of items.

WCT11.4

Tenderers may be asked to revise or clarify their Tender or to provide additional information during the Tender process. These requests may require prompt action and must be responded to in writing within the time specified in the request.

WCT12

Referee reports

WCT12.1

The Tenderer, pursuant to subclause 2 of section 6 of the Privacy Act 1993, authorises the Client to:

- Verify with any third party any information included in the Tender or disclosed to the Client in connection with the Tender.
- Carry out a credit check on the Tenderer.

WCT13

Canvassing of Council officers and / or elected members

WCT13.1

Tenderers must not attempt to influence the outcome of the Tendering process by canvassing, lobbying or otherwise seeking support of any Waitakere City Council Councillor, Community Board member or Council officer. Failure to comply with this clause will be viewed as a breach of the Tenderer's obligations under these Conditions and may result in rejection of the Tender and forfeiture of the Tender Deposit.

WCT14

Referential Tenders

WCT14.1

Referential Tenders (that is, Tenders under which the Tendered Price is to be determined by reference to the Tender Price of another Tender) will not be considered.

WCT15

Merger

WCT15.1

The agreements, obligations and warranties of the parties contained in the Tender Documents insofar as the same have not been fulfilled at the time of Acceptance of the Tender or the execution of the agreement, will not merge (cease to exist) by such acceptance or execution.

PART 4: FORM AND CONTENT OF TENDER SUBMISSIONS

WCT16

Envelope submission – general requirements

WCT16.1

The form and contents of the Tender should comply with the following requirements, with the pre-formatted sheets completed where supplied and placed in the correct envelope.

WCT16.2

The type of Tender submission required (i.e. whether single or two-envelope) is set out in the Schedule.

WCT17

Single Envelope Tender submission

WCT17.1

Where Single Envelope Tender submission is specified Tenders must include:

- Tenderer's detailed Statement of Attributes (refer Part 5)
- Completed Form of Tender
- Consultant's Key Personnel Appendix D
- List of Proposed Specialists or Sub-Consultants Appendix E
- Consultant's Health and Safety Pre-Qualification Questionnaire (refer WCT20)
- Completed Schedule of Prices
- Signed Confidentiality Statement Appendix H
- Supplementary information (refer WCT21)
- Tender Deposit Cheque (refer WCT3)

Where Notices to Tenderers have been issued, Tenderers are required to confirm that full allowance for all Notices to Tenderers has been made by inserting the number of each Notice to Tenderers issued in the space provided on the Form of Tender.

WCT18

Two-Envelope Tender submission

WCT18.1

Where Two-Envelope Tender submission is specified Tenders must be submitted in two envelopes, with the "Price Envelope" (Envelope 2) being sealed and enclosed within the "Non-Price Envelope" (Envelope 1).

Envelope 1 must be marked "Envelope 1 – Non-Price Attributes" and include:

- Tenderer's detailed Statement of Attributes (refer Part 5)
- Consultant's Key Personnel Appendix D
- List of Proposed Specialists or Sub-Consultants Appendix E
- Consultant's Health and Safety Pre-Qualification Questionnaire (refer WCT20)
- Signed Confidentiality Statement Appendix H
- Supplementary information (Non-Price related) (refer WCT21)
- Tender Deposit Cheque (refer WCT3)
- Confirmation that Notices to Tenderers, if issued, are covered as required in Envelope 2
- Envelope 2 (Sealed)

Envelope 2 must be marked "Envelope 2 – Price" and must only contain:

- Completed Form of Tender
- Completed Schedule of Prices
- Supplementary information (Price related) (refer WCT21)

Where Notices to Tenderers have been issued, Tenderers are required to confirm that full allowance for all Notices to Tenderers has been made by inserting the number of each Notice to Tenderers issued in the space provided on the Form of Tender

WCT19

Tender Options

WCT19.1

Where Tenderers are required to submit Prices for multiple Tender Options, these are to be presented on separate Forms of Tender. The Client reserves the right to determine which, if any option will be selected.

WCT20

Consultant's Health and Safety Pre-Qualification Questionnaire

WCT20.1

Each Tenderer must complete the Consultant's Health & Safety Pre-Qualification Questionnaire. Failure to do so or the submittal of incomplete or false information may invalidate the Tender. The information provided will be used in the evaluation of Tenders, and will form part of the Contract Agreement.

