



Offer Requirements

SOA Name:

.....

SOA Number:

.....

For the provision of:

.....

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NOTICE TO SOA OFFERORS

Disclaimer:

- Information provided in this Notice to SOA Offerors is intended to assist the SOA Offeror in the preparation of the SOA Offer and may not be inclusive of all the requirements of the SOA Offer Documents.
- The SOA Offeror shall not rely on this Notice to SOA Offerors.
- The SOA Offeror shall ensure and satisfy itself that its SOA Offer complies in every respect with the requirements of the SOA Offer Documents.
- Notwithstanding any provision of the SOA Offer Documents to the contrary, the information provided in this Notice to SOA Offerors does not form part of the SOA Offer Documents and it shall not alter any requirement of the SOA Offer Documents or any obligation, liability or right of the SOA Offeror or Customer.
- The Customer shall not be liable to the SOA Offeror for any claim, demand, action, proceeding or suit arising out of or in connection with this Notice to SOA Offerors or the provision of the information contained herein.

1. Invitation To Offer

The State of Queensland through (**Customer**) is seeking to establish a Standing Offer Arrangement (SOA) for the provision of Services to the Customer, and hereby invites you to submit an SOA Offer for:

SOA Name:

SOA Number:

For the provision of:

2. Changes to the Department’s suite of building construction and maintenance contracts

Offerors should note that the Department of Housing, Local Government, Planning and Public Works’ suite of building construction and maintenance contracts have recently been updated in response to legislative and policy updates. Other minor general updates to the documents have also been undertaken at this time.

Offerors are responsible for familiarising themselves with the Offer Documents applicable to this tender, noting that they may be different from previous versions.

Copies of the Government’s suite of building construction and maintenance contracts are available at: <https://www.forgov.qld.gov.au/building-construction-and-maintenance-contract-templates>.

Guidelines and additional information are available online regarding:

- the [Queensland Procurement Policy](#), the [Ethical Supplier requirements](#) and the [Queensland Government Supplier Code of Conduct](#);
- the Queensland Government [Building Policy Framework](#) and [Prequalification \(PQC\) System](#); and
- the [Queensland Government Building and Construction Training Policy](#);

3. [Program Specific Notice to Offerors Section]

[Project Managers may insert other applicable sections as appropriate but must not include anything that is to be relied upon in the SOA as this document does not form a part of the SOA]

CONDITIONS OF OFFER

1. DEFINITIONS AND INTERPRETATION

- 1.1 In these Conditions of Offer capitalised terms have the same meaning as in the SOA Conditions (unless they are assigned a different meaning below) and the following terms have the meanings as set out below:

Alternative Offer means any SOA Offer that is not a Conforming Offer;

Closing Date and Time means the date and time stated in the SOA Offer Form or such later time as may be notified by the Customer, by which SOA Offers must be received by the Customer;

Conforming Offer means an SOA Offer that complies in every respect with the requirements of the SOA Offer Documents;

Electronic tender system refers to:

- (a) the Department of Energy and Climate QTender;
- (b) the Department of Housing, Local Government, Planning and Public Works QBuild eTender; or
- (c) another Information System, specified in the Offer Form;

Information System means a system for generating, sending, receiving, storing, or otherwise processing electronic communications;

Purchase Contract means a Purchase Contract as described in the SOA Conditions;

Services means the type of work and/or services, including the supply of goods, materials, and/or equipment, the subject of this SOA as summarised in the SOA Offer Particulars and provided in detail in the annexure to the SOA Conditions;

SOA Conditions means the Standing Offer Arrangement (SOA) Conditions provided with these Conditions of Offer;

SOA Offer means an offer submitted by the SOA Offeror, including any clarifications;

SOA Offeror means the person or entity delivering a SOA Offer in response to an Invitation to Offer to enter into a SOA.

- 1.2 The rules of interpretation stated in the SOA Conditions apply to the interpretation of these Conditions of Offer.

2. INVITATION TO OFFER

- 2.1 SOA Offerors are invited by the Customer to submit a SOA Offer to enter into a Standing Offer Arrangement (SOA) as specified in the SOA Conditions, under which the Customer may request the SOA Offeror to enter into a Purchase Contract or multiple Purchase Contracts, for the type of Services described in the annexure to the SOA Conditions.

