

HV Procurement Model.

From: STEYN Craig G <"o=rta/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=steync">
To: SOLIMAN Samer <samer.soliman@rms.nsw.gov.au>, DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>, THEVATHASAN Theepan <theepan.thevathasan@rms.nsw.gov.au>, SINGH Jai <jai.singh@rms.nsw.gov.au>
Date: Fri, 14 Jul 2017 13:17:01 +1000

Hi Samer

I understand there may be some requirement for a review of the current procurement model used, however some considerations that need to be taken into account in relation to the current model;

The work we undertake is both planned and reactive, therefore for the reactive component it is difficult to plan resources and funding; some examples of this may be;

- o Traffic Control- these services are engaged on a needs basis and is dependent on the scope of works; time of year services required; day or night?
- o Power failure at an enforcement sight where we are required to engage our electrical resources to trouble shoot and remedy the problem. This has no resolution until we identify what was the cause of the problem?
- o Any unplanned variation to the enforcement length where we need to react to in an speedy efficient manner to restore services in our overall effort to maintain KPI measures?
- o If a sign is damaged my a motorist and we need to react or restore the sign?
- o If guardrail/safety barrier is damaged by HV trying to avoid detection such as that at the Bective ASC enforcement site and needs to be repaired?
- o Where the asphalt has failed and re-sheeting works that take place destroying the enforcement marks on the road required for certification and form part of the court evidence pack images?
- o If the program sponsor request delivery of a component of the scope of works as soon as possible, how do we deliver?
- o As part of the Pacific Highway upgrade I have been requested by the region to procure the fabrication of the 3 x footings and 2 x structure for the new sites at Port Macquarie; there is no contract in place for this activity so we source 3 quotes from reputable experienced organisations that are able to deliver within the timeframe and to quality standard/set budgets. So we would be reacting to a service request from a customer?
- o When we go to install; we use resources we have invested time and effort training and skilling to deliver the works as expected.

How would we engage these resources on an annual basis and how do we commit to them without over committing RMS financially?

These are just some simple examples that need to be considered; there are many more that can be provided upon request. I am not sure if there is an option to engage a panel of these resources on a works as ordered agreement with no fiscal commitment from RMS; where we have the one contract; but can issue orders under that contract as work is required. Some of these resource commitments are less than \$100k for the year; some are greater than \$250k but can be dependent on the requirement as we become aware of the need.

It is rumoured going through the CMO adds roughly 28% to cost on top of the +/-40% added by their vendors to the actual cost of the works been carried out and there is no service level agreement in place for the delivery of any services issued to these resources. This can make it difficult to deliver as often required by the program sponsor in the timely fashion and removes that direct control over the delivery of works.

Just some points for discussion when we meet!

Now off to the driving range to hit some balls into the distance!!!!!!!!!!!!!!

Thanks

Craig Steyn
 Heavy Vehicle Maintenance & Point to Point Program Manager
 Compliance Operations | Safety & Compliance
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Every journey matters

Roads and Maritime Services
 Level 6 Pod G 110 George Street Parramatta NSW 2150

HVES current and future workload catch up

Where: AU - Sydney - 28.06 Meeting Room
When: Mon Jul 31 13:00:00 2017 (Australia/Sydney)
Until: Mon Jul 31 15:00:00 2017 (Australia/Sydney)
Organiser: "Hafez, Linda" <linda.hafez@wsp.com>
Required Attendees: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
"Rogers, Mike" <mike.p.rogers@wsp.com>

Alex,

As discussed, I have arranged this meeting to talk about future workload, specifically assistance with setting up a panel for your HVES works.

During this session we can also go through any other issues with the current work load, and update the spreadsheet I sent through previously.

Regards,

Linda

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Resource Matrix

From: STEYN Craig G <craig.steyn@rms.nsw.gov.au>
To: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>, STEYN Craig G <craig.steyn@rms.nsw.gov.au>
Date: Mon, 31 Jul 2017 15:13:12 +1000
Attachments: Book1.xlsx (14.15 kB)

FYR

Thanks

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Every journey matters

Roads and Maritime Services
Level 6 Pod G 110 George Street Parramatta NSW 2150

A.A. Steel Piping
 Acate Accuweigh Altus Auscorp CBF CIC EPMD Euro Civil Fabinox Lancomm M&M Inspect Maha Nepean Transport NGH NGH SA Masters Sienna Weighpack Workcontrol Workforce

1	Brake Testers
2	Civil
	Electrical Signage; Over Height &
3	CCTV
	Enforcement Line
4	Marking
	Enforcement Site
	Speed & Safety
	Mechanisms
	(Bumps; Gates;
	Hand Rail
	Specialised Services
5	etc)
6	General Labour
7	HVIS Signage
8	ITS/VMS
	Pavement
9	Rectification
	Portable Container
10	Maintenance
11	Quality Assurance
	Reactive
	&
	Trouble Shooting
12	Services
	Safety Barrier
13	Systems
14	Signage Design
15	Signage Install
	Structure
16	Fabrication
17	Structure Install
	TIRTL Calibration &
18	Certification
19	TIRTL Install
20	Trenching & Boring
	Weighing
	Calibration &
21	Certification

	Structure Fabrication	Structure Install	Structure Design	Signage Install	Signage Design	Quality Assurance	Pavement Rectification	Civil	TIRTL Install	TIRTL Calibration & Certification	Weighing Calibration & Certification	Enforcement Line Marking	Electrical Signage; Over Height & CCTV	Portable Container Maintenance	Trenching & Boring	Safety Barrier Systems	Enforcement Site Speed & Safety Mechanisms (Bumps; Gates; Hand Rail Specialised Services etc)	Reactive & Trouble Shooting Services	ITS/VMS	Brake Testers	HVIS Signage
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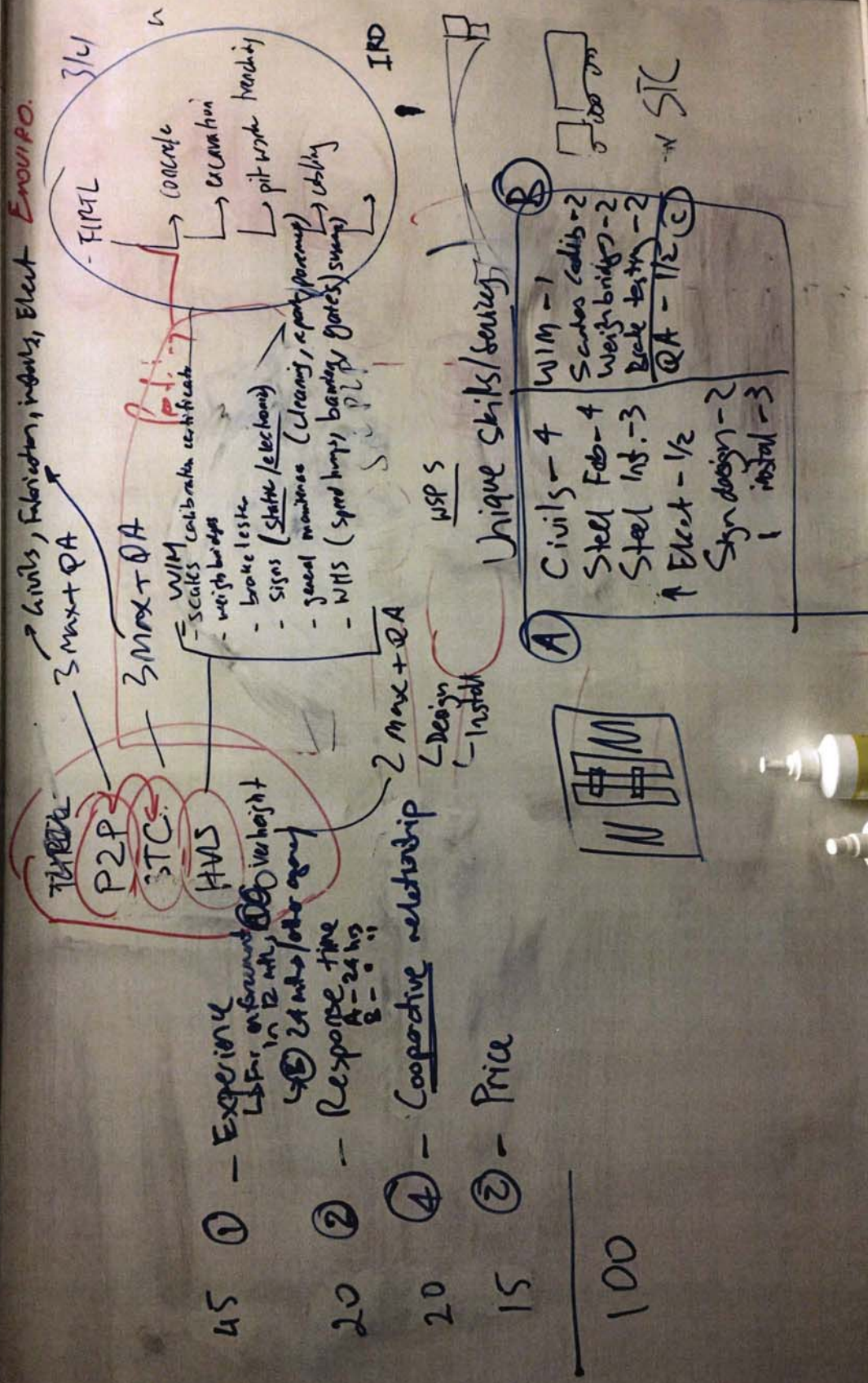
- 1 A.A. Steel Piping
- 2 Acate
- 3 Accuweigh
- 4 Altus
- 5 Auscorp
- 6 CBF
- 7 CIC
- 8 EPMD
- 9 Euro Civil
- 10 Fabinox
- 11 Lancomm
- 12 M&M Inspect
- 13 Maha
- 14 Nepean Transport
- 15 NGH
- 16 SA Masters
- 17 Sienna
- 18 Weighpack
- 19 Workcontrol
- 20 Workforce
- 21 Workforce

HV Branch Maintenance Panel

Where: Octogon Level 6 Pod G
When: Tue Aug 01 13:00:00 2017 (Australia/Sydney)
Until: Tue Aug 01 14:00:00 2017 (Australia/Sydney)
Organiser: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
Required Attendees: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
STEYN Craig G <craig.steyn@rms.nsw.gov.au>

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Panaboard



- 45 ① - Experience
 - ↳ For information in R. mts, other height
 - ↳ 24 hrs/other agency
- 20 ② - Response time
 - ↳ A - 24 hrs
 - ↳ B - 48 hrs
- 20 ④ - Cooperative relationship
- 15 ② - Price

100

HV Branch Maintenance Panel - follow-up to our meeting today

From: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
To: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
Cc: "Hafez, Linda" <linda.hafez@wsp.com>, "Radford, Kevin" <kevin.radford@wsp.com>
Date: Tue, 01 Aug 2017 17:44:13 +1000

Hi Alex,

I thought the meeting today went really well – thanks for your time and input.

As discussed, could you please forward the following **Minor Physical Works and Services** contract documents from the RMS Intranet in MS Word format:

- Terms of Contracted Work (C41)
- Conditions of Standing Offer
- Instrument of Agreement (Form of Agreement) – Work as Ordered Contract
- Contract Schedule – Work as Ordered Contract
- Request for Tenders
- Tender Form
- Schedule of Rates
- Schedule of Prices
- Schedule of Estimated Quantities
- Tender Price Summary Sheet

We won't necessarily use all of these document but if I have them all then we can choose any approach and just use the ones we need.

Linda or Kevin will forward you our proposal for this work tomorrow.

Kind regards,

Nathan Chehoud
Principal Civil Engineer



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Nathan.Chehoud@wsp.com

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RE: HV Branch Maintenance Panel - follow-up to our meeting today

From: DUBOIS Alexandre </o=rta/ou=exchange administrative group (fydibohf23spdl)/cn=recipients/cn=alexandu">
To: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
Cc: "Hafez, Linda" <linda.hafez@wsp.com>, "Radford, Kevin" <kevin.radford@wsp.com>
Date: Wed, 02 Aug 2017 12:17:56 +1000
Attachments: minsofp.doc (26.11 kB); minsofr_e1_r4.doc (26.62 kB); mwsrt.pdf (247.21 kB); mwswoacs.doc (80.38 kB); mwswoag.doc (56.83 kB); mwscoaso.doc (65.54 kB); c41.doc (707.58 kB); mwstf.doc (60.42 kB); mwstsag.doc (56.83 kB); mwstf.pdf (49.86 kB); minctensum.doc (27.14 kB); minsofeq.doc (29.18 kB)

Good morning Nathan,

Please find attached documents as requested

As discussed, my goal is to have this panel in operation within 4-6 weeks , including tendering evaluation and finalisation.