WCT21

Supplementary information

WCT21.1

Tenders will include any supplementary information required by the Tender Documents as listed in the Schedule and the Amendments To Conditions Of Tendering, where applicable, or as otherwise provided for by these Conditions.

PART 5: STATEMENT OF ATTRIBUTES

WCT22

Statement of Attributes

WCT22.1

Each Tenderer must submit information relating to the Non-Price attributes described below or as varied within the Amendments To Conditions Of Tendering.

a) Relevant Experience

Details of relevant experience showing the Tenderer's suitability for the work described in the Tender Documents. Where Sub-Consultants are to be engaged, their relevant experience is also to be supplied.

b) Track Record

Evidence of the Tenderer's ability to complete projects to target performance levels, on schedule and within budget, and demonstrate past conformity with safety requirements (refer WCT20). The names, position and telephone numbers of past Clients who may be contacted as referees are to be included. Similar information is to be provided for any proposed Sub-Consultant.

c) Technical Skills and Resources

Details of key personnel to be engaged on the Services, including: the name, skill, qualifications and experience of relevance to the Services for each person, which particular aspects of the work they will be undertaking and their availability given other commitments.

d) Management Skills

Details of management methods, skills and systems applied to carry out the Services. These skills are to include management training given to staff, and methods of communication between staff and the Client. Systems for maintaining records relating to the Services, systems for reporting internally and as required for this Contract and systems used in the preparation and submission of payment claims should also be described. The company's safety record (ACC claim record and OSH record) and the procedures used to ensure safety in providing the Services must be submitted in terms of the Health and Safety in Employment Act 1992 by fully completing the Consultant's Health and Safety Pre-Qualification Questionnaire (refer WCT20).

e) Methodology

Describe the methodology proposed to achieve the specified end result within the required time, including but not limited to, the following (where relevant to the Services):

- Public safety
- Public relations
- Methods to minimise environmental damage
- Communication
- Programming
- Quality assurance procedures (refer WCT22.1.1)
- Implementation / supervision

WCT22.1.1

Each Tenderer, in its statement of Methodology (WCT22.1 part e) must demonstrate that it can institute quality management systems, incorporating well defined quality assurance procedures, relevant to the Services such as to ensure that all the work carried out meets the standards required. The quality management systems must, as a minimum, be compliant with or equivalent to the standard specified in the Schedule and this should be demonstrated by the Tenderer in its submission.

WCT22.2

While the information described for each of the attributes in WCT22.1 and WCT22.1.1 should be addressed by the Tenderer in its Tender, or as otherwise required by the Amendments To Conditions Of Tendering, the Tenderer is also encouraged to provide additional, but concise information that is relevant and specific to the Services in order to best demonstrate the Tenderer's qualities.

PART 6: TENDER EVALUATION

WCT23

Tender Evaluation

WCT23.1

Tenders will be evaluated generally in accordance with the requirements of the Weighted Attribute Method for Professional Services contained in Transfund New Zealand's "Competitive Pricing Procedures Manual".

The Tender evaluation will be undertaken using one of the methods described in Clauses WCT23.1.1 and WCT23.1.2.

WCT23.1.1

Lowest Price Conforming Tender Method

Evaluation will be as detailed in Sections 4.3, 4.5 and 4.6 of Transfund New Zealand's "Competitive Pricing Procedures Manual".

WCT23.1.2

Weighted Attributes Method

Evaluation will be as described in Sections 4.5, 4.6 and 4.8 of Transfund New Zealand's "Competitive Pricing Procedures Manual", but where a single envelope Tender submission is required Tender Prices will be recorded at the time of opening and Price and Non-Price attributes evaluated concurrently. Weightings will be applied to the Attributes as defined in the Schedule.

PART 7: ACCEPTANCE AND COMMUNICATION OF OUTCOMES

WCT24

Communication of Outcomes

WCT24.1

Tenderers will be notified of the outcomes to the Tender in writing.

WCT24.2

All notices will be forwarded to the address provided by the Tenderers in their Tender.

WCT25

Acceptance of Successful Tender

WCT25.1

A Contract at the amount of the successful Tender will only be created upon written communication of acceptance to the successful Tenderer by letter or facsimile transmission signed by an officer of the Client who has been duly authorised to accept the Tender.

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