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# Request for Quotation – Conditions of Responding

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This document outlines the conditions of responding to this RFQ. Respondents are cautioned to carefully read any and all instructions, terms and conditions of contract and fully understand Council's requirements outlined within this RFQ.

Failure to adhere to these instructions and terms and conditions may result in your submission being rejected.

<b>RFQ Title</b>	Level 1 Essential Energy Works for the Warialda Truck Wash
<b>RFQ Number</b>	GWY_1819_Q03
<b>Issue Date</b>	21st December 2018

RFQ Closing Time and Lodgement Details	
RFQ Closing Date:	18 <sup>th</sup> January 2019
RFQ Closing Time:	17:00
RFQ Lodgement:	Please return your quotation electronically via email to <a href="mailto:aeddy@gwydir.nsw.gov.au">aeddy@gwydir.nsw.gov.au</a>
Hardcopy RFQ:	Gwydir Shire has now moved to electronic procurement. Submissions may only be received electronically and must be received by the advertised closing time to be considered for evaluation.
RFQ Questions:	<p>Any questions regarding the work required in the Request for Quotation (RFQ) document should be made to: -</p> <p>NAME: Mr Alex Eddy            POSITION: Manager Engineering Services            PHONE: 02 6729 3019            EMAIL: <a href="mailto:aeddy@gwydir.nsw.gov.au">aeddy@gwydir.nsw.gov.au</a></p>

Documents Comprising this Request for RFQ		
Item No.	Document Header	Document Title
1	Part 1	Conditions of Responding
2	Part 2	Conditions of Contract
3	Part 3	Specifications
4	Part 4	Commercial and Technical Response

# Table of Contents

<b>1. Introduction</b>	<b>5</b>
1.1 Details of Gwydir Shire Council	5
1.2 Summary of the Request	6
1.3 Structure and Purpose of this Request for RFQ (RFQ)	6
1.4 Contact Officers	7
1.5 RFQ Briefing / Site Inspection	7
1.6 RFQ Timetable	7
1.7 Definitions	7
<b>2. Conditions of Responding</b>	<b>10</b>
2.1 How to Prepare Your RFQ Response	10
2.2 Amendments to the Request/Gwydir Shire Council Rights	10
2.3 Clarification of the Request	11
2.4 Respondents to inform themselves	12
2.5 Submission of RFQs	13
2.6 Lodgement of Submissions and Delivery Method	14
2.7 Acceptance of Submissions	14
2.8 Rejection of RFQs	15
2.9 Late RFQs	15
2.10 RFQ Opening	15
2.11 Evaluation Methodology	15
2.12 General Evaluation Considerations	16
2.13 Mandatory Participation Criteria	17
2.14 Evaluation Criteria	17
2.15 Financial Capacity	18
2.16 Alternative or Non-Conforming Submissions	19
2.17 Departures, Clarifications and Assumptions	19
2.18 RFQ Validity Period	19
2.19 Variation of RFQ	20
2.20 Identity of the Respondent	20
2.21 RFQed Price	20
2.22 Conditions of contract	21
2.23 Precedence of Documents	21
2.24 Ownership of RFQs	21
2.25 Registration or licensing of Contractors	22
2.26 Workplace Health and Safety	22

2.27	Chain of Responsibility	22
<b>3. Participation in the RFQ Process</b>		<b>22</b>
3.1	Jurisdiction	23
3.2	Costs of RFQ	23
3.3	Canvassing of Officials	23
3.4	Confidentiality	24
3.5	Statement of Business Ethics	24
3.6	GIPA Requirements (where relevant)	24
3.7	Non Collusion	25
3.8	Publicity	26

# 1. Introduction

## 1.1 Details of Gwydir Shire Council

Gwydir Shire is located on the northwestern slopes and plains of NSW, approximately 560 kilometres north of Sydney, 160 kilometres north of Tamworth, 430km south west of Brisbane, 85 kilometres west of Inverell and 80 kilometres east of Moree. Incorporating an area of 9,122 square kilometres, the Shire extends from the Nandewar Range in the south, north to close to the NSW-Queensland border.

The Shire has two small towns - Bingara and Wyallda, 5 rural villages – North Star, Croppa Creek, Coolatai, Gravesend and Upper Horton and 21 rural localities – Boonal, Blue Nobby, Yallaroi, Crooble, Pallamallawa (part) Balfours Peak, Wyallda Rail, Gineroi, Bangheet, Riverview, Elcombe, Pallal, Rocky Creek, Back Creek, Cobbadah, Gundamulda, Dinoga, Gulf Creek, Upper Bingara, Keera and Copeton.