- 2.2 The SOA Offeror acknowledge that it has familiarised itself with the SOA Conditions and the annexures to the SOA Conditions.

- 2.3 The SOA Offeror further acknowledge that the Schedule of Prices offered under these Conditions of Offer is for services to be performed under a Purchase Contract and not under the SOA.

- 2.4 The Customer may cancel, suspend or vary these Conditions of Offer at any time whether before, on or after the Closing Date and Time which may include carrying out the Services itself or commencing a new procurement process for all or part of such Services.

- 2.5 No Offeror will be entitled to claim compensation or loss from the Customer for any loss or damage arising out of the Invitation to Offer, including but not limited to any failure by the Customer to comply with the Conditions of Offer.

3. OFFER DOCUMENTS

- 3.1 SOA Offer Documents comprise of:

- (a) the SOA Offer Form;
- (b) the letter of invitation to offer (if any);
- (c) these Conditions of Offer;
- (d) the SOA Conditions, including all the annexures thereto;
- (e) any documents or parts of documents expressly referred to in the Conditions of Offer; and
- (f) any other documents as are issued and/or referred to by the Customer for the purposes of offering;

but excluding any other document or part thereof which is expressly stated to be excluded from the SOA Offer Documents.

- 3.2 All information contained in the SOA Offer Documents which is not in the public domain is to be treated as confidential (**Confidential Information**). Confidential Information contained in the SOA Offer Documents is only to be used for the purpose of preparing the SOA Offer in response to the Invitation to Offer and the SOA Offer Documents.

- 3.3 A party issued with SOA Offer Documents:

- (a) must ensure that only appropriate employees have access to the Confidential Information. In all such cases, the party is to inform such employees of the confidential nature of the information and that it must not be disclosed;
- (b) must not and must ensure that its employees do not at any time disclose such Confidential Information directly or indirectly to any person whatsoever for any reason or use or permit it to be used directly or indirectly for any reason; and
- (c) fully indemnifies the Customer against any loss, costs, expenses, demands or liability, whether direct or indirect, arising out of disclosure or unauthorised use of Confidential Information by the party or its employees.

4. LODGEMENT OF OFFER

- 4.1 For hardcopy SOA Offer:

- (a) The SOA Offer shall be submitted in hardcopy format, in a sealed envelope, addressed and delivered to the Offer lodgement address – hardcopy offer.
- (b) The envelope shall be endorsed with the SOA Name and SOA Number (if any), the Closing Date and Time and the SOA Offeror's name and address.
- (c) The SOA Offer shall be lodged in the tender box at the Offer lodgement address – hardcopy offer by being placed therein before the Closing Date and Time. Any SOA Offer, or part thereof, not in the tender box before the Closing Date and Time may be rejected at the discretion of the Customer.
- (d) In exercising its discretion as to the rejection of any SOA Offer, the Customer shall, amongst other factors, consider any evidence that such SOA Offer was dispatched to the Offer lodgement address – hardcopy offer in sufficient time to reach that office and be placed in the tender box under normal circumstances before the Closing Date and Time.

4.2 For electronic SOA Offer:

- (a) Subject to clause 4.2(c), the SOA Offer shall be submitted in electronic format delivered to the electronic tender system indicated as the Offer lodgement address – electronic offer.
- (b) The SOA Offer shall be deemed to have been delivered to the electronic tender system designated to receive the electronic communications at the date and time stated on the electronic receipt issued to the SOA Offeror. Any SOA Offer, or part thereof, that has not been delivered to the designated electronic tender system before the Closing Date and Time may be rejected at the discretion of the Customer.
- (c) In the event of:
 - (i) a technical failure of the SOA Offeror's Information System or of the Customer's electronic tender system, resulting in an inability to submit the SOA Offer in electronic format as required by clause 4.2(a); or
 - (ii) a failure of the Customer's electronic tender system to issue an electronic receipt to the SOA Offeror acknowledging receipt of an electronic SOA Offer from the SOA Offeror in accordance with clause 4.2(a);

the Customer's Representative may, on request by the SOA Offeror, allow the SOA Offer to be submitted in either hardcopy format, in a sealed envelope, delivered to the tender box location advised by the Customer's Representative, or by email, to the email address advised by the Customer's Representative.