Thank you

Regards,

From: Chehoud, Nathan [mailto:Nathan.Chehoud@wsp.com]
Sent: Tuesday, 1 August 2017 5:44 PM
To: DUBOIS Alexandre
Cc: Hafez, Linda; Radford, Kevin
Subject: HV Branch Maintenance Panel - follow-up to our meeting today

Hi Alex,

I thought the meeting today went really well – thanks for your time and input.

As discussed, could you please forward the following **Minor Physical Works and Services** contract documents from the RMS Intranet in MS Word format:

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- Tender Price Summary Sheet

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Linda or Kevin will forward you our proposal for this work tomorrow.

Kind regards,

Nathan Chehoud
Principal Civil Engineer



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Schedule of Prices

Work:

Contract no:

The quantities shown in the Schedule of Estimated Quantities are estimated quantities only and are not guaranteed to be the actual or correct quantities of work to be carried out.

In preparing its Schedule of Prices, the Tenderer must:

- include all items for which the Principal has suggested a provisional quantity in the Schedule of Estimated Quantities
- use the provisional quantities (if any) suggested by the Principal in the Schedule of Estimated Quantities
- only include items which form part of the Works described in the Tender Documents.
- Exclude GST in prices but include GST in the Total Amount as shown below

Item no	Description of work	Quantity	Unit	Rate	Amount
---------	---------------------	----------	------	------	--------

GST

Total Amount

Name of Tenderer:

Schedule of Prices

Work C

not included

The quantities shown in this Schedule of Rates are estimated quantities only and are not to be taken as actual or correct quantities of work to be carried out or paid for under the various items of work. All items must be extended to show total amounts. The individual rates are to exclude GST but GST must be added to determine the Total Amount.

Description of work	Unit	Rate	Price	Amount
			GST	
				Total Amount

Name of Tenderer:

Name of Tenderer:

Minor Physical Works and Services

Request for Tenders



Revision Register

Request for Tenders

Revision Date	Comment	Authorised
August 1999	GST Clauses	Manager, Contracts Strategy, Infrastructure Contracts Branch
February 2000	Industrial Relations Management	Manager, Contracts Strategy, Infrastructure Contracts Branch
July 2000	GST Clauses amended	Manager, Contracts Strategy, Infrastructure Contracts Branch
May 2001	Clause 2.2 & Conforming tender checklist 'tenders submitted by facsimile will not be considered' added	Manager, Contracts Strategy, Infrastructure Contracts Branch
March 2004	Form retitled 'Request for Tenders' and GST excluded from individual rates and prices	Manager, Contracts Strategy, Infrastructure Contracts Branch
July 2004	Clause 1.2 amended to refer to the Code of Practice for Procurement	Manager, Contracts Strategy, Infrastructure Contracts Branch
September 2006	Clause 1.5 added for RMS' Statement of Business Ethics	Manager, Contracts Strategy, Infrastructure Contracts Branch
September 2008	Minor cosmetic changes	Manager, Contracts Strategy, Infrastructure Contracts Branch
May 2010	Reference to NSW Government purchasing policy including Preference schemes removed. Annexure CT1 deleted and all annexures have been renumbered. New Clauses 3.4 and 4.5 relating to National Code of Practice for Construction Industry included.	Manager, Contracts Strategy, Infrastructure Contracts Branch

Revision Date	Comment	Authorised
June 2011	Reference to FOI Act is now changed to GIPA Act	Manager, Contracts Strategy, Infrastructure Contracts Branch
Nov 2011	Reference to RTA changed to RMS	Manager, Contracts Strategy, Infrastructure Contracts Branch
Dec 2011	Clause 8.3.8 Reference to NSW Government Code of Practice for Procurement	Manager, Contracts Strategy, Infrastructure Contracts Branch
April 2012	Reference to National Code of Practice for the new Construction Industry Implementation Guidelines May 2012	Manager, Contracts Strategy, Infrastructure Contracts Branch
August 2012	Authorised witness certificate attached to Statutory Declaration	Manager, Contracts Strategy, Infrastructure Contracts Branch
Nov 2012	New Clause 3.5 RMS Customer Charter	Manager, Contracts Strategy, Infrastructure Contracts Branch
Dec 2012	Reference to WHS instead of OHS	Manager, Contracts Strategy, Infrastructure Contracts Branch
March 2013	Reference to National Code of Practice changed to Building Code 2013	Manager, Contracts Strategy, Infrastructure Contracts Branch
July 2013	Revised clause 2.1 -NSW Government Code of Practice for Procurement and Implementation Guidelines New Annexure CT5 added Schedule of Compliance with NSW Government's Implementation Guidelines to the NSW Government Code of Practice for Procurement	Manager, Contracts Strategy, Infrastructure Contracts Branch

Revision Date	Comment	Authorised
November 2015	<p>Tidy up all clauses – references to superseded Codes & Guidelines corrected and compliance requirements updated.</p> <p>Clauses 6.1.2, 6.3, 8.3.6 and Annexure CT2 – inserted “Chain of Responsibility” requirements.</p>	Manager, Contracts Strategy, Commercial Branch
June 2016	<p>Clauses 3.3, 6.4 and Annexures CT2 & CT3- inserted requirements re mandatory implementation of the NSW Government Policy on Aboriginal Participation in Construction</p> <p>Clause 4.5.5b)- Inserted requirement re FWBC letter of compliance</p> <p>Annexure CT6 – inserted requirements for tender lodgement at RMS Head Office</p>	GM Commercial Branch

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ROADS AND MARITIME SERVICES (RMS)

Minor Physical Works and Services

Request for Tenders

1. Notice to Tenderers

1.1 Description of tender

Roads and Maritime Services (RMS) seeks tenders for the Contracted Work described in the Tender Documents.

1.2 NSW Government Code of Practice for Procurement and Implementation Guidelines

Terminology

- .1 The New South Wales Government's Code of Practice for Procurement (NSW Code) and the New South Wales Government's Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction (NSW Guidelines) apply to the project the subject of this procurement process.
- .2 Terms used in this section 1 of this procurement process (under the heading NSW Code and Implementation Guidelines) have the same meaning as is attributed to them in the NSW Guidelines (as published by the NSW Treasury in July 2013).

Primary obligation

- .3 By submitting a response to this procurement process, the tenderer acknowledges and agrees that it:
 - is aware that the NSW Code and NSW Guidelines apply to the project;
 - is taken to have read and understood the NSW Code and NSW Guidelines and the obligations they impose;
 - will comply with the NSW Code and NSW Guidelines on this project, which includes, but is not limited to giving access to authorised personnel to inspect any work, material, or machinery, inspect and copy any record relevant to the project, and interview any person;
 - will agree, if successful in this procurement process, to contractual terms that give effect to the NSW Code and NSW Guidelines and mechanisms to ensure their compliance and enforcement; and
 - will comply with, and ensure all of its related entities (as defined in the NSW Guidelines) comply with, the NSW Code and NSW Guidelines in respect of any of their building and construction work (including any subsequent

privately funded work), on and from the date of submitting a response to this procurement process.

Cost, efficiency, productivity and workplace safety

- .4 The tenderer agrees that it must include in its response:
- for projects where the NSW Government or public sector body contribution is \$10million or more or is at least \$5million and represents at least 50 percent of the total construction project value, a Workplace Relations Management Plan and any other documents and information necessary to meet the requirements of section 6.1 of the NSW Guidelines;
 - a Work Health Safety Management Plan or Site Specific Safety Management Plan and any other documents and information necessary to meet the requirements of section 9 of the NSW Guidelines; and
 - the Schedule of Compliance that is attached as Annexure CT5 to this Request for Tenders, properly executed by or on behalf of the tenderer.
- .5 The tenderer acknowledges that by submitting this response it agrees to RMS and the Construction Compliance Unit (CCU) taking any steps to investigate claims, statements and assertions made by the tenderer in any of the documents referred to above in paragraph .4 of this clause before any contract is awarded. The tenderer acknowledges and agrees to cooperate with RMS and the CCU in respect of the investigation of compliance with the NSW Guidelines and further agrees that that compliance is a mandatory requirement of the procurement process. The tenderer will allow authorised personnel to:
- access premises and sites controlled by the tenderer or its related entities;
 - inspect and copy relevant records and documents;
 - inspect any work, material, machinery, appliance article or facility; and
 - interview any person;
- as is necessary to investigate the claims, statements and assertions made by the tenderer in the response or to demonstrate the tenderer's current or, where relevant, past compliance with the NSW Code and NSW Guidelines during the procurement process.

Disclosure of information

- .6 Notwithstanding any other provision of the procurement process, the tenderer agrees and consents to the disclosure of information concerning the tenderer's, and the tenderer's related entities', compliance with the NSW Code and NSW

Guidelines, including the disclosure of details of past and present compliance to the NSW Code and NSW Guidelines, as varied from time to time, including whether or not sanctions have been imposed on a tenderer or any of its related entities by the Commonwealth or any State or any government agency. This consent is given to the State of New South Wales, including its agencies (including RMS), Ministers and the CCU (and its authorised personnel) for purposes including monitoring and investigating compliance and ensuring, facilitating and promoting compliance with the NSW Code and NSW Guidelines.

Subcontractors etc

- .7 Where the tenderer proposes to subcontract the works, the tenderer agrees that it will ensure, through contract, that each subcontractor or consultant agrees to:
- the contractual promises in clauses paragraph .3 of this clause (Primary obligation) and paragraph .6 of this clause (Disclosure of information) in respect of the relevant subcontractor or consultant;
 - comply with the applicable plans and policies on the project referred to in clause paragraph .4 of this clause (Cost, efficiency, productivity and workplace safety); and
 - where a subcontractor or consultant is nominated in procurement process documents, that the nominated party cooperates with authorised personnel during the procurement process for the purposes outlined in paragraph .5 of this clause.

1.3 Other details

[Insert details for Notice to Tenderers, see Section 5.2.2 and Appendix 5E of ECM 5]

1.4 GST information

Information and requirements relating to the GST are set out in clause 7.2.

Please note in particular that special requirements apply to tenderers who are not registered for GST or who wish to enter into a Voluntary Agreement for withholding Pay As You Go taxation (refer clauses 7.2 and 8.4).

1.5 RMS statement of business ethics

You must comply with the RMS Statement of Business Ethics. Copies of the statement are available from the RMS' website.

<http://www.rms.nsw.gov.au/about/what-we-do/ethics/statement-business-ethics.html>

2. Summary of requirements for tender

2.1 Eligibility to tender

To be eligible to tender, you must:

- .1 Have an accredited WHS Management System if applicable (*see clause 3.1*), and
- .2 Attend the Pre-Tender Meeting (if any) (*see clause 3.2*), and
- .3 Attend the Site Inspection (if any) (*see clause 3.2*).

2.2 Lodging a conforming tender

To lodge a conforming tender, you must do all the things set out in the Conforming Tender Checklist attached to this document (please note tenders submitted by facsimile to RMS will not be considered).

2.3 Lodging an alternative tender

If you wish to lodge an alternative tender, you must also lodge a conforming tender and provide the details set out in clause 5.

2.4 Post-tender supporting information

To ensure that your tender remains conforming, you must provide supporting information within 5 working days of a request (*see clause 6*).

3. Eligibility to tender

3.1 WHS accreditation

You must have a Work, Health and Safety System in place if required by the Tender Documents. The System must comply with the NSW Government WHS Management Systems Guidelines and must be accredited for RMS contracts.

3.2 Pre-tender meeting and site inspection

You or your representative must attend any pre-tender meeting and/or site inspection held by RMS in relation to the Tender.

3.3 Aboriginal Participation in Construction

To the extent required by the Contract you must demonstrate your commitment and capacity to plan and facilitate Aboriginal participation in employment, training and development of Aboriginal enterprises in accordance with the NSW Government Policy on Aboriginal Participation in Construction (1 May 2015 or later update).

3.4 Building Code 2013 & Australian Government Building and Construction WHS Accreditation Scheme

To the extent required by the contract you must demonstrate your commitment and capacity to comply with the Building Code 2013 (Building Code) and Supporting Guidelines.

To the extent required by the contract you must demonstrate your commitment and capacity to comply with all conditions of the Australian Government Building and Construction WHS Accreditation Scheme.

3.5 RMS Customer Charter

Your attention is drawn to the RMS Customer Charter which is available from <http://www.rms.nsw.gov.au/customercharter/index.html>.