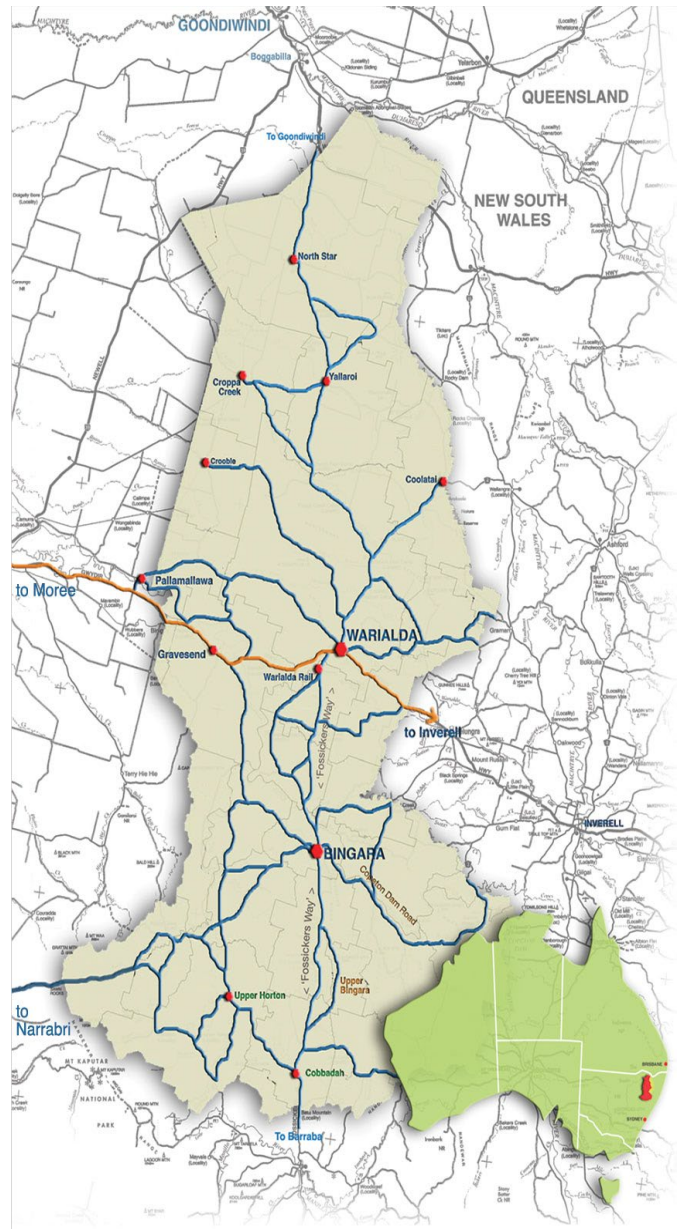
Agriculture is the primary land use and economic activity of the Shire. Cattle and Sheep production are the main activities, along with broadacre cropping. At 2016 Census, the Shire had a population of 5,258 and like many Shires with a high-level dependency on agriculture, has experienced a population decline over the past 15 years. In order to reverse this trend, diversifying its economic base will be key to ensuring growth in the future.

Through this RFQ, Council intends to award contracts to Suppliers who can support Council in delivering the best service possible to its community.

Gwydir Shire Council is committed to the highest standards of honesty, fairness and integrity in all its business dealings. Council's Statement of Business Ethics sets out the standards that it expects from its private sector partners in order to deliver exceptional service to the community.

I look forward to your participation in the RFQ and invite you to work with us in achieving Council's objectives.

**Max Eastcott**  
**General Manager**  
**Gwydir Shire Council**



## 1.2 Summary of the Request

Gwydir Shire Council (the Principal) is seeking Submissions from appropriately qualified and experienced contractors for the:

- i. Level 1 Essential Energy electrical works for the Warialda Truck Wash (located adjacent to the Warialda HPV Route, East of Warialda);

It is important to note that the electrical works must be completed by the 30<sup>th</sup> April 2019.

A more detailed brief of the extent of services required by Gwydir Shire Council is set out in Part 3 – Specification.

## 1.3 Structure and Purpose of this Request for Quotation (RFQ)

This Request is intended to provide Respondents with Information on the Project requirements and Gwydir Shire Council arrangements for the submission and evaluation of RFQ Submissions. It comprises the following parts:

### Part 1: Conditions of Responding

The purpose of this part is to provide instructions as to how to prepare a RFQ and details that will be evaluated by Gwydir Shire Council. More specifically Part 1 includes:

- the timetable with regard to the RFQ process;
- the requirements for the preparation and lodgement;
- an overview of the RFQ evaluation method and criteria; and
- the procedures and protocols governing communication between Gwydir Shire Council and Respondents during the RFQ process.