- (d) If a hardcopy or email Offer is submitted pursuant to clause 4.2(c), the SOA Offer shall:
 - (i) include the SOA Name and SOA Number, the Closing Date and Time and the SOA Offeror's name and address; and
 - (ii) be lodged in the tender box at the location advised by the Customer's Representative by being placed therein, or received by email to the advised email address, before the Closing Date and Time. Hardcopy or email SOA Offers not in the tender box or email inbox respectively, before the Closing Date and Time may be rejected at the discretion of the Customer.

4.3 A SOA Offer received by a means other than that expressly provided for in these Conditions of Offer may not be considered.

5. INFORMATION

The Customer shall not be bound by, and the SOA Offeror may not rely upon, any oral advice or information given or furnished in respect of the SOA Offer but shall be bound only by written or electronically transferred advice or information furnished by or on behalf of the Customer.

6. SOA OFFEROR TO INFORM ITSELF

The SOA Offeror is required to satisfy itself as to the correctness of its SOA Offer. A SOA Offer shall be deemed to be on the basis that the SOA Offeror has full knowledge of the SOA Conditions and the possible Purchase Contracts to be formed under the SOA.

7. CUSTOMER NOT BOUND

- 7.1 Notwithstanding the evaluation of SOA Offers (if any) in accordance with clause 8 the Customer may in its absolute discretion and at any time accept, or decline to accept, any SOA Offer.
- 7.2 Without derogating from the provisions in clause 7.1, the Customer may, in its absolute discretion, decline to evaluate any SOA Offer that it has determined to be an Alternative Offer.

8. EVALUATION OF OFFERS

- 8.1 The Customer will evaluate Conforming Offers in accordance with Schedule 1 of these Conditions of Offer or, in the absence of a Schedule 1, based on best value for money for Government determined in accordance with the Queensland Procurement Policy.
- 8.2 Failure to comply with all or any of the requirements of the Invitation to Offer may result in a SOA Offer being considered an Alternative Offer.
- 8.3 The Customer, if it determines to evaluate an Alternative Offer, will evaluate such Alternative Offer based on best value for money for Government determined in accordance with the Queensland Procurement Policy which may, or may not, be the evaluation criteria contained in Schedule 1 of these Conditions of Offer.
- 8.4 The Customer may, in its absolute discretion, decline to evaluate any SOA Offer that it has determined to be an Alternative Offer.
- 8.5 In the evaluation of SOA Offers (if any) in accordance with clause 8, the Customer may, without being under any obligation to do so, in its absolute discretion and at any time:
- (a) seek clarification in respect of any aspect of an SOA Offer (including to request the SOA Offeror to provide additional information, documents or evidence in connection with its SOA Offer);
 - (b) shortlist or prefer any one or more SOA Offerors; and
 - (c) discuss or negotiate with, or receive presentations, further submissions or final offers from, any one or more SOA Offerors in respect of their SOA Offer, in such manner, and as to such aspects of the SOA Offer, as the Customer determines, including rates or prices.

9. ACCEPTANCE AND/OR NON-ACCEPTANCE

- 9.1 The Customer reserves the right, in its absolute discretion, to:
- (a) accept a SOA Offer, or any number of SOA Offers, that the Customer considers the best value for money for Government determined in accordance with the Queensland Procurement Policy;
 - (b) accept an Alternative Offer or any number of Alternative Offers;
 - (c) accept portions of an SOA Offer;
 - (d) not accept the lowest SOA Offer; or
 - (e) not accept any SOA Offer.
- 9.2 The Customer will inform successful SOA Offerors of the outcome by way of a SOA Acceptance Letter. Upon the issuing of a SOA Acceptance Letter, the SOA will be formed between the Customer and the SOA Offeror on the terms and conditions contained in the SOA Documents.
- 9.3 Unsuccessful SOA Offerors will be notified in writing accordingly.