You should follow this charter in dealing with RMS customers under the contract.

4. Lodging a conforming tender

4.1 Tender Form

The Tender Form must be properly completed and signed and initialled by you or by someone on your behalf as a binding legal document.

4.2 Schedule of Rates

The Schedule of Rates (if applicable) must be completed with all items listed being priced and with no new items added.

4.3 Schedule of Prices

The Schedule of Prices (if applicable) must be prepared so as to meet the following requirements. The Schedule of Prices must:

- .1 include all items for which RMS has suggested a provisional quantity, and
- .2 use the provisional quantities (if any) suggested by RMS, and
- .3 only include items which form part of the Contracted Work described in the Tender Documents, and
- .4 be fully priced, and
- .5 when all the prices and items are extended, equal the lump sum component of the tender price.

If your Schedule of Prices includes an item which is not acceptable to RMS or is not part of the Contracted Work described in the Tender Documents, RMS may insist on the item being deleted. If that occurs, the Schedule of Prices will be adjusted by agreement between RMS and yourself to ensure that the total of the prices as extended of all remaining items continues to equal the lump sum component of the tender price.

4.4 Statutory declaration

The statutory declaration must be:

- .1 in the form set out in Annexure CT1, and

- .2 made by you or by a person who is in a position to know the facts attested to in the statutory declaration, and
- .3 signed by the declarant in the presence of a Justice of the Peace or a solicitor of the Supreme Court or another person authorised to administer an oath under the Oaths Act 1900 (NSW).

4.5 Compliance with Building Code 2013 & Australian Government Building and Construction WHS Accreditation Scheme

Where Building Code 2013 applies as stated in the Contract Schedule:

- .1 the Tenderer's attention is drawn to the Building Code dated 25 January 2013 (**Code**) and the Supporting Guidelines dated 6 May 2016 (**Guidelines**). Copies of the Code and Guidelines are available at www.employment.gov.au/building-code.
- .2 By submitting an expression of interest or tender to undertake the work/services, the Tenderer:
 - a) will be deemed to have read; and
 - b) agree that you must comply with, the Code and Guidelines.
- .3 Notwithstanding any other provisions of the Tender Documents, Tenderers hereby consent to the disclosure of information concerning compliance with the Code and Guidelines, including details of whether or not a sanction (see Section 8.2 of the Guidelines) has been imposed. This consent extends to disclosure by the Commonwealth, its agencies and ministers, and disclosure to others for the purposes of facilitating compliance with the Code and Guidelines and the exercise of their statutory and portfolio responsibilities. Tenderers must ensure that their proposed subcontractors and consultants are also aware of, and agree to comply with, these rights of use and disclosure.
- .4 Tenderers should be aware that the Code and Guidelines apply to:
 - a) the project which is the subject of these Tender Documents; and
 - b) all construction building work undertaken by the Tenderer and its related entities thereafter as defined in the Guidelines, including work on all new privately funded construction projects in Australia.
- .5 It is a condition of tender that Tenderers comply with the Code and Guidelines. As part of their tender response, Tenderers must submit:
 - a) a signed "Declaration of Compliance" in accordance with the Declaration of Compliance which is attached as Annexure CT4 to this Request for Tender; and

- b) a letter of compliance from the Fair Work Building and Construction (FWBC), if they are covered by enterprise agreements made on or after 18 May 2016.
- .6 Each Tenderer must indicate in its Tender response:
- a) whether the Tenderer or a related entity of the Tender has ever been subject to a sanction imposed under the Code and Guidelines;
 - b) whether the Tenderer has had a judicial decision against them (not including decisions under appeal) relating to employee entitlements and has not paid the claim;
 - c) whether the Tenderer has had any adverse court, tribunal, industrial relations commission or Fair Work Australia finding, order or penalty awarded against them in the last two years (and if so provide details);
 - d) how the Tenderer and its related entities have complied with the Code and Guidelines in the past (if the Tenderer has undertaken Australian Government funded construction work in the past);
 - e) how the Tenderer intends to comply with the Code and Guidelines in performing the Contract, should it be the successful Tenderer; and
 - f) where the Tenderer proposes to subcontract an element of the project, either:
 - (i) the information detailed in the above subclauses (a) and (b) in relation to each subcontractor, or
 - (ii) how the Tenderer intends to ensure each subcontractor complies with the Code and Guidelines.
- .7 While acknowledging that value for money is the core principle underpinning decisions on Government procurement, tenderers should note that when assessing tenders, preference may be given to Tenders that demonstrate a commitment to:
- a) adding and/or retaining trainees and apprentices;
 - b) increasing the participation of women in all aspects of the industry; or
 - c) promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.

Where the Australian Government Building and Construction WHS Accreditation Scheme applies as stated in the Contract Schedule:

- .1 The successful Tenderer must be accredited under the Australian Government Building and Construction WHS Accreditation Scheme (the Scheme) established by the Fair Work (Building Industry) Act 2012 (FWBI Act) when entering into contracts for building work as defined under section 5 of the FWBI Act and maintain accreditation under that Scheme while the building work is being carried out; and

- .2 The successful Tenderer must comply with all conditions of Scheme accreditation.

5. Lodging an alternative tender

5.1 You must also lodge conforming tender

You may lodge an alternative tender as long as you also lodge a conforming Tender.

A separate tender form must be submitted for each alternative tender with accompanying Pricing Schedule(s).

5.2 Details required for alternative tender

If you submit an alternative tender, you must:

- .1 show how it differs from the Tender Documents, and
- .2 show that the alternative tender satisfies the design and performance criteria on which the Tender Documents rely, and
- .3 detail and quantify the advantages which the alternative tender offers to RMS, and
- .4 identify the effects of the alternative tender on the tender price and timing of the Contracted Work, and
- .5 propose milestones for the submission of further drawings and specifications.

5.3 Consideration of alternative tender

RMS may consider your alternative tender even though your conforming Tender is not the lowest in price.

5.4 Conditions applicable to alternative tenders

RMS may impose conditions on the acceptance of an alternative tender in addition to the conditions set out in the Tender Documents. This does not limit the RMS' right to accept any tender conditionally.

6. Post-tender supporting information

6.1 Supporting information to be supplied on request

You must submit the following supporting information within 5 working days of a request by RMS:

- .1 Contract Disclosure and Related Body Corporate (*see clause 6.2*).
- .2 Chain of Responsibility details (*see clause 6.3*)
- .3 Aboriginal Participation in Construction details (*see clause 6.4*)

.4 Other Information (*see clause 6.5*).

6.2 Contract disclosure and related body corporate

RMS will disclose the contract information required by as per Division 5, Part 3 of the Government Information (Public Access) Act 2009. To allow RMS to comply you must submit particulars of any related body corporate (within the meaning of the Corporations Act 2001 of the Commonwealth) in respect of your company, or any other private sector entity in which you have an interest, that will be involved in carrying out any of your obligations under the contract or will receive a benefit under the contract.

6.3 Heavy Vehicle National Law - Chain of Responsibility

The Tenderer's attention is drawn to the chain of responsibility provisions of the Heavy Vehicle National Law. Under the Heavy Vehicle National Law, the successful Tenderer may be a party to the chain of responsibility.

The chain of responsibility provisions are directed at ensuring that road transport operations involving heavy vehicles are conducted safely for all road users, and without causing damage to assets or infrastructure or having significant adverse effects on the environment or community amenity.

Where required in Annexure CT2, the chain of responsibility (CoR) details must include a CoR Management Plan.

6.4 Aboriginal Participation in Construction

The Tenderer's attention is drawn to the requirements of the NSW Government *Policy on Aboriginal Participation in Construction*.

The Policy is available at:

<https://www.procurepoint.nsw.gov.au/policy-and-reform/nsw-procurement-reform/construction/policy-framework-construction>.

Where the Policy applies as stated in the Contract Schedule, the Contractor will be required to comply with relevant Category requirements of the Policy. The Targeted Project Spend (TPS) on Aboriginal participation is as stated in the Contract Schedule.

RMS will determine the TPS before the Contract is executed and the TPS will be included in the executed Contract (or in issued Work Order, where relevant). The TPS will remain fixed for the Contract or Work Order period as relevant, except where RMS and the Contractor agree to re-set it (e.g. where legitimate exclusions were overlooked at tender time).

Where stated in the Contract Schedule, the Contractor will be required to provide the Aboriginal Participation Plan and the Aboriginal Participation Reports, at the times specified in the

Contract and in the format prescribed by the NSW Procurement Board. Templates are available at:
<https://www.procurepoint.nsw.gov.au/aboriginal-participation-construction-information-contractors>.

Aboriginal Participation in Construction details submitted by the Tenderer must include:

- (a) an undertaking that, in the event that it becomes the Contractor, it is prepared to provide an Aboriginal Participation Plan and the Aboriginal Participation Reports, which must comply with the Policy;
- (b) evidence of its ability to meet the obligations under the Policy on the Contract;
- (c) details of its Aboriginal participation in construction performance outcomes on other RMS or NSW Government contracts;

and where required in Annexure CT2:

- (d) proposed exclusions for determining the TPS.

6.5 Other information

You must submit other information as listed in Annexure CT2.

7. Tender pricing considerations

7.1 Commercial products nominated by RMS

If a commercial product is referred to by catalogue number or brand name in the Tender Documents, you must base your Tender on the named product even if the Tender Documents allow the successful tenderer to nominate an equivalent or approved equivalent product.

If you wish to nominate alternative products at the time of tender, the nomination must be done as part of an alternative tender.

7.2 Goods and services tax

Your individual tendered rates and prices must exclude Goods and Services Tax (GST) but a separate item for GST is to be included, if it is payable. Any GST Free or Input Taxed Supplies to be made under the Contract must be clearly and separately identified.

If you state your ABN in your tender, RMS will treat you as being registered for GST, unless you advise otherwise. If you will not be registered for GST when the Contract is entered into, you must say so in your tender.

If you wish to enter into a Voluntary Agreement for withholding Pay as You Go taxation ('Voluntary Agreement'), you must say so in your tender and provide the information required for the approved

form of a Voluntary Agreement as required by the A New Tax System (Pay As You Go) Act 1999.

7.3 Customs duty

Customs duty is payable on all material, plant and equipment imported into Australia unless exemption from payment of the duty is granted.

If applicable, you must submit with the Tender Form a statement setting out the amount of customs duty included in the tender price in respect of material which will form part of the Contracted Work.

8 Assessment of tenders

8.1 Late tenders

RMS will not consider your tender if it is late unless you establish to the RMS' satisfaction that:

- .1 the cause of the lateness was beyond your control, and
- .2 consideration of the late tender could not possibly compromise the integrity of the tendering process.

8.2 Application of GST adjustment for non-GST taxpayers

If you are not registered for GST or you wish to enter into a Voluntary Agreement, your tender price will be increased by 10% for the purposes of tender assessment.

8.3 Best value for money assessment

Tenders will be assessed on the basis of best value for money. This includes consideration of the following criteria:

- .1 The tender price and the integrity of its structure (after application of applicable Government Purchasing Policies).
- .2 Individual rates and prices and the integrity of their structure.
- .3 Your current financial position and commitments on other contracts.
- .4 Your Quality System documentation and experience and performance in the carrying out of Quality Assurance contracts. (QA contracts only).
- .5 Suitability of proposed personnel, plant, equipment and subcontractors.
- .6 Proposals (where requested in the Tender Documents) and previous performance concerning management of safety, chain of responsibility provisions of the HVNL, workplace relations, environmental protection and community relations.

- .7 Claims history.
- .8 Record of compliance or otherwise with NSW Government Code of Practice for Procurement and Implementation Guidelines.
- .9 Records of performance, claims and compliance with Codes provided by other NSW Government agencies or departments.
- .10 Other criteria listed in Annexure CT3.

9 General

9.1 Tender validity period

Tenders are valid for 60 days after the closing date for Tenders.

9.2 Acceptance of tender

RMS is not bound to accept the lowest or any tender.

A Tender is accepted only when notice in writing of acceptance is issued to you by RMS.

9.3 Information provided for convenience only

Information provided by RMS which does not form part of the Tender Documents is provided only for the convenience of Tenderers. That information will not form part of a contract awarded as a result of this tender process.

9.4 Information not exhaustive

Information provided by RMS which does not form part of the Tender Documents and which describes the site or conditions which may be encountered during the course of carrying out the Contracted Work is not to be taken as an exhaustive statement of conditions which may be encountered during the course of carrying out the Contracted Work.

9.5 Estimated quantities

The quantities shown in any Schedule of Estimated Quantities issued by RMS are estimated quantities only and are not guaranteed to be the actual or correct quantities of work to be carried out.

9.6 Subcontractors not approved

Acceptance of a Tender by RMS does not constitute an approval of a proposed subcontractor or subcontracted work under clause 6.4 of the Terms for Contracted Work.

Annexure CT1

Statutory declaration

I [insert name] of [insert address] do solemnly and sincerely declare and affirm, in respect of the tender for ('Tender') or any contract arising from the Tender, that:

- 1. I hold the position of and am duly authorised by ('Tenderer') to make this declaration on its behalf.
2. * To the best of my knowledge, neither the Tenderer nor any of its employees or agents have entered into a contract, arrangement or understanding to pay moneys to a trade association, apart from the normal amount (annual subscription, turnover or contract fee) imposed by that trade association.
* The Tenderer has agreed to pay a special fee to a trade association of \$..... if it is successful in the Tender.
3. To the best of my knowledge, neither the Tenderer nor any of its employees or agents had knowledge of the price of another tenderer prior to submitting the Tender.
4. To the best of my knowledge, neither the Tenderer nor any of its employees or agents has disclosed the Tenderer's tender price to a rival tenderer.
5. The Tenderer submitted the Tender in good faith and has not deliberately set its tender price above the level of rival tenderers.
6. As at the date of this declaration, the Tenderer intends to do the work the subject of the Tender.
7. To the best of my knowledge, neither the Tenderer nor any of its employees or agents has entered into a contract, arrangement or understanding having the result that the Tenderer or another person will pay money to an unsuccessful tenderer if the Tenderer is successful in the Tender (other than for work or services done or materials supplied under a bona fide contract).
8. The Tenderer has allowed in its Tender for all workers who may be at any time employed on the work under the Contract to be paid, and promises to pay to all such workers in the event that the Tender is accepted, no less than the wages, allowances and other money payable to them pursuant to all relevant legislation, awards, determinations, judgments and agreements in respect of their employment on the work under the Contract.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1900.

Subscribed and declared at [city or town] on [date] before me:

Justice of the Peace/Solicitor

Declarant

*Delete whichever is inapplicable

**Authorised Witness' Certificate
Section 34 (1) (c) of the Oaths Act 1900**

I, _____
[being a Justice of the Peace* / Solicitor* / Notary Public* / Commissioner of Oaths*],

Insert name of authorised witness

certify the following matters concerning the making of this statutory declaration by the person who made it:

- 1. I saw the face of the person * **OR** I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering. *
- 2. I have known the person for at least 12 months * **OR** I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was: *

Describe identification document relied on

Signature of authorised witness

Date

* delete as applicable

NOTE the following identification is acceptable

- a current driver photo licence
- a current NSW Photo Card or similar photo identification issued by another Australian jurisdiction
- a passport (in English or with an English translation) that has not expired more than 2 years ago
- a current national identity photo card in English or with an English translation
- a current Medicare card, pensioner concession card, Department of Veterans' Affairs entitlement card,
- a current credit card
- a statement of account from a bank, building society or credit union that is not more than 1 year old,
- an electoral enrolment card or other evidence of enrolment as an elector that is not more than 2 years old,
- a student identity card, or a certificate or statement of enrolment, from an educational institution that is not more than 2 years old.

Annexure CT2

Other information to be submitted

You must submit the following additional supporting information within 5 working days of a request by RMS:

Section 6.3 Heavy Vehicle National Law – Chain of Responsibility

6.3.1) For Project Contract:

A Preliminary CoR Management Plan addressing:

- CoR issues of the Tender Documents
- Initial project CoR risk assessment identifying project specific risks, relevant company policies and procedures relevant to identified risks and, where relevant, how the design process and project delivery approach will address chain of responsibility risks during construction.

Required / Not required /
Not applicable

*[delete whichever is
inapplicable]*

6.3.2) For Work-as-Ordered Contract or Term Services Contract:

A CoR Management Plan addressing the requirements (a), (b), (c), (e) and (f) specified in Annexure G2-C41/G1

Required / Not required /
Not applicable

*[delete whichever is
inapplicable]*

Section 6.4 Aboriginal Participation in Construction

6.4d) Aboriginal Participation

Proposed exclusions for determining the TPS

Required / Not required /
Not applicable

*[delete whichever is
inapplicable]*

Section 6.5 Other Information

[insert details]

Required / Not required

*[delete whichever is
inapplicable]*

Annexure CT3

Other assessment criteria

The following additional criteria will be considered in the assessment of Tenders:

NOTE TO DOCUMENTER (delete this text box after customising the model RFT document):

If the NSW Government *Policy on Aboriginal Participation in Construction* applies to the project, insert here the following Evaluation Criterion:

“Demonstrated capacity to meet the obligations of the NSW Government *Policy on Aboriginal Participation in Construction*, May 2015, including evidence of previous performance”

Annexure CT4

Declaration of Compliance with the Building Code 2013 (Code) and Australian Government Building and Construction WHS Accreditation Scheme

This Schedule must be completed by the Tenderer and lodged with its Tender. Any Tender in which this Schedule is not completed may be regarded as non-conforming.

(Insert full name of Tenderer in block letters, ABN and ACN)

1. The Tenderer undertakes to comply with all conditions of the Australian Government Building and Construction WHS Accreditation Scheme (**the Scheme**) in performing the Contract, should it be the successful Tenderer.
 - a. Insert details of accreditation status under the Australian Government Building and Construction WHS Accreditation Scheme, including the expiry date of accreditation or provide evidence that accreditation is being sought under the Scheme.

Regulation 24(h) of the Fair Work (Building Industry - Accreditation Scheme) Regulations 2005 outlines provisions applying to joint venture/alliance arrangements that include accredited and unaccredited members.

2. The Tenderer confirms that it has complied with the *Building Code 2013* (**the Code**), in preparing this Tender.
3. The Tenderer undertakes that it complies with Code, and has complied with the Code from the time of lodgement of this tender, and that it has required compliance by its related entities (see section 8 of the Code).
4. The Tenderer undertakes to ensure compliance from all subcontractors and consultants engaged for the Project, should it be the successful Tenderer. All contracts must expressly require compliance with the Code.
5. The Tenderer agrees that it and its subcontractors and its related entities will provide the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:
 - (a) inspect any work, material, machinery, appliance, article or facility;

- (b) inspect and copy any record relevant to the Project and Works the subject of this Contract;
 - (c) interview any person; and
 - (d) any document requested under this contract. The document must be provided within the period specified either in person, by fax or by post,
- as is necessary to demonstrate its compliance with the Code and Guidelines.
6. The Tenderer acknowledges that it is aware the Commonwealth or Minister for Employment may impose a sanction on a Tenderer or Contractor that does not comply with the Code.

The sanction imposed may include but is not limited to:

- (a) the reporting of the breach to an appropriate statutory body or law enforcement agency (if there is evidence that the breach may also be a breach of a Commonwealth or State law), or industry association;
 - (b) issuing of a formal warning that future breaches may lead to more significant sanctions;
 - (c) preclusion from Tendering for any Commonwealth work for a specified period;
 - (d) communication of sanction details to all Commonwealth agencies to ensure a ‘whole-of-Government’ approach;
 - (e) publication of details of the breach and identification of the party committing the breach; and
 - (f) a reduction in the number of tendering opportunities that are given.
7. The Tenderer is to select which of the following clauses in italics is appropriate and delete the remaining clause:

- a) *The Tenderer hereby gives its consent, and confirms that its related entities give their consent, to disclosure by the Commonwealth, its agencies and ministers, of information concerning the Tenderer’s and its related entities’ compliance with the Code and whether or not a sanction has been imposed on the Tenderer and/or related entity of the Tenderer, for the exercise of their statutory and portfolio responsibilities (the Purposes).*

OR

- b) *The Tenderer has previously given its consent, and confirms that its related entities have previously given their consent, to disclosure by the Commonwealth, its agencies and ministers, of information concerning the Tenderer’s and its related entities’ compliance with the Code and whether or not a sanction has been imposed on the Tenderer and/or a related entity of the Tenderer for the exercise of their statutory and portfolio responsibilities (the Purposes), and confirms that the Tenderer and its related entities have not revoked that consent.*

8. The Tenderer has obtained or will obtain the consent of each subcontractor and consultant proposed in its Tender to disclosure by the Commonwealth, its agencies and ministers, of information concerning the proposed subcontractors, compliance with the Code and whether or not a sanction has been imposed on any proposed subcontractor, for the Purposes.
9. The Tenderer acknowledges that the consents provided in clause 6 are not limited to this Tender process as the Tenderer is expected to comply with the Code in future projects.
10. The Tenderer will:
 - (a) Describe how the Tenderer has complied with the Code in the past (if the Tenderer has undertaken Australian Government funded construction work in the past) and how it will comply if successful. For example, the tenderer will:
 - (i) comply with the Code;
 - (ii) require compliance with the Code from all subcontractors before doing business with them;
 - (iii) apply the Code to privately funded projects that commence after they first lodge an expression of interest or tender for Australian Government projects;
 - (iv) ensure that contractual documents allow for a person occupying a position in the Fair Work Building Industry Inspectorate to access sites, documents and personnel to monitor compliance with the Code, including privately funded construction sites;
 - (v) ensure project managers or head contractors establish appropriate processes to ensure freedom of association;
 - (vi) ensure there is an Work Health and Safety (WHS) plan for the Project;
 - (vii) respond to requests for information concerning Code-related matters made on behalf of Code Monitoring Group (CMG);
 - (viii) where practicable, ensure contractors or subcontractors initiate voluntary remedial action aimed at rectifying non-compliant behaviour when it is drawn to their attention;
 - (ix) ensure that CMG secretariat is notified of any alleged breaches, voluntary remedial action taken or other Code-related matters within 21 days of the party becoming aware of the alleged breach; and
 - (x) be aware that and ensure that sanctions applied under the Code are enforced including the exclusion of identified parties from work opportunities in accordance with decisions advised by CMG.
 - (b) Where the Tenderer proposes to subcontract an element of the work, the Tenderer is either to:
 - (i) provide the information detailed at (a) in relation to each subcontractor; or

- (ii) detail how the Tenderer intends to ensure compliance with the Code by each subcontractor.
 - (c) Ensure that where threatened or actual industrial action occurs on a project, contractors, subcontractors, consultants or project managers report such action to the Funding Agency.
11. Where the Tenderer has a Fair Work Act 2009 enterprise agreement that was approved on or after 1 February 2013 that enterprise agreement includes a genuine dispute resolution procedure that includes the following:
- (a) the ability for employees to appoint a representative in relation to the dispute;
 - (b) in the first instance procedures to resolve the dispute at the workplace level;
 - (c) if a dispute is not resolved at the workplace level, the capacity for a party to the dispute to refer the matter to an independent third party for mediation or conciliation; and
 - (d) if the dispute is still not resolved, the capacity for an independent third party to settle the dispute via a decision binding on the parties.

Privately Funded Projects:

12. The Tenderer declares that, in respect to privately funded projects:
- (a) The Tenderer and its related entities will comply with the Code on all the Tenderer's and its related entities' future privately funded projects.
 - (b) The Tenderer must maintain adequate records of compliance with the Code by the Tenderer, its subcontractors and related entities.
 - (c) The Tenderer agrees that it and any of its related entities will provide the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:
 - (i) inspect any work, material, machinery, appliance, article or facility;
 - (ii) inspect and copy any record relevant to the Project and Works the subject of this Contract; and
 - (iii) interview any person,
 as is necessary to allow validation of its compliance with the Code.
 - (d) The Tenderer agrees that the Tenderer and its related entities will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax or by post.
 - (e) The Tenderer will ensure that the Tenderer and its related entities permit the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, to have access to records and to the related entities' and subcontractors' premises (to inspect and copy records), as is

necessary to ensure that the subcontractors and related entities are complying with the Code.

Signed for the Tenderer by:

Date:.....

Name (in block letters):
(Authorised Officer)

In the Office Bearer capacity of:
.....

Annexure CT5

Schedule of Compliance with NSW Government's Implementation Guidelines to the NSW Government Code of Practice for Procurement

(SUBMIT WITH TENDER FORM)

Refer to request for Tenders clause 1.2 – NSW Government Code of Practice for Procurement and Implementation Guidelines.

Primary acknowledgments and undertakings

1. By completing this Compliance Schedule and submitting an expression of interest or tender response, the tenderer:
 - (a) acknowledges that the NSW Government's Code of Practice for Procurement (**NSW Code**) and the NSW Government's Implementation Guidelines to the NSW Code of Practice for Procurement: Building and Construction (**NSW Guidelines**) apply to the project the subject of this tender;
 - (b) undertakes that it, and its related entities, comply with the NSW Code and NSW Guidelines on:
 - (i) the project the subject of this tender;
 - (ii) any privately and publicly funded building and construction work to which the NSW Guidelines apply, on and from the date of submitting this expression of interest or response (if not already required to comply on such privately and publicly funded projects);
 - (c) confirms that it and its related entities have complied with:
 - (i) the NSW Code and NSW Guidelines on all its other projects to which the NSW Guidelines apply or have applied; and
 - (ii) all applicable legislation, court and tribunal orders, directions and decisions, and industrial instruments; and
 - (d) confirms that neither it, nor any of its related entities, are subject to a sanction or other circumstance that would preclude the tenderer from submitting an expression of interest or tender response, or, if successful, being awarded a contract.

Sanctions for non-compliance

2. The NSW Treasury, through the Construction Compliance Unit (CCU), has responsibility for enforcing, and ensuring compliance with, the NSW Code and NSW Guidelines.
3. The tenderer acknowledges that where it, or a related entity, fails to comply with the NSW Code or NSW Guidelines, a sanction may be imposed on the tenderer or its related entity or both. The sanctions that can be imposed include, but are not limited to, one or more of the following:
 - (a) a formal warning that a further breach will lead to severe sanctions;

- (b) referral of a complaint to the relevant industry organisation for assessment against its own professional code of conduct and appropriate action;
- (c) reduction in tendering opportunities at either agency or government-wide level, for example, by exclusion of the breaching party from tendering for government work above a certain value, or for a specified period;
- (d) reporting the breach to an appropriate statutory body; and
- (e) publicising the breach and identity of the party.

Disclosure of information

4. The tenderer agrees and gives its consent (or reaffirms its consent), and confirms that its related entities agree and give their consent (or reaffirm their consent), to the disclosure of information concerning the tenderer's, and the tenderer's related entities', compliance with the NSW Code and the NSW Guidelines, including disclosure of details of past conduct relating to the NSW Code and NSW Guidelines and whether or not sanctions have been imposed on a tenderer or its related entities.
5. The tenderer confirms that it has obtained, or will obtain, the consent of each subcontractor or consultant it proposes to use on the project, or that it will use if successful in the tender, to the disclosure of information concerning the subcontractor's and consultant's compliance with the NSW Code and the NSW Guidelines, including disclosure of details of past conduct relating to the NSW Code and NSW Guidelines and whether or not sanctions have been imposed on the subcontractor or consultant or its related entities.
6. The consent (or reaffirmation of consent) by the tenderer, its related entities and any proposed or subsequent subcontractors, is given to the State of New South Wales, its agencies (including RMS), Ministers and the CCU (and its authorised personnel) for purposes including:
 - (a) the exercise of their statutory or portfolio responsibilities;
 - (b) investigating and checking, claims and assertions made by the tenderer in any documents provided as part of its expression of interest or tender response (including, but not limited to, any Workplace Relations Management Plans or Health and Safety Management Plans);
 - (c) monitoring, investigating and enforcing the NSW Code and NSW Guidelines; and
 - (d) ensuring, facilitating and promoting compliance with the NSW Code and NSW Guidelines.
7. The tenderer acknowledges that this consent is not limited to this tender, or this project, as parties are expected to comply with the NSW Code and NSW Guidelines on future projects to which they apply.

Positive obligations

8. Without limiting the obligations and requirements in the NSW Guidelines, the tenderer acknowledges and undertakes to comply with its positive obligations under the NSW Code and NSW Guidelines, including to:
 - (a) comply with any Workplace Relations Management Plan and Health and Safety Management Plan;

(b) allow NSW Government authorised personnel to:

- (i) access the project site and other premises;
- (ii) monitor and investigate compliance with the NSW Code and NSW Guidelines;
- (iii) inspect any work, material, machinery, appliance, article, or facility;
- (iv) inspect and copy any record relevant to the project; and
- (v) interview any person;

as is necessary to demonstrate compliance with the NSW Code and NSW Guidelines;

- (c) notify the CCU (or nominee) and the Client Agency of any alleged breaches of the NSW Code and NSW Guidelines and of voluntary remedial action taken, within 24 hours of becoming aware of the alleged breach;
- (d) (for principal contractors only) report any grievance or dispute relating to workplace relations or work, health and safety matters that may impact on project costs, related contracts or timelines to the CCU (or nominee) and RMS within 24 hours of becoming aware of the grievance or dispute and to provide regular updates on the grievance or dispute;
- (e) report any threatened or actual industrial action that may impact the project, project costs, related contracts or timelines to the CCU (or nominee) and RMS within 24 hours and provide regular updates about the steps being taken to resolve the threatened or actual industrial action;
- (f) take all steps reasonably available to prevent, or resolve, industrial action which adversely affects, or has the potential to adversely affect, the delivery of the project or other related contracts on time and within budget; and
- (g) take all reasonably available steps to prevent, or bring to an end, unprotected industrial action occurring on, or affecting the project, including by pursuing legal action where possible. Any such legal action must be conducted (and where appropriate, concluded) in a manner consistent with the guiding principles and objectives of the NSW Guidelines, namely supporting outcomes of compliance with the law, productivity in delivering the project on time and within budget, maintaining a high standard of safety and protecting freedom of association.

9. Without limiting the obligations and requirements of the NSW Code and NSW Guidelines, the tenderer acknowledges its obligation to ensure, through contract, that subcontractors and consultants similarly do, or allow for, each of these applicable positive obligations.

Privately funded work

10. The tenderer acknowledges and agrees that in respect of its privately funded building and construction work (to which the NSW Guidelines apply) it, and its related entities, will:

- (a) comply with the NSW Code and NSW Guidelines;

- (b) maintain adequate records of compliance with the NSW Code and NSW Guidelines (including by contractors);
- (c) allow NSW Government authorised personnel to:
 - (i) access the sites and premises;
 - (ii) monitor and investigate compliance with the NSW Code and NSW Guidelines;
 - (iii) inspect any work, material, machinery, appliance, article, or facility;
 - (iv) inspect and copy any record relevant to the project; and
 - (v) interview any person;

as is necessary to demonstrate compliance with the NSW Code and NSW Guidelines; and

- (d) ensure contractors and consultants similarly do, or allow, for each of these obligations.

Declaration by tenderer and authorised representative

11. By signing this declaration on behalf of the tenderer, the authorised representative declares that they have full authority to execute it and have obtained any necessary consents and approvals to do so.

Signed for the Tenderer by:

Date:.....

Name (in block letters):
(Authorised Officer)

In the Office Bearer capacity of:
.....

Annexure CT6

Conforming tender checklist

To ensure your Tender is conforming, you must:

- Complete the Schedule to the Tender Form (Tender Form Schedule).
- Attach the Tender Form Schedule to the Tender Form.
- Sign the Tender Form Schedule in the place provided (or make sure it is signed by a person with authority to sign on your behalf).
- Initial all pages of the Tender Form.
- Complete all Pricing Schedules.
- Initial all pages of the Pricing Schedule(s).
- prepare and sign a hard copy of the Schedule of Compliance with the NSW Government's Code of Practice for Procurement and Implementation Guidelines (*see clause 1.2*)
- Prepare and make the Statutory Declaration (*see clause 4.4*)
- prepare and sign a hard copy of the Declaration of Compliance with the Building Code 2013 and the Australian Government Building and Construction WHS Accreditation Scheme; enclose a compliance letter from the FWBC, if applicable (*see clause 4.5*)
- Include advice as to your GST-status if you are not registered for GST or you wish to enter into a Voluntary Agreement for withholding Pay As You Go Taxation (*see clause 7.2*)
- Prepare Customs Duty statement if applicable (*see clause 7.3*)
- Lodge all the documents described above in the Tender Box* by the closing date and time (tenders submitted by facsimile to RMS will not be considered)

*** If Clause 1.3 specifies that the tenders are to be lodged in Tender Box located at RMS' Head Office (at 20-44 Ennis Road Milsons Point NSW 2061), the following additional conditions apply for tender lodgement:**

- (a) your Tender must be enclosed in a sealed package not larger than 400mm x 270mm x 190mm; and
- (i) endorsed [*insert Contract Title and Contract Number*] you're your name and address clearly displayed;
 - (ii) marked "**Tender Box/Strictly Private and Confidential**";
- and either:
- (b) placed in the Tender Box at the office of the RMS, Ground Level, 20-44 Ennis Road, Milsons Point NSW 2061,
- or
- (c) mailed to the Tender Box, Ground Level, 20-44 Ennis Road, Milsons Point NSW 2061,

so as to be received by no earlier than one business day before the closing date and time.

In the event that your Tender does not fit into one sealed package of the dimensions specified in clause (a) above, you can submit multiple packages each not exceeding the specified dimensions. Each package must be additionally labelled with "Volume 1", "Volume 2", etc., as relevant.

Minor Physical Works and Services Work-as-Ordered Contract

Contract Schedule



© Roads and Maritime Services

ROADS AND MARITIME SERVICES (RMS)

Minor Physical Works and Services

Work-as-Ordered Contract

Contract Schedule

Item	Clause reference and description	Contract-specific requirements
1	<p>Clause 1 – Summary</p> <p>This Contract is a Work-as Ordered Contract.</p>	<p>The Date for Completion of any Contracted Work is as set out in the Work Order requiring the Contracted Work.</p>
2	<p>Offer Term</p> <p>The Offer Term is: _____</p>	
3	<p>Clause 3 - Starting Work</p> <p>Security is:</p>	<p>Required. The amount of security is \$_____</p> <p><i>[Because this is a Work-as-Ordered Contract, you may need to calculate an appropriate security amount or include a methodology for determining a notional Contract Sum]</i></p> <p>Not required</p> <p><i>[delete whichever is inapplicable]</i></p>
4	<p>Clause 3.1 – Insurance Broker</p> <p>RMS' Insurance Broker is:</p>	<p>Corporate Risk Services Aon Risk Services Australia Limited ABN 17 000 434 720 Level 33, Aon Tower 201 Kent Street SYDNEY NSW 2000 Telephone: 61 2 9253 7000 (General); 61 2 9253 7615 (Direct) Facsimile 61 2 9253 7002</p>
5	<p>Clause 4 – Quality</p> <p>A quality system is specified:</p>	<p>Yes/No</p> <p><i>[delete whichever is inapplicable]</i></p>
6	<p>Clause 5.2 – Program</p> <p>A program is:</p>	<p>Required/Not required</p> <p><i>[delete whichever is inapplicable]</i></p>
7	<p>Clause 5.4.3 – Liquidated damages for delay</p> <p>Liquidated damages for delay in</p>	<p>May apply. The amount for any Contracted Work will be set out in the Work Order for that Contracted Work.</p>

Item	Clause reference and description	Contract-specific requirements
	completing the Contracted Work by the Date for Completion:	Do not apply. [delete whichever is inapplicable]
8	Clause 7.1 The Principal Contractor for the purposes of WHS Laws is	Contractor / _____ [delete whichever is inapplicable]
9	Clause 7.10 – Working times Restrictions on working times:	Apply. The permitted working times are: [insert details] Do not apply. [delete whichever is inapplicable]
10	Clause 7.16 – Building Code 2013	As set out in the Work Order requiring the Contracted Work
11	Clause 7.18 – Aboriginal Participation	
11A	The NSW Government <i>Policy on Aboriginal Participation in Construction</i> applies	As set out in the Work Order requiring the Contracted Work
11B	The Aboriginal Participation Project Category is:	As set out in the Work Order requiring the Contracted Work
11C	The Contractor is required to submit an Aboriginal Participation Plan and Aboriginal Participation Reports	As set out in the Work Order requiring the Contracted Work
11D	The Targeted Project Spend (TPS) at the date of this Agreement is:	As set out in the Work Order requiring the Contracted Work
12	Clause 16.2 – RMS representative The RMS representative is:	[insert name]
13	Clause 19.1 – Insurances you must have	
13A	Workers compensation insurance. To cover all persons directly or indirectly engaged in the	Required. As specified in Item 5 of Schedule 3 to C41 Terms for Contracted Works

Item	Clause reference and description	Contract-specific requirements
	performance of the Contracted Work	
13B	Motor vehicle/mobile plant insurance comprehensive or 3rd party property damage covering all plant and equipment and motor vehicles owned or used by you or your subcontractors (whether or not owned by you) in the performance of the Contracted Work. This insurance is in addition to the compulsory third party personal injury (CTP) insurance required by law.	Required. As specified in Item 4 of Schedule 3 to C41 Terms for Contracted Works
13C	Other insurances	Not required. Required: Type Amount: \$ _____ <i>[delete whichever is inapplicable]</i>
14	Clause 19.2 Principal Arranged Insurance	
14A	Contract Works Insurance	Amount: As specified in Item 1 of Schedule 3 to C41 Terms for Contracted Works
14B	Third Party Liability Insurance	Amount: As specified in Item 2 of Schedule 3 to C41 Terms for Contracted Works
14C	Professional indemnity insurance	For the RMS' benefit only
15	Clause 19.2 - Principal Arranged Insurance Excess	
15A	Contract Works Excess <ul style="list-style-type: none"> • Contracts up to and including \$5M 	<u>Excess:</u> As specified in Item 1 of Schedule 3 to C41 Terms for Contracted Works

Item	Clause reference and description	Contract-specific requirements
15B	Third Party Liability Insurance <ul style="list-style-type: none"> • Products Liability • Worker to Worker • Underground Services • All Other Claims 	<u>Excess:</u> As specified in Item 2 of Schedule 3 to C41 Terms for Contracted Works
16	Clause 22.5 – Cost adjustment for rise and fall	Applies/Doesn't apply <i>[delete whichever is inapplicable]</i>
17	Clause 22.6 – Cost adjustment for supply of bitumen	Applies/Doesn't apply <i>[delete whichever is inapplicable]</i>
18	Clause 26 - Warranty on completion The Warranty Period is:	
19	Clause 32.2 – RMS' address for notices	
20	Clause 32.2 – RMS representative's address for notices	

Minor Physical Works and Services Work-as-Ordered Contract

Contract for [xxx]



Roads and Maritime Services (RMS) Minor Physical Works and Services Work-as-Ordered Contract Form of Agreement

Date

Parties

Roads and Maritime services (RMS) of 20-44 Ennis Road, Milsons Point, New South Wales 2061

Your name:

ACN
:.....

Project
RMS file

Deed of Agreement:

1. You agree to carry out Contracted Work whenever a Work Order is issued to you during the Offer Term.
2. RMS agrees to pay you for performing Work Orders as set out in the Contract.
3. Both parties agree to perform their obligations under the Contract.
4. The Contract incorporates the Tender Documents and the following post-tender documents:
 - The Tender Form signed and lodged by you with your tender
 - The Pricing Schedules signed and lodged by you with your tender
 - The RMS letter accepting your tender and the documents listed in that letter as forming part of the Contract
5. You acknowledge that RMS might not issue any Work Orders to you.
6. Capitalised terms used in this Form of Agreement, unless otherwise defined or indicated in this Form of Agreement, have the meaning given to those terms in the Minor Physical Works and Services Terms for Contracted Work

Execution as a deed

RMS: Signed sealed and delivered by **Roads and Maritime Services** by its delegate in the presence of:

Witness

RMS delegate

Name of witness

Name of RMS delegate

You:SIGNED by YOU in accordance with section 127 of the Corporations Act 2001 (Cth)

Secretary/Director

Director*

Name printed

Name printed

(*I am the sole Director and Company Secretary of the Contractor and I occupy both offices - Strike out if not applicable)

Minor Physical Works and Services Work-as-Ordered Contract

Conditions of Standing Offer



RMS Minor Physical Works and Services Work-as-Ordered Contract Conditions of Standing Offer

1. Terms of your standing offer

1.1. Your offer

You offer to carry out work or services in accordance with Work Orders issued to you during the Offer Term.

The type of work you may be asked to do under a Work Order is set out in the Specification.

1.2. Your warranty

You warrant that you have the resources, qualifications, competence and experience to comply with any Work Order issued to you during the Offer Term.

1.3. Your acknowledgment

You acknowledge that:

1. RMS may not issue any Work Orders to you (or, if there is a Panel, to any member of the Panel).
2. RMS may not need any work or services of the type described in the Specification.
3. RMS may use other contractors to carry out work or services of the type described in the Specification (this includes, if there is a Panel, going to contractors outside the Panel).
4. RMS may ask you to quote separately for particular work or services even though you have made this standing offer.
5. RMS does not have to act fairly in allocating work between members of a Panel.

2. Work Orders

2.1. Form of Work Orders

Work Orders will be substantially in the form set out in the Schedule to this document.

Work Orders may be issued by letter, facsimile or email.

2.2. Work Orders are binding

Work Orders once issued are binding on you.

2.3. Terms of Work Order

Work Orders incorporate the *Terms for Contracted Work*.

2.4. No payment without an Work Order

You will not be paid for work or services unless a Work Order for that work or those services has been issued to you.

3. Termination of Work-as-Ordered Contract

3.1. RMS' right to terminate if not satisfied

RMS may terminate the Work-as-Ordered Contract if it is not satisfied with your performance under any Work Order or if it believes that you may not be able to comply with the Work-as-Ordered Contract for any reason.

Before doing so, RMS will give you notice of its intention and will allow you at least 14 days to respond.

Termination under this clause does not affect your obligations or entitlements under any Work Order previously issued (but RMS may also terminate the specific contract arising under the Work Order if it is entitled to do so under the *Terms for Contracted Work*).

3.2. Termination for insolvency

RMS may terminate the Contract and all current Work Orders immediately by written notice if:

1. you commit an act of bankruptcy, or
2. a resolution is passed or an application is made for your winding up or for the appointment of a liquidator or provisional liquidator, or
3. an external administrator is appointed to you, or
4. a secured creditor or its agent takes possession of a material part of your assets or undertaking, or
5. you enter into an arrangement with your creditors, or
6. your business is sold, or
7. you are convicted of a criminal offence.

On termination under this clause, you will be paid for work or services properly carried out under a Work Order before termination. However, the amount payable to you will be adjusted to take into

account loss or damage suffered or reasonably likely to be suffered by RMS as a consequence of your insolvency or default. RMS may recover any short-fall from you as a debt due and payable.

Schedule - Form of Work Order

This Work Order may be in the form of a letter or issued as a stand-alone document.

This document is a Work Order issued under your Work-as-Ordered Contract with RMS dated _____ for _____

[insert description of type of work or services to which the standing offer relates e.g. guardrail maintenance]

Under this Work Order, you are requested to carry out the work or services described below ('Contracted Work') on the terms of your Work-as-Ordered Contract and this Work Order.

Contracted Work

[set out the brief for the required Contracted Work or refer to annexed brief]

Other information

[e.g. materials/information to be provided by RMS]

Work Order Specific Requirements

[insert details in the table below as relevant for each Work Order]

Contract Clause/Contract Document reference and description	Work Order specific requirements
Clause 1 - Summary Date for Completion:	<i>[insert completion date or dates required for completion of milestone parts of the Contracted Work. Where dates are critical, make this clear]</i>
Clause 5.4.3 – Liquidated damages for delay Amount of liquidated damages for delay in completing by the Date for Completion:	Amount: \$ _____ Not applicable. <i>[delete whichever is inapplicable]</i>
Clause 7.16 – Building Code 2013	Applies / Doesn't apply ("Doesn't apply" applies if not filled in) <i>[delete whichever is inapplicable; see ECM 5.2.6 for guidance]</i>
Clause 7.18 – Aboriginal Participation	
The NSW Government <i>Policy on Aboriginal Participation in Construction</i> applies:	Yes / No <i>[delete whichever is inapplicable, see ECM 5.2.6 for guidance]</i>
The Aboriginal Participation Project Category is:	Category <i>[insert number]</i> / Not applicable. <i>[delete whichever is inapplicable, see ECM 5.2.6 for guidance]</i>
The Contractor is required to submit an Aboriginal Participation Plan and Aboriginal Participation Reports	Yes, at times specified in the Contract/No <i>[delete whichever is inapplicable]</i>
The Targeted Project Spend (TPS) at the date of this Work Order is:	\$ <i>[insert amount]</i> (excl GST) / Not Applicable. <i>[delete whichever is inapplicable]</i>
Clause 10.2 & Clause 22.3 of G2 - Chain of Responsibility	

Contract Clause/Contract Document reference and description	Work Order specific requirements
<p>(CoR) Management Plan</p> <p>A supplement to the Contractor's CoR Management Plan, to address the chain of responsibilities risks and issues specific to the work or services to be carried out under this Work Order is:.</p>	<p>Required/Not Required</p> <p><i>[delete whichever is inapplicable]</i></p>

Issued by Roads and Maritime Services
by:

Signature of issuing officer

Name and position of issuing officer

Date of issue: _____

RMS CONTRACT DOCUMENT C41**MINOR PHYSICAL WORKS AND SERVICES
TERMS FOR CONTRACTED WORK****REVISION REGISTER**

Revision Date	Description of Revision	Authorised
August 1999	GST Clauses	Manager, Contracts Strategy, Infrastructure Contracts Branch
February 2000	Industrial Relations Management Clause	Manager, Contracts Strategy, Infrastructure Contracts Branch
March 2000	Provision for the Security of Payment Act and minor formatting changes	Manager, Contracts Strategy, Infrastructure Contracts Branch
May 2000	additional sentence added on subcontractors etc re media releases	Manager, Contracts Strategy, Infrastructure Contracts Branch
July 2000	GST provisions changed CI 22A deleted	Manager, Contracts Strategy, Infrastructure Contracts Branch
May 2001 Ed 1/Rev 6	Clause 22.6 for bitumen cost adjustment added	Manager, Contracts Strategy, Infrastructure Contracts Branch
November 2001 Ed 1/Rev 7	<p>Clause 3.1.2 additional requirement for Principal Arranged</p> <p>Clause 10, new paragraph 2 registration requirement</p> <p>Clause 19.1, amended definition of approved insurers</p> <p>Clause 19.2, Principal Arranged Insurance – new clause</p> <p>Clause 23.5 Time for Payment, additional requirement for Principal Arranged Insurance</p> <p>Clause 36 and 37 Definitions and Interpretation incorporated into the Contract</p>	<p>Manager, Projects & OH&S, Legal Branch</p> <p>Manager, Projects & OH&S, Legal Branch</p> <p>Manager, Projects & OH&S, Legal Branch</p> <p>Manager, Projects & OH&S, Legal Branch</p> <p>Manager, Projects & OH&S, Legal Branch</p> <p>Manager, Projects & OH&S, Legal Branch</p>

Revision Date	Description of Revision	Authorised
January 2002 Ed 1/Rev 8	Clause 7.1, principal contractor under OHS regulations included	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed 1/Rev 9	Bitumen Cost adjustment	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed 1/Rev 10	Changes to clauses for amended Security of Payment Legislation New Statutory Declaration for changes to Pay-roll Tax and Workers Compensation Legislation	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed 1/Rev 11	New Statutory Declaration for changes to Pay-roll Tax and Workers Compensation Legislation incorporating 'subcontractor statement'	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed 1/Rev 12	Revised 'extract of Principal Arranged Insurance '	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed 1/Rev 13	Revised Certificate of Currency for insurance	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed 1/Rev 14	Revised 'extract of Principal Arranged Insurance '	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed 1/Rev 15	Clause 23.1.3.4 removed	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed 1/Rev 16	Page breaks to document changed.	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed 1/Rev 17	Clause 10. RMS Statement of Business Ethics added Amended Schedule 4	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed 1/Rev 18	CI22.7 Provisional Quantities	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed 1/Rev 19	Clause 21.2 added for Related body corporate disclosure Clause 36 definitions for Day and Business Day added	Manager, Contracts Strategy, Infrastructure Contracts Branch

Revision Date	Description of Revision	Authorised
Ed 1/Rev 20	Reference to Payroll Tax Act 2007 (instead of 1971)	Manager, Contracts Strategy, Infrastructure Contracts Branch
Ed1/Rev 21	RMS PO Box and Fax numbers updated. Schedule 3 Insurances revised	Manager, Contracts Strategy, Infrastructure Contracts Branch
May 2010 Ed 1/Rev 22	New Clause 7.16 National Code of Practice added. Clause 17.2.1 excepted risk expanded to include consultants of RMS. New clause 18A limitation of liability added.	Manager, Contracts Strategy, Infrastructure Contracts Branch
Oct 2011 Ed 1/Rev 23	New Clause Schedule 3 Insurance and Schedule 4 PAI	Manager, Contracts Strategy, Infrastructure Contracts Branch
Nov 2011 Ed 1/Rev 24	Reference to RMS changed to RMS	Manager, Contracts Strategy, Infrastructure Contracts Branch
Nov 2011 Ed 1/Rev 25	Definition of RTA and Roads and Traffic Authority added. RMS's Representative changed to RMS Representative.	Manager, Contracts Strategy, Infrastructure Contracts Branch
Feb 2012 Ed 1/Rev 26	Requirement of Statutory Declaration removed. New Contractor Statement.	Manager, Contracts Strategy, Infrastructure Contracts Branch
April 2012 Ed 1/Rev 27	Reference to National Code of Practice for the new Construction Industry Implementation Guidelines May 2012	Manager, Contracts Strategy, Infrastructure Contracts Branch
November 2012 Ed 1/Rev 28	Schedule 4 Links to new PAI Terms	Manager, Contracts Strategy, Infrastructure Contracts Branch
December 2012 Ed 1/Rev 29	Reference to WHS instead of OHS	Manager, Contracts Strategy, Infrastructure Contracts Branch
March 2013 Ed 1/Rev 30	Reference to National Code of Practice changed to Building Code 2013	Manager, Contracts Strategy, Infrastructure Contracts Branch

Revision Date	Description of Revision	Authorised
July 2013 Ed 1/Rev 31	NSW Codes of Practice for Procurement and Implementation Guidelines added	Manager, Contracts Strategy, Infrastructure Contracts Branch
April 2014 Ed1/Rev 32	CI 23.2, 23.3,23.5 & Schedule 2. Changes related to Building and Construction Industry Security of Payment Act	Manager, Contracts Strategy, Contracts and Project Strategy Branch, Infrastructure Development
November 2015 Ed1/Rev 33	<p>CI 3.3 – additional requirement re payment of Long Service Levy.</p> <p>Cls 7.1 & 36 – updates re WHS Laws.</p> <p>CI 7.15 – Australian Government WHS Accreditation Scheme.</p> <p>CI 7.18 NSW Government Policy on Aboriginal Participation in Construction.</p> <p>Cls 6.7.2 & 10.2 – Chain of responsibility requirements of the Heavy Vehicle National Law.</p> <p>CI 22.4 Content deleted (Price adjustment for GST and GST-related tax changes); clause retained as “Not Used”</p> <p>CI 36 – definition of “WHS Laws” inserted</p> <p>Schedule 1 – amended to make it consistent with undertakings in GC21</p>	Contracts Strategy Manager, Commercial Branch, Infrastructure Development
June 2016 Ed1/Rev 34	CI 7.18 and 36; Schedule 5 - inserted requirements re mandatory implementation of the NSW Government <i>Policy on Aboriginal Participation in Construction</i>	GM Commercial Branch, Infrastructure Development

Minor Physical Works and Services

Terms for Contracted Work



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RMS Minor Physical Works and Services

Terms for Contracted Work

Getting started

1. Summary of your role

In a Project Contract, you must carry out and complete the Project in accordance with the Contract by the Date for Completion.

In a Term Services Contract, you must carry out the Contracted Work for the whole of the Term in accordance with the Contract.

In a Work-as-Ordered Contract, you must carry out and complete Contracted Work when a Work Order requires you to do so. If a Work Order is issued, you must carry out and complete the required work or services in accordance with the Contract and the Work Order.

2. Forming the Contract

2.1. Project Contracts

Project Contracts come into existence when RMS writes to you accepting your tender.

Until you sign the formal contract, the Contract is made up of the Tender Documents, the Tender Form, the Pricing Schedules, the RMS' letter of acceptance and any documents incorporated into the Contract by the letter of acceptance.

2.2. Term Services and Work-as-Ordered Contracts

Term Services and Work-as-Ordered Contracts are not binding on RMS until you sign and return the formal contract prepared by RMS.

3. Starting work

3.1. Things to do before starting

Before starting the Contracted Work, you must:

1. If security is required, lodge your security with RMS (*see clause 20 and Contract Schedule*).
2. Provide evidence of your insurances and the details necessary for Principal Arranged Insurance to the RMS'

Insurance Broker in the Schedule (*see clause 19 and Contract Schedule*).

3. If the Contract Sum is greater than \$25,000 and the Contracted Work is building and/or construction work to which the Building and Construction Industry Long Service Payments Act 1986 applies:
 - Pay to the Long Service Corporation or the Corporation's agent, the amount of the long service levy payable in respect of the Contracted Work,
 - If the Long Service Corporation serves a notice under [section 41 of] the Long Service Payments Act, pay any required additional amount of long service levy, within the time specified in the notice; and
 - Produce to RMS the document evidencing payment of the levy referred to above.

3.2. Start date

In a Project Contract, you must satisfy the conditions set out in clause 3.1 and start the Contracted Work within 14 days of the date of the RMS' letter accepting your tender, unless otherwise advised.

In a Term Services Contract, you must start the Contracted Work on the first day of the Term unless otherwise advised.

In a Work-as-Ordered Contract, you must start the Contracted Work within the time set out in the Specification or the Work Order. If no time is specified, you must start work as soon as possible and not later than 14 days from the date of the Work Order, unless otherwise advised.

Doing the Work: Quality

4. Quality of Contracted Work

4.1. Use skill and care

You must carry out the Contracted Work diligently and conscientiously and to a high standard of skill and care. RMS enters into the Contract relying on your skill and knowledge.

4.2. Comply with Contract

Everything you make, design or supply under the Contract must fully comply with the Contract and be reasonably suitable for its intended purposes.

4.3. Use new materials

You must use new materials unless the Contract clearly states that you can use materials which are not new.

4.4. Assign warranties

You must make sure that RMS obtains the benefit of warranties provided by manufacturers or suppliers of materials and things used in the Contracted Work if ownership of those materials or things will vest in RMS.

4.5. Permit inspection and testing and provide test results

This clause applies if a Quality System is not specified (see Contract Schedule).

4.5.1. Access for inspection and testing

You must give RMS access during working hours to inspect and test materials and things proposed to be used in the Contracted Work.

4.5.2. Payment for inspections and tests

RMS bears its own costs of inspections and tests which it undertakes under this clause, unless the materials or things tested are found not to be in accordance with the Contract. If materials or things tested are found not to be in accordance with the Contract, you must reimburse RMS for all costs associated with the relevant inspection and testing.

4.5.3. Submission of test results

If the Specification requires you to provide test results for product verification, you must do so within the time required by the Specification. If no time is specified, you must provide the results promptly.

4.6. Manage work for quality according to a Quality System

This clause applies if a Quality System is specified (see Contract Schedule).

4.6.1. Your Quality System

You must set up and maintain a Quality System which complies with the Quality System Specification.

4.6.2. Control the work

You must control the Contracted Work in accordance with your Quality System. This includes doing all testing and other things

necessary to demonstrate that your Contracted Work fully complies with the Contract.

4.6.3. Submit summary of product quality records

You must submit a summary of product quality records with every payment claim. The summary must demonstrate that each relevant lot or component of the Contracted Work conforms with the Contract.

Your entitlement to payment under the Contract may be reduced if you do not provide complete records or records which show full conformance.

4.6.4. Retain quality records and produce them as required

You must retain quality records for at least 5 years after the end of the last warranty period under the Contract (*see clause 27 and the Contract Schedule*).

During this period, you must give RMS access to those records during working hours and you must deliver to RMS any or all of the records if requested to do so. After the end of the last warranty period, RMS must give you at least 14 days notice if it requires access to, or delivery of, any quality records.

4.6.5. Testing

You must do your testing in accordance with the Contract and the Inspection and Test Plans submitted by you.

You must give reasonable notice to RMS of the time, date and place of any testing to which a Hold Point or Witness Point applies.

If you delay in doing a test which you are required to do, RMS may do the test itself at your cost after notifying you in writing.

You must provide test results for product verification within the time required by the Contract. If no specific time limit applies, provide the results promptly.

4.6.6. The RMS' powers

RMS may:

- .1 Conduct audits, surveillance and testing to verify that your Quality System is effective, or
- .2 Test materials or other components or parts of the Contracted Work (even if you are also doing the same tests), or
- .3 Direct you not to cover up Contracted Work or make it inaccessible without prior approval, or

- .4 Nominate any point in a work process as a Witness Point or Hold Point, or
- .5 As part of an audit, direct you to open up or pull down Contracted Work and to reinstate it later.

4.6.7. *QA costs*

RMS will reimburse you for all costs you incur in pulling down or opening up and then reinstating any part of the Contracted Work for the purposes of an audit - but only if the results of the audit indicate that the work was in compliance with the Contract. All other costs, losses, damages or expense which may be incurred or suffered by you in connection with anything done under this clause 4.6 are at your cost.

4.6.8. *Obligations not limited by Quality System compliance*

Your Quality System is a tool to demonstrate compliance with the Contract but does not in any way limit your obligation to ensure that the Contracted Work fully complies with the Contract.

4.7. Access to premises

You must make sure that RMS has access at all reasonable times to premises where Contracted Work is being carried out.

Doing the Work: Time

5. Time for carrying out Contracted Work

5.1. Carry out work expeditiously

You must carry out the Contracted Work in a timely and expeditious manner and so as to comply with any time requirements set out in the Contract.

5.2. Follow program

If you are required to provide a program, you must perform the Contracted Work according to the program submitted to RMS. Changes to the program must be notified to RMS.

Nothing in a program limits your obligations to meet time requirements set out in the Contract.

5.3. Notify delays or likely delays

You must promptly notify RMS if you become aware of anything which may delay the progress of the Contracted Work. Your notice must be in writing and must set out details of the possible delay and its cause.

5.4. Date for Completion and extensions of time

This clause only applies where the Contract specifies a Date for Completion of the Contracted Work.

5.4.1. Complete by the Date for Completion

You must complete the Contracted Work by the Date for Completion.

5.4.2. Extensions of time

The RMS Representative will agree to an extension of time to the Date for Completion if:

- .1 you are delayed in meeting the Date for Completion, and
- .2 you have given a written notice to RMS advising of the delay within 28 days of the start of the delay, and
- .3 your notice advising of the delay sets out details of the delay, its causes and the amount of extra time claimed, and
- .4 the delay starts before the Date for Completion, and
- .5 the cause of the delay is beyond your reasonable control, and
- .6 the RMS Representative reasonably considers that an extension of time is justified.

The length of extension of time agreed to will be decided by the RMS Representative, acting reasonably and having regard to the circumstances.

The RMS Representative may also extend the Date for Completion at any time and for any reason.

5.4.3. Pay liquidated damages for delay

If you do not complete the Contracted Work by the Date for Completion, you must pay RMS the amount of liquidated damages set out or referred to in the Contract Schedule. That amount is payable each week during the period between the Date for Completion and the date that you actually complete the Contracted Work and pro-rata for each part of a week.

5.5. Directions as to order and timing of Contracted Work

RMS may direct you as to the order and timing for performance of the Contracted Work.

5.6. Directions to suspend Contracted Work

RMS may direct you to suspend the whole or part of the Contracted Work for any reason for a period nominated by RMS.

If RMS directs a suspension because of a default or act or omission by you, your subcontractors, employees or agents, you are not entitled to make a claim against RMS for losses or damages you may incur or sustain in connection with the suspension.

Doing the Work: People and resources

6. People and resources

6.1. Warranty of capacity

You warrant to RMS that you have the materials, people and resources to properly perform the Contracted Work.

6.2. Use competent people

You must provide people who are competent, experienced and qualified to carry out the Contracted Work.

If you have nominated particular people to do the Contracted Work and RMS requires you to use those people, you must do so unless RMS gives its written permission to the use of other people.

6.3. RMS may direct removal of personnel

The RMS Representative may direct you to remove a person from the Contracted Work if the RMS Representative considers the person to be:

- .1 Incompetent, negligent or guilty of misconduct, or
- .2 reckless or indifferent in relation to safety or the protection of the environment.

6.4. Subcontract only with approval

You may subcontract some of the Contracted Work but only with the RMS' prior written consent. Approval to subcontract does not relieve you of any liabilities or obligations under the Contract.

6.5. Wages and conditions of workers

You must ensure that all Workers are engaged on terms and conditions which are no worse (for the Worker) than those prescribed by relevant legislation, an award applicable to the worker or determination, judgment or a registered enterprise agreement concerning the Worker's minimum terms of employment. You must provide evidence of compliance with this clause if requested to do so by RMS.

6.6. Payments to Subcontractors and Workers

You must ensure that Subcontractors and Workers are fully paid money properly due and payable to them in connection with the Contracted Work under relevant awards, contracts and enterprise agreements.

6.7. Subcontract terms

6.7.1 Subcontracts with a value of \$25,000 or more

You must include the following terms in all of your Subcontracts with a value of \$25,000 or more at their commencement date:

- .1 A term equivalent to this clause.
- .2 A term allowing the Subcontractor (if it is required to provide security for its contractual obligations) to elect to provide an unconditional undertaking from a bank, financial institution or insurance company in lieu of a cash security or retention.
- .3 A term expressly acknowledging that cash securities and retentions belong in equity to the Subcontractor at all times (even though you may earn interest on them) unless and until you become contractually entitled to have recourse to them.
- .4 A term imposing an obligation on you to deposit all cash securities, retentions and cash proceeds of any converted securities (other than securities converted in the exercise of a contractual right of enforcement) into a trust account with a bank within 24 hours of the receipt, retention or conversion.
- .5 A term imposing an obligation on you to keep proper records of, and account to the Subcontractor with respect to, all securities and retentions and their proceeds.
- .6 A term imposing an obligation on you to pay interest on any money due to the Subcontractor and not paid on the date it is

due. The rate of interest must not be less than the rate payable by RMS under the Contract on overdue payments.

- .7 Terms incorporating dispute resolution procedures similar to those in the Contract.
- .8 A term acknowledging that the Subcontractor is not required to comply with the dispute resolution procedures set out in the Subcontract if the only remedy sought by the Subcontractor is an order for payment of money which is not disputed to be due and payable under the Subcontract.
- .9 A term requiring you to provide the Subcontractor (before the Subcontractor starts work) with copies of this clause and clauses 6.5, 22 and 23.

6.7.2 All Subcontracts

You must ensure that every Subcontract, regardless of the subcontract value, includes provisions of clause 10.2 and a clause to the same effect as this clause 6.7.2 which is binding on the Subcontractor, and provide evidence of this to RMS when requested by the RMS Representative.

Doing the Work: Safety and environment

7. Protecting people, property and the environment

7.1. Comply with WHS requirements

You must comply with all work health and safety requirements of RMS relating to the Contracted Work or the use of RMS work sites or premises.

Unless the Contract Schedule states otherwise or the RMS Representative directs otherwise, you are appointed and deemed to be the principal contractor for the purposes of the WHS Laws and must discharge the responsibilities imposed on a principal contractor by the WHS Laws.

Where the Contract Schedule states that you are the principal contractor, you must:

- .1 ensure that the work site or premises where the Contracted Work is being carried out is clearly defined as a separate and distinct workplace at all times, including by installing physical boundaries if reasonably possible; and
- .2 not do or omit to do anything that causes RMS to breach the WHS Laws

7.2. Ensure safety and welfare of all people who may be affected

You must ensure the safety and welfare of all people including your employees and subcontractors, members of the public and road users who may be affected by your activities under the Contract or in relation to the Contracted Work.

7.3. Provide safety precautions

You must provide all safety devices, traffic control, barricades, signs and warnings required by RMS or which are necessary or desirable for the protection of people or property.

7.4. Comply with environmental requirements

You must comply with all environmental protection requirements of RMS relating to the Contracted Work or the use of RMS work sites or premises.

7.5. Properly supervise Contracted Work

You must be personally present or ensure that you have a competent representative present at any work site or premises where the Contracted Work is being carried out. Your representative must personally manage and supervise activities of your employees, subcontractors and agents at the worksite or premises. The representative must be a person acceptable to RMS.

7.6. Avoid damage to property and the environment

You must avoid damage to property and the environment while carrying out the Contracted Work.

7.7. Make good damage to property or the environment

You must, at your own cost, promptly make good any damage to property or the environment caused by you, your subcontractors, employees or agents while carrying out the Contracted Work.

7.8. Prevent nuisance or inconvenience

You must prevent nuisance or inconvenience to anyone who may be affected by the performance of the Contracted Work.

7.9. Clean up work sites and premises

You must clean up and keep clean and tidy all work sites and premises used for the Contracted Work. This includes ensuring that potential pollutants are prevented from being discharged from the site or premises.

7.10. Working times

Restricted working times may apply to work sites and premises made available to you by RMS. The permitted working times are set out or referred to in the Contract Schedule.

7.11. Use of RMS worksites and premises

You may only use RMS work sites or premises for the purposes of carrying out the Contracted Work. In particular, you may not use RMS worksites or premises for any residential purpose unless RMS has given you prior written authorisation to do so.

7.12. Take care of RMS things

You must take good care of things provided to you by RMS for the purposes of the Contract (unless the Contract states otherwise).

7.13. Do not interfere with RMS staff or contractors

You may not interfere with or disrupt the work of RMS staff or other contractors except to the minimum extent necessary for the proper performance of the Contracted Work.

7.14. RMS may instruct urgent work

The RMS Representative may instruct you to carry out any urgent work he or she considers necessary to:

- .1 prevent, avoid or minimise loss or damage to any property or harm to the environment or personal injury to any person arising in connection with the Contracted Work, or
- .2 ensure or protect the safety, health or welfare of any person connected with, or who may be affected by, the Contractor's performance of the Contracted Work.

You must comply with instructions issued by the RMS Representative under this clause immediately and, unless the RMS Representative determines otherwise, at your own cost.

7.15. The Australian Government Building and Construction WHS Accreditation Scheme

Where required in the Contract Schedule, you must maintain accreditation under the Australian Government Building and Construction WHS Accreditation Scheme (**the Scheme**) established by the Fair Work (Building Industry) Act 2012 (FWBI Act) while building work (as defined in section 5 of the FWBI Act) is carried out. The Contractor must comply with all conditions of the Scheme accreditation.

7.16. Building Code 2013

Where required in the Contract Schedule:

- .1 You must comply with the Building Code 2013 (**Code**) and the Supporting Guidelines for the Building Code 2013 (**Guidelines**). Copies of the Code and Guidelines are available at www.employment.gov.au/buildingcode
- .2 Compliance with the Code and Guidelines shall not relieve you from responsibility to perform the Contract, or from liability for any defect in the works arising from compliance with the Code and Guidelines.
- .3 Where a change in the Contract is proposed and that change would affect compliance with the Code and Guidelines, you must submit a report to the Commonwealth specifying the extent to which your compliance with the Code and Guidelines will be affected.
- .4 You must maintain adequate records of the compliance with the Code and Guidelines by yourself, your subcontractors, consultants and your Related Entities (see

Guidelines for meaning including section 3.5 of the Guidelines).

- .5 If you do not comply with the requirements of the Code or the Guidelines in the performance of the Contract such that a sanction is applied by the Minister for Employment, the Code Monitoring Group or the Commonwealth, without prejudice to any rights that would otherwise accrue, those parties shall be entitled to record that non-compliance and take it, or require it to be taken, into account in the evaluation of any future tenders that may be lodged by you or a related entity in respect of work funded by the Commonwealth or its agencies.
- .6 While acknowledging that value for money is the core principle underpinning decisions on Government procurement, when assessing tenders, you may give preference to subcontractors and consultants that have a demonstrated commitment to:
 - (a) adding and/or retaining trainees and apprentices;
 - (b) increasing the participation of women in all aspects of the industry; or
 - (c) promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.
- .7 You must not appoint a subcontractor or consultant in relation to the Project where:
 - (a) the appointment would breach a sanction imposed by the Minister for Employment; or
 - (b) the subcontractor or consultant has had a judicial decision against them relating to employee entitlements, not including decisions under appeal, and has not paid the claim.
- .8 You agree to require that you and your subcontractors or consultants and your related entities provide the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:
 - (a) inspect any work, material, machinery, appliance, article or facility;
 - (b) inspect and copy any record relevant to the Contracted Work; and
 - (c) interview any person

as is necessary to demonstrate your compliance with the Code and Guidelines.

- .9 Additionally, you agree that you and your related entities will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax or by post.
- .10 For the avoidance of doubt, Clause 7.16 applies in relation to your new privately funded construction work.
- .11 You must ensure that all subcontracts impose obligations on subcontractors equivalent to the obligations under these Contract Clauses.

7.17. NSW Code of Practice for Procurement and Implementation Guidelines

Terminology

- .1 In addition to terms defined in this document, terms used in this clause have the same meaning as is attributed to them in the New South Wales Government's Implementation Guidelines to the NSW Code of Practice for Procurement: Building and Construction (**NSW Guidelines**) (as published by the NSW Treasury July 2013). The NSW Code and NSW Guidelines are available at www.industrialrelations.nsw.gov.au.

Primary Obligation

- .2 The parties must comply with and meet any obligations imposed by the NSW Government Code of Practice for Procurement (**NSW Code**) and the NSW Guidelines.
- .3 You must notify the Construction Compliance Unit (CCU) and RMS of any possible non-compliance with the NSW Code and NSW Guidelines and of remedial action taken, within 24 hours of becoming aware of the possible non-compliance.
- .4 Where you engage a subcontractor or consultant, you must ensure that that contract imposes on the subcontractor or consultant equivalent obligations to those in this section 2 (under the heading NSW Code and NSW Guidelines), including that the subcontractor or consultant must at all times comply with, and meet any obligations imposed by, the NSW Code and the NSW Guidelines.
- .5 You contractor must not appoint or engage another party in relation to the project where that appointment or

engagement would breach a sanction imposed on the other party in relation to the NSW Code or NSW Guidelines.

Access and information

- .6 You must maintain adequate records of compliance with the NSW Code and NSW Guidelines by you, your subcontractors, consultants and related entities.
- .7 You must allow, and take reasonable steps to facilitate, authorised personnel (including personnel of the CCU) to:
 - .1 enter and have access to sites and premises controlled by you, including but not limited to the project site;
 - .2 inspect any work, material, machinery, appliance, article or facility;
 - .3 access information and documents;
 - .4 inspect and copy any record relevant to the project;
 - .5 have access to personnel; and
 - .6 interview any person;as is necessary for the authorised personnel to monitor and investigate compliance with the NSW Code and NSW Guidelines, by you, your subcontractors, consultants, and related entities.
- .8 you, and your related entities, must agree to, and comply with, a request from authorised personnel (including personnel of the CCU) for the production of specified documents by a certain date, whether in person, by post or electronic means.

Sanctions

- .9 You warrant that at the time of entering into the Contract, neither you, nor any of your related entities, are subject to a sanction in connection with the NSW Code or NSW Guidelines that would have precluded you from responding to a procurement process for work to which the NSW Code and NSW Guidelines apply.
- .10 If you do not comply with, or fail to meet any obligation imposed by, the NSW Code or NSW Guidelines, a sanction may be imposed against you in connection with the NSW Code or NSW Guidelines.
- .11 Where a sanction is imposed:

- .1 it is without prejudice to any rights that would otherwise accrue to the parties; and
- .2 the State of NSW (through its agencies, Ministers and the CCU) is entitled to:
 - .1 record and disclose details of noncompliance with the NSW Code or NSW Guidelines and the sanction; and
 - .2 take them into account in the evaluation of future procurement processes and responses that may be submitted by you, or your related entities, in respect of work to which the NSW Code and NSW Guidelines apply.

Compliance

- .12 You bear the cost of ensuring your compliance with the NSW Code and NSW Guidelines, including in respect of any positive steps you are obliged to take to meet your obligations under the NSW Guidelines. You are not entitled to make a claim for reimbursement or an extension of time from RMS or the State of NSW for such costs.
- .13 Compliance with the NSW Code and NSW Guidelines does not relieve you from responsibility to perform the works and any other obligation under the contract, or from liability for any defect in the works or from any other legal liability, whether or not arising from your compliance with the NSW Code and NSW Guidelines.
- .14 Where a change in the contract or works is proposed, and that change may, or may be likely to, affect compliance with the NSW Code and NSW Guidelines, you must immediately notify RMS of the change, or likely change and specify:
 - .1 the circumstances of the proposed change;
 - .2 the extent to which compliance with the NSW Code and NSW Guidelines will be, or is likely to be, affected by the change; and
 - .3 what steps you propose to take to mitigate any adverse impact of the change (including any amendments you propose to a Workplace Relations Management Plan or Work Health and Safety Management Plan);and

RMS will direct you as to the course you must adopt within 10 Business Days of receiving notice.

7.18. NSW Government *Policy on Aboriginal Participation in Construction*

Where required in the Contract Schedule you must comply with the NSW Government *Policy on Aboriginal Participation in Construction*.

Where applicable, the Targeted Project Spend (TPS) on Aboriginal participation is as stated in the Contract Schedule.

Where required in the Contract Schedule, you must prepare and submit the following:

- .1 to the RMS Representative and the NSW Procurement Board (nswbuy@finance.nsw.gov.au)
 - (a) Aboriginal Participation Plan within 60 days after the Start Date of the