### Part 2: Conditions of Contract

A draft copy of the contract that Gwydir Shire Council proposes to enter into with the successful Proponent

### Part 3: Specification

Provides all details of the requirement, including outputs, deliverables and drawings (if applicable).

*RFQ – GWY\_1819\_Q03 – Level 1 Essential Energy Works for the Warialda Truck Wash*

Part 4: Response Schedules – Commercial and Technical

Contains the schedules that Respondents are required to complete when submitting a RFQ with regards to pricing and technical aspects.

1.4 Contact Officers

Respondents should not seek information from any person(s) or rely on any information provided by any person(s) other than the Contact Officers on the front page of this document.

1.5 RFQ Briefing / Site Inspection

A RFQ Briefing / Site Inspection will not be held.

1.6 RFQ Timetable

The timetable below provides details of key events and dates with regards to this RFQ process. Dates may vary.

Event	Date
RFQ Release	21/12/2018
Mandatory RFQ Briefing / Mandatory Site Visit	Not Applicable
Clarification and Questions Close	18/01/2019
RFQ Closes	18/01/2019

1.7 Definitions

Unless the context requires otherwise, the following terms used in this Request have the meanings ascribed to them as set out below:

**Closing Time** - means the closing time for the receipt of RFQs as set out on the Cover Page.

*RFQ – GWY\_1819\_Q03 – Level 1 Essential Energy Works for the Warialda for the Warialda Truck Wash*

**Conditions** - means the Conditions of RFQ set out in Part 1 of this Request.

**Conforming Submission** - means a submission / response that complies with all sections of this Request.

**Principal** - means Gwydir Shire Council and/or Agency.

**Cover Page** - means the cover page of this Request.

**Goods** - means the item(s) which the Contractor is required to provide to the Principal under the contract as detailed in the RFQ Document.

**Late Submission** - means a submission / response received by the Gwydir Shire Council after the Closing Time.

**Nominated Contact** - means Gwydir Shire Council's "Nominated Contact Person" as set out on the Cover Page.

**Non-Conforming Submission** - means a submission / response other than a Conforming Submission.

**Period of Contract** - means the contract duration as defined in Schedule 1 of Part 2 – Conditions of Contract.

**Principal's Representative** - means the officer nominated by and representing the Principal for the purposes of the Contract.

**Request** - means the Principals documentation requesting the provision of goods/services/works from suitably qualified contractors.

**Request for RFQ** - means the Principal's documentation requesting the provisions of goods/services/works from suitably qualified contractors.

**Services** - means the services which the contractor is required to provide to the Principal under the Contract as detailed in the RFQ Documents.

**Submission / Response** – means the quotation provided by the Respondent in response to the RFQ

**Successful Respondent** - means the Respondent accepted by Gwydir Shire Council to provide the Goods/Services.

**RFQ Evaluation Committee** – means the committee responsible for evaluating responses to this RFQ.

**Respondent** - means the entity replying to the Request for Quotation and or Contractor.



**Terms and Conditions of Agreement** - means the contract formed by the acceptance of a submission, and governed by the Conditions of Contract.

## 2. Conditions of Responding

### 2.1 How to Prepare Your RFQ Response

- Carefully read all parts of this document.
- Ensure you understand the requirements.
- Complete and return the RFQ Forms/Returnable Schedules including all attachments. The submission must be written in English.
- Make sure you have signed the RFQ Forms/Returnable Schedules and responded to all of the Selection Criteria.
- Lodge your RFQ before the Deadline.

### 2.2 Amendments to the Request/Gwydir Shire Council Rights

The Respondent must not alter or add to the Request documents unless required by these Conditions of Responding.

Without limiting its rights at law or otherwise, Gwydir Shire Council reserves the right in its absolute discretion at any time to do one or any combination of the following prior to the closing date by notice to each Respondent:

- Defer the closing date or any other date under this RFQ; or
- Vary, amend, change or modify any aspect of this RFQ, in which case Gwydir Shire Council will issue an addendum to all Respondents correcting any ambiguity or mistake concerning or arising out of this RFQ and any such addendum will become part of this RFQ;
- Prior to or after the closing date, by notice to each Respondent, issue an addendum to all Respondents correcting any ambiguity or mistake concerning or arising out of this RFQ and any such addendum will become part of this RFQ;
- Evaluate Submissions as Gwydir Shire Council sees appropriate in the context of its requirements for the procurement;
- Cease to proceed with the process outlined in this Request for RFQ or subsequent process;

*RFQ – GWY\_1819\_Q03 – Level 1 Essential Energy Works for the Warialda for the Warialda Truck Wash*

- Accept all or part of a Submission;
- Reject any Submission;
- Accept an alternate Submission; and
- Obtain further information from Respondents with respect to its Submission for the purposes of clarification or explanation of its RFQ. This includes holding interviews with some or all Respondents, including any personnel nominated by the Respondent in the Submission.

All Submissions lodged will become the property of Gwydir Shire Council and on no account will they be returned to Respondents. Gwydir Shire Council is not bound to accept the lowest or any Submission.

### 2.3 Clarification of the Request

If the Respondent has any doubt as to the meaning of any part of this Request or the scope of the work/specification required they should seek to clarify points of doubt or difficulty before submitting a Submission.

The Engineering Services Manager will endeavour to respond to all questions within 48 hours, however, the nature and extent of the questions will determine the time frame within which Gwydir Shire Council will be able to respond.

If a Respondent considers the subject matter of a question to be confidential, it must clearly indicate this in the correspondence. Gwydir Shire Council, in its sole discretion, shall determine whether the matter raised in the question is of a confidential nature. If Gwydir Shire Council does not consider the subject matter of the question to be of a confidential nature, it shall give the Respondent the opportunity to withdraw the question.

- Gwydir Shire Council also reserves the right to issue the responses to any questions raised by one Respondent to another Respondent. Gwydir Shire Council will ensure, however, that information proprietary or confidential to a particular Respondent remains as such.
- Gwydir Shire Council will respond in writing to questions submitted by Respondents as quickly as possible after receipt of the questions, however, the nature and extent of the

questions will determine the time frame within which Gwydir Shire Council will be able to respond.

The Principal reserves the right not to answer requests for clarifying information made within seven days prior to the Deadline. Alternatively, when submitting its Submission the Respondent may include a statement of the interpretation upon which it relies and upon which the Submission has been prepared.

## 2.4 Respondents to inform themselves

The Information in this Request has been provided in good faith. It is intended only as an explanation of the Principal's requirements and is not intended to form the basis of a Respondent's decision on whether to enter into any contractual relationship with the Principal.

The Information provided does not purport to be all-inclusive or to contain all information that a prospective contractor may require. Respondents and their advisers must take their own steps to verify information which they use and must make an independent assessment of the opportunity described in this Request after making such investigation and taking such professional advice as they deem necessary.

Respondents will be deemed to have:

- examined the Request and any other information available in writing to Respondents for the purpose of Responding;
- examined all further information relevant to the risks, contingencies, and other circumstances having an effect on its RFQ which is obtainable by the making of reasonable enquires;
- satisfied themselves as to the correctness and sufficiency of its Submission including submitted prices which will be deemed to cover the cost of complying with this Request and of all matters and things necessary for the due and proper performance and completion of the work described therein; and
- satisfied themselves they have a full set of the Request documents and all relevant attachments which includes all pages which are numbered consecutively and that all supplements referred to are also included.

None of the Principal, the Principal's members, directors, officers, employees, agents or advisers make any representation or warranty as to the adequacy, accuracy, reasonableness or completeness of the Information.

Neither the Principal nor their professional advisers shall be liable for any loss or damage arising as a result of reliance on the Information nor for any expenses incurred by Respondents at any time.

Any advisers or agents appointed by the Principal, whether legal, financial, technical or other, will not be responsible to anyone other than the Principal for providing advice in connection with the Request.

## 2.5 Submission of RFQs

The following documents need to be completed and submitted by the Respondent:

— **Part 5 - Commercial and Technical Response, including;**

- *Respondent's Information*
- *Ownership Details*
- *Overview and History*
- *Compliance with Acts and Regulations*
- *Conflicts of Interest*
- *Threatened or Pending Litigation*
- *Proposed Construction Program*
- *Schedule of Prices*
- *Statement of Compliance*

Submit all information called for in the RFQ documents.

Where applicable, refer to each Addendum and state that the RFQ allows for the instructions given in the Addendum.

General information about the Respondent, such as brochures, advertising, product or company information or marketing brochures or presentations other than those expressly requested, are to be sent with the RFQ submission, is not required with the RFQ unless expressly requested in the

*RFQ – GWY\_1819\_Q03 – Level 1 Essential Energy Works for the Warialda for the Warialda Truck Wash*

Response Schedules. If required the RFQ Evaluation Committee will request these materials separately.

## 2.6 Lodgement of Submissions and Delivery Method

The RFQ must be lodged by the closing date and time and by the method as outlined on the front cover page of this RFQ.

Should the Respondent experience any technical difficulties in lodging its Submission via the prescribed electronic manner, they are to avail themselves to the technical support provided and outlined on the front cover page of this RFQ.

## 2.7 Acceptance of Submissions

Unless otherwise stated in this Request, Submissions may be for all or part of the requirements and may be accepted by the Principal either wholly or in part. The Principal is not bound to accept the lowest Submissions and may reject any or all Submissions and may waive any irregularities therein.

Acceptance of submission with a whole of life cost in excess of \$150,000 can only be approved by the passing of a Gwydir Shire Council resolution. Once a Gwydir Shire Council Resolution has been issued accepting a RFQ, written notification will be provide to the successful Respondent notifying, and detailing to the extent, that the submission has been accepted.

A Submissions shall be accepted (and for all purposes shall be deemed to be accepted) when a Gwydir Shire Council resolution has been passed detailing the conditions (if any) of the acceptance of a submission and a subsequent Notice of Acceptance will be provided to the Respondent

No legal or other obligation will arise between a Respondent and the Principal in relation to the conduct or outcome of the RFQ process unless and until that Gwydir Shire Council Resolution has been issued and subsequently the Respondent has received written notification from the Principal of the acceptance of the Submission.

In the event that the whole of life cost of the contract is not estimated to exceed \$150,000, the relevant Procurement Delegate will be the body responsible for the acceptance of a submission.

Unless otherwise stated in this Request, Submissions may be for all or part of the requirements and may be accepted by the Principal either wholly or in part. The Principal is not bound to accept the

lowest Submission and may reject any or all Submissions submitted and may waive any irregularities therein.

## 2.8 Rejection of RFQs

A RFQ will be rejected without consideration of its merits in the event that:

- a) it is not submitted before the closing date and time; or
- b) it is not submitted at the place specified in the Request.

## 2.9 Late RFQs

Late Submissions will not be excepted.

## 2.10 Submission Opening

RFQs will be opened in the Principal's offices, following the advertised Deadline. Any Respondent and/or member of the public may attend or be represented at the opening of a RFQ.

The names of the persons who submitted a Submission by the due Deadline will be recorded at RFQ opening. No discussions will be entered into between Respondents and the Principal's officers present or otherwise, concerning the RFQs submitted.

The RFQ opening will be held at Gwydir Shire Council Chambers, 54 Hope Street, Warialda.

## 2.11 Evaluation Methodology

RFQ Responses will be evaluated against the evaluation criteria set out in Part 1 of this RFQ.

## 2.12 General Evaluation Considerations

Information provided by the Respondent in its response to Part 4 of this RFQ will be the basis of the evaluation of these criteria. Respondents are advised to respond clearly to all of the requirements listed in Part 3 of this RFQ in its response to Part 4 of this RFQ.

Those evaluation criteria designated as Mandatory Participation Criteria are evaluation criteria that **MUST** be met by the Respondent. A RFQ Response that fails to fully comply with those evaluation criteria may be excluded of the RFQ Response without further consideration.

Technical and Commercial evaluation criteria are evaluation criteria which will be taken into account by the RFQ Evaluation Committee when conducting an overall value for money assessment of the RFQ Response. Failure to fully comply with those evaluation criteria may reduce the Respondents overall score but will not result in the exclusion of the RFQ Response from further consideration.

Gwydir Shire Council may, in its sole discretion, seek clarification from any Respondent regarding information contained in the RFQ Response and may do so without notification to any other Respondent.

A Respondent may be invited to a one-on-one evaluation conference in order to review and clarify the RFQ Response and to enable Gwydir Shire Council to interview key personnel identified in the RFQ Response.

In general, RFQs will be evaluated for:

- The capability of the Respondent to meet the functional and technical requirements as outlined in this RFQ;
- The overall value for money of the solution;
- The Respondent previous experience performing similar services in Australia and its demonstrated capability to provide services of comparable complexity and size;
- The additional benefits and value add the Respondent has provided in its response;
- Overall suitability of the Respondent and Sub-contractors, their safety systems, insurance, probity, financial standing, reputation and quality assurance system in place;
- Compliance with proposed conditions of Contract;
- Industry (or SME) participation plans;
- Quality of Referee reports; and



- Other issues relating to the fitness for purpose of the products offered including sub-contractors, Respondent Quality Standard and Quality Assurance System.

Specifically, the RFQ will be assessed against the Mandatory Participation Criteria detailed at 2.14 of Part 1 and the Technical and Commercial Evaluation Criteria detailed at 2.14 of Part 1 of this RFQ.

The quality and the format of the RFQ Response will be taken into account in evaluating the RFQ Response.

Gwydir Shire Council is not bound or required to accept the lowest price, or any RFQ Response, whether or not it is a Conforming RFQ Response.

## 2.13 Mandatory Participation Criteria

If Mandatory Participation Criteria are to be specified they will be detailed in this document and in the Response Schedules.

Each Submission will be assessed on a Yes/No basis (in effect, a Pass / Fail scenario) as to whether the compliance criterion is satisfactorily met. An assessment of “No” against any criterion may eliminate the Submission from consideration.

The following Mandatory Participation Criteria will be used in the evaluation of RFQ submissions received for this RFQ:

- Satisfaction of Insurance Requirements;
- Key Qualifications / Accreditations; and
- Safety Management System.

## 2.14 Evaluation Criteria

Submissions will be assessed against both Commercial (Pricing etc.) and Technical (Non-Price) Criteria.

Submissions will be assessed using a weighted scoring process based on information provided with the RFQ. The following technical and commercial evaluation criteria will be used in the evaluation of RFQs submissions received for this RFQ.

**i. Contractor's demonstrated ability to satisfactorily complete the work, 40% made up as follows:-**

- Conformance with Specification
- Experience in completing similar projects
- Ability to Supply prior to construction deadline as outlined in Section 1.2
- Track record with existing / past customers

**ii. Project value, 40% made up as follows:-**

- The overall project cost
- The makeup of the cost structure
- The integrity and stability of cost
- Commercial terms and conditions.

**iii. Contractors demonstrated ability in safety systems, 20% made up as follows:-**

- Demonstrated ability in WH&S management.
- Chain of Responsibility Act 2018 Compliance system

## 2.15 Financial Capacity

Respondents must have sufficient financial capacity to perform the services required under the Agreement.

The successful Respondent is to provide all financial information for review by the Gwydir Shire Council or its nominated representative and / or give consent to the Gwydir Shire Council to complete a financial risk assessment review by its appointed credit rating agency or representative.

In submitting a RFQ, the Respondent will be taken to have consented the Principal accessing this financial viability / risk assessment and information, including any personal information contained therein.

Respondents who are identified as a financial risk as a result of these reviews may, at Gwydir Shire Council's discretion, be passed over and removed from further participation in the evaluation process.

## 2.16 Alternative or Non-Conforming Submissions

The Principal reserves the right to accept an Alternative or Non-Conforming RFQ Submissions.

If a Respondent wishes to submit an Alternative or Non-Conforming RFQ Submission it must also:

- a) Submit a conforming RFQ Submission
- b) Submit an unmarked copy of the Alternative or Non-Conforming RFQ Submission; and
- c) Submit a copy of the non-conforming RFQ Submission in a marked up form, which identifies all departures from the conforming RFQ. The detail provided must fully describe and price any conditions, qualifications, or departures from the specification for the Alternative or Non-Conforming RFQ Submission.

Gwydir Shire Council may, at its absolute discretion, consider an Alternative or Non-Conforming RFQ Submission; however it is not obliged to do so.

## 2.17 Departures, Clarifications and Assumptions

The Respondent is to declare and detail any Departures, Clarifications or Assumptions that have been taken into account and included in its response to the RFQ in Part 4, Commercial and Technical Response.

These Departures, Clarifications or Assumptions can address any conditions or positions in the Conditions of Contract or requirements as detailed in the Specification supplied that are material to the response.

Submissions will be accepted as accepting and complying with all terms and conditions of the RFQ, the Conditions of Contract and the Specification unless expressly noted in Part 4, Commercial and Technical Response Schedules.

## 2.18 RFQ Submission Validity Period

All RFQ Submissions will remain valid and open for acceptance for a minimum period of ninety (90) days from the closing date and time or forty-five (45) days from the Principal's decision for

*RFQ – GWY\_1819\_Q03 – Level 1 Essential Energy Works for the Warialda for the Warialda Truck Wash*

determining the RFQ, whichever is the later unless extended by mutual agreement between the Principal and the Respondent(s) in writing. Respondents may withdraw its RFQ at any time after the expiration of the RFQ Submission Validity Period.

## 2.19 Variation of RFQ Submission

- a) Before the Principal accepts any of the received RFQ Submissions to Contract, a person who has submitted a RFQ response may, subject to subparagraphs below, vary the RFQ response:
  - i. by providing the Principal with further information by way of explanation or clarification, or
  - ii. by correcting a mistake or anomaly.
- b) Such a variation may be made either:
  - i. at the request of the Principal, or
  - ii. with the consent of the Principal at the request of the Respondent, but only if, in the circumstances, it appears reasonable to the Principal to allow the Respondent to provide information or correction.
- c) If a RFQ Submission is varied in accordance with this paragraph, the Principal will notify in writing all other Respondents that have the same or similar characteristics as the varied RFQ Submission, and provide them with the opportunity of varying its Submissions in a similar way.

## 2.20 Identity of the Respondent

The identity of the Respondent and the Contractor is fundamental to the Principal. The Respondent will be the individual, individuals, corporation or corporations named as the Respondent in whose execution appears on the Offer Form in of this Request Part 4, Commercial and Technical Response.

## 2.21 Quoted Price

The price outlined in the Submission must quote all prices inclusive of GST.

The price quoted will be net and what the Principal will be required to pay pursuant to the Contract and must include all costs associated with the Contract.

The price quoted should be firm for the duration of the contract.

The Respondent must provide its Australian Business Number (ABN), or, if it does not have an ABN, the reason for not having one.

Payments between Gwydir Shire Council and the Contractor will be exclusively in Australian dollars (AUD).

## 2.22 Conditions of Contract

Submissions will be deemed to have been made, on the basis of, and to incorporate the General Conditions of Contract and any Special Conditions of Contract as provided in the supplied contract located in Part 2 - Conditions of Contract.

## 2.23 Precedence of Documents

In the event of any conflict or inconsistency between the terms and conditions in this Request and those in the Conditions of Contract, the terms and conditions appearing in the Principal's Conditions of Contract Request will have precedence.

## 2.24 Ownership of Submissions

All documents, materials, articles and information submitted by the Respondent as part of or in support of a Submission will become property of the Principal and will not be returned to the Respondent at the conclusion of the RFQ process. The Respondent will be entitled to retain copyright and other intellectual property rights therein, unless otherwise provided by the Contract.

The Respondent does not acquire intellectual property rights in the Request documents.

Respondents shall not reproduce any of the Request documents in any material form (including photocopying or storage in any medium by electronic means) without the written permission of the Principal other than for use strictly for the purpose of preparing Submissions.

## 2.25 Registration or Licensing of Contractors

Where an Act requires that a contractor (as defined by the Act) be registered or licensed to carry out the work described in the Request, the Respondent shall state in the appropriate Response Schedule, its registration or licence number. The RFQ may not be considered if the Respondent fails to provide such registration or license number.

## 2.26 Workplace Health and Safety

Safety is not negotiable and only the highest standards will be accepted. The Principals Safety Policies and Procedures are designed to help people to adopt appropriate behaviours and Tool Box' before performing high-risk activities safely. Injuries and illnesses are not an inevitable occurrence or expected consequence of conducting business and we are committed to eliminating these foreseeable outcomes.

Lodgement of a Submission will itself be an acknowledgement and representation of requirements in relation to WHS, which the Respondent will comply with all relevant legislation and agrees to provide periodic evidence of compliance and give access to all relevant information to demonstrate compliance for the duration of any contract that may be awarded.

## 2.27 Chain of Responsibility

Under Heavy Vehicle National Law (NSW) chain of responsibility obligations apply in relation to fatigue management, speeding compliance, mass, dimension and loading/unloading of vehicles. The Contractor shall be required to comply with the Chain of Responsibility Act 2018 and under no circumstances shall the Contractor carry out any of the obligations of this contract that would breach the requirements of the Chain of Responsibility Legislation.

# 3. Participation in the RFQ Process

### 3.1 Jurisdiction

The Project, the RFQ and the final Contract Documents will be governed by the law of NSW. By lodging a Submission the Respondent irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of NSW.

### 3.2 Costs of RFQ

Respondents remain responsible for all costs incurred by them in connection with its Submission whether before or after the submission date and whether incurred directly by them or their advisers regardless of whether such costs arise as a direct or indirect consequence of amendments made to the Request by the Principal. For the avoidance of doubt, the Principal shall have no liability whatsoever to Respondents for the costs of any negotiations conducted in the event that the Principal decides not to accept any Submissions.

### 3.3 Canvassing of Officials

Any Respondent who solicits or attempts to solicit support for its Submissions or otherwise seeks to influence the outcome of the RFQ process by:

- a) offers of any inducement, fee, or reward, to any member or officer of the Principal, or any person acting as an adviser for the Principal; or
- b) canvasses any persons referred to in this document; or
- c) contacting any member or officer of the Principal about the Request or any process relating thereto, except as authorised by this Request including (but without limitation) for the purposes of discussing the possible employment transfer of the Respondent member or officer, may be disqualified from involvement in the RFQ process (without prejudice to any other civil remedies available to the Principal and without prejudice to any criminal liability which such conduct by a Respondent may attract), at the Principal's discretion.

### 3.4 Confidentiality

The Principal makes information available on condition that it is treated as confidential by the Respondent and is not disclosed, copied, reproduced, distributed or passed to any other person at any time except for the purpose of enabling a RFQ to be made, for example by disclosure by a Respondent to its insurers or professional advisers, provided they have each given an undertaking at the time of receipt of the relevant information (and for the benefit of the Principal) to keep such information confidential. Other than specified above, or as required by law, and save insofar as the information is in the public domain, Respondents shall not make any of the Information available to any other parties in any circumstances without the prior written consent of the Principal nor use it for any purpose other than that for which it is intended.

### 3.5 Statement of Business Ethics

Gwydir Shire Council is committed to the highest standards of honesty, fairness and integrity in all its business dealings. Gwydir Shire Council's Statement of Business Ethics sets out the standards of behaviour that Gwydir Shire Council expects from its private sector partners. These standards of behaviour relate to fair, ethical and honest dealings with Gwydir Shire Council, and ensuring that the best level of service is provided to the community. Breaches of this Statement may constitute grounds for termination of this contract.

### 3.6 GIPA Requirements (where relevant)

Where the arrangement involves the Respondent providing services on behalf of Gwydir Shire Council, s 121 of the GIPA Act requires that the following be included in any contract, and this will be part of the contract with Gwydir Shire Council:

1. The Contractor must, within seven (7) days of receiving a written request by the Agency, provide the Agency with immediate access to the following information contained in records held by the Contractor:
  - a. information that relates directly to the performance of the services provided to the Agency by the Contractor pursuant to the Contract;



- b. information collected by the Contractor from members of the public to whom it provides, or offers to provide, the services pursuant to the Contract; and
  - c. information received by the Contractor from the Agency to enable it to provide the services pursuant to the Contract.
2. For the purposes of sub-clause (1), information does not include:
- a. information that discloses or would tend to disclose the Contractor's financing arrangements, financial modelling, cost structure or profit margin;
  - b. information that the Contractor is prohibited from disclosing to the Agency by provision made by or under any Act, whether of any State or Territory, or of the Commonwealth;  
or
  - c. information that, if disclosed to the Agency, could reasonably be expected to place the Contractor at a substantial commercial disadvantage in relation to the Agency, whether at present or in the future.
3. The Contractor will provide copies of any of the information in sub-clause (1), as requested by the Agency, at the Contractor's own expense.

Any failure by the Contractor to comply with any request pursuant to sub clause (1) or (3) will be considered a breach of an essential term and will allow the Agency to terminate the Contract by providing notice in writing of its intention to do so with the termination to take effect seven (7) days after receipt of the notice. Once the Contractor receives the notice, if it fails to remedy the breach within the seven (7) day period to the satisfaction of the Agency, then the termination will take effect seven (7) days after receipt of the notice.

### **3.7 Non Collusion**

Any Respondent who:

- a) fixes or adjusts the amount of its Submission by or in accordance with any agreement or arrangement with any other Respondents; or
- b) enters into any agreement or arrangement with any other Respondent that it shall refrain from Responding or as to the amount of any Submission to be submitted; or

- c) causes or induces any person to enter such agreement or to inform the Respondent of the amount or approximate amount of any rival Submission for the Contract; or
- d) canvasses any of the persons previously discussed in connection with the RFQ or the outcome of the RFQ process; or
- e) offers, agrees, or does; pay any sum of money, inducement or valuable consideration. This being directly or indirectly to any person for doing, having done, causing, or caused to be done in relation to any other RFQ or proposed RFQ any act or omission; or
- f) communicates to any person other than the Principal the amount or approximate amount of its proposed Submission (except where such disclosure made in confidence in order to obtain quotations necessary for the preparation of the RFQ, for insurance or contract guarantee bonds and/or performance bonds or professional advice required for the preparation of a Submission),

may, at the discretion of the Principal, be disqualified from any further involvement in this RFQ process (without prejudice to any other civil remedies available to the Principal and without prejudice to any criminal liability which such conduct by a Respondent may attract).

### **3.8 Publicity**

Respondents must obtain the written approval from the Contact Officer before any disclosures relating to the RFQ or the contract are made to the press or in any other public domain.

Respondents must not undertake any publicity activities with any part of the media in relation to the RFQ or contract without the agreement of the Principal, including agreement on the format and content of any publicity.

END OF PART 1 – CONDITIONS OF RESPONDING