10. DECISION AND DEBRIEFING

- 10.1 An SOA Offeror that submits a SOA Offer, whether accepted or not accepted, may seek debriefing from the Customer's Representative at the completion of the SOA Offer process.
- 10.2 A debriefing will be an opportunity to provide a SOA Offeror, or SOA Offerors, with pertinent feedback in relation to their SOA Offer/Offers, or future SOA Offers.
- 10.3 The debriefing is not an opportunity to discuss the outcome of the evaluation of SOA Offers or the relative merits of any other SOA Offer submitted.
- 10.4 The Customer will not enter into any correspondence, oral or written, regarding its decisions.

11. GOVERNING LAW

Any SOA Offer submitted under these Conditions of Offer will be governed by and construed in accordance with the laws of Queensland and the Parties submit to the non-exclusive jurisdiction of the courts of Queensland.

12. RIGHT TO INFORMATION AND DISCLOSURE

- 12.1 The *Right to Information Act 2009* (Qld) (**RTI Act**) provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies. The RTI Act requires that documents be disclosed upon request, unless the documents are exempt or on balance, disclosure is contrary to the public interest.
- 12.2 Information contained in a SOA Offer is potentially subject to disclosure to third parties. In the assessment of any disclosure required by the Customer pursuant to the RTI Act, the SOA Offeror accepts that any information provided in its SOA Offer, including information marked as confidential, will be assessed for disclosure in accordance with the terms of the RTI Act.
- 12.3 Notwithstanding any other provision of the SOA Offer Conditions, the Customer is entitled to publish on the relevant Queensland Government website or by any other means, the following details:
- (a) the name and address of the Customer;
 - (b) a description of the Services;
 - (c) the SOA Commencement Date;
 - (d) the estimated value of the SOA;
 - (e) the name and address of the SOA Offeror;
 - (f) the procurement method used; and
 - (g) where the total value of the Services is \$10 million or more, the SOA, or summary information in respect of the SOA, between the Customer and the SOA Offeror.
- 12.4 For more information regarding the RTI Act, contact the Customer's Representative stated in the SOA Offer Form.

13. OFFEROR WARRANTIES

The SOA Offeror warrants that in submitting its SOA Offer, except as expressly disclosed in its SOA Offer:

- (a) it has no knowledge of the SOA Offer prices of any other offeror, nor has it communicated with any other offeror in relation to the offeror's prices, or a price above or below which an offeror may offer (excluding any pricing advised by the Customer), nor has it entered into any contract, arrangement or understanding with another offeror to the effect that the SOA Offeror or another offeror will offer a non-competitive sum, for the work the subject of the SOA Offer, at time of submission of its SOA Offer;
- (b) it has not entered into any contract, arrangement or understanding to pay or allow any money directly or indirectly to a trade, industry, or other association (above the published standard fee) relating in any way to its SOA Offer or any contract that may be entered into consequent thereon;
- (c) it has not paid or allowed any money or entered into any contract, arrangement or understanding to pay or allow any money directly or indirectly to or on behalf of any other offeror, nor received any money or allowance from or on behalf of any other offeror, relating in any way to its SOA Offer or any contract that may be entered into consequent thereon;
- (d) it shall maintain the skill and expertise necessary to supply the Services under a Purchase Contract that may arise during the SOA Term;

- (e) it will not replace persons nominated in its SOA Offer as key personnel, if applicable, without the Customer's consent in writing, except in the case of death, serious illness or resignation of employment;
- (f) it will fulfil all aspects of the SOA Offer;
- (g) it will comply with the Ethical Supplier Threshold, the Ethical Supplier Mandate and the Supplier Code of Conduct;
- (h) it will cooperate with the Customer, the QGP Compliance Branch and any Government Department or Instrumentality for Ethical Supplier Threshold compliance and investigative purposes including, without limitation, providing any requested documents related to the SOA Offeror's compliance with the Ethical Supplier Threshold;
- (i) it will fulfil all obligations required in respect of Queensland Government policies;
- (j) If required by the SOA Offer Documents, be registered on the Queensland Government Prequalification System (PQC System) including being registered at the appropriate level, to be eligible to submit an offer to enter into a Purchase Contract under the SOA; and
- (k) it will give the Customer prior notice of any likely change in circumstances in respect of this clause 13.

14. ETHICAL SUPPLIER THRESHOLD

- 14.1 The SOA Offeror must comply with the Ethical Supplier Threshold and the SOA Offeror must provide true and correct responses to the criteria set out in the Ethical Supplier Threshold questionnaire in the SOA Offer Form.
- 14.2 If, at any time after the SOA Offeror submits its SOA Offer, the SOA Offeror's responses to the criteria set out in the Ethical Supplier Threshold questionnaire are no longer true and correct for any reason, the SOA Offeror must promptly notify the Customer's Representative of the change to the SOA Offeror's response.
- 14.3 The SOA Offeror acknowledges that if, at any time, the SOA Offeror's response to a criterion set out in the Ethical Supplier Threshold questionnaire in the SOA Offer Form is "yes", the Customer may:
- (a) in accordance with clause 7.2, decline to evaluate the SOA Offer, as if it were an Alternative Offer; or
 - (b) in accordance with clause 7.1, decline to accept the SOA Offer.

15. ETHICAL SUPPLIER MANDATE

- 15.1 The Customer may decline to consider or decline to accept a SOA Offer from a SOA Offeror who, at the date of submission of the SOA Offer and any time prior to the acceptance of a SOA Offer, is subject to a current sanction under the Ethical Supplier Mandate according to the online supplier check tool released and current at the time and date at which the SOA Offer was invited.
- 15.2 Notwithstanding any other provision of the SOA Offer Documents or a SOA Offer, the SOA Offeror acknowledges and agrees that the Customer may refer matters about the SOA Offeror's compliance with the Ethical Supplier Mandate and Ethical Supplier Threshold to the Queensland Government Procurement Compliance Branch within the Department of Energy and Climate, which may, in its absolute discretion, publish information about the SOA Offeror's compliance with the Ethical Supplier Mandate and the Ethical Supplier Threshold including but not limited to information about sanctions and penalties imposed on the SOA Offeror.

SCHEDULE 1 – SOA OFFER EVALUATION

1. CONFORMING OFFER

- 1.1 The Customer will determine whether a SOA Offer is an Alternative Offer or Conforming Offer and, in doing so, will have regard, without limitation, to:
- (a) whether the SOA Offer contains errors of an administrative nature which do not amend or change the substance of the SOA Offer;
 - (b) whether the SOA Offer contains clarification of an ambiguity; and
 - (c) the extent to which the SOA Offer does not contain all the documents required by the SOA Offer Documents to be submitted.
- 1.2 In making a determination, the Customer's consideration will not be limited to the matters nominated at a), b) and c) above.
- 1.3 Where, in addition to the SOA Offer Form, the SOA Offeror is required to submit information addressing other offer evaluation criteria and where the SOA Offeror fails to address any of the criteria then the SOA Offer will be deemed to be an Alternative Offer. Where the SOA Offeror is required to submit information addressing offer evaluation criteria in addition to the SOA Offer Form the SOA Offeror must be able to prove and demonstrate ability against each of the criteria. If, in the opinion of the Customer, in any criteria, the SOA Offeror fails to demonstrate a satisfactory ability in relation to that criterion, the Customer may decline to further evaluate the SOA Offer. Without limiting the foregoing, if the criteria have points allocated to them and the SOA Offeror receives a point score less than 50% of the highest possible point score for a given criterion, the Customer, in its absolute discretion, may decline to further evaluate the SOA Offer.
- 1.4 Any SOA Offer that contains qualifications will be deemed to be an Alternative Offer.

2. EVALUATION PROCESS

- 2.1 The offer evaluation process will involve an assessment of the SOA Offer received against the criteria listed below. The evaluation process may also involve discussions with SOA Offerors, referees, and undertaking financial, corporate and other checks.
- 2.2 The Customer may require shortlisted SOA Offerors, as part of the evaluation process, to participate in a formal clarification process to clarify and confirm any or all details of the SOA Offer.

3. EVALUATION CRITERIA

- 3.1 The criteria against which the SOA Offer will be evaluated against includes:
- (a) Mandatory criteria
 - (i) <<insert>>
 - (ii) <<insert>>
 - (b) Weighted criteria
 - (i) <<insert>>
 - (ii) <<insert>>
 - (iii) <<insert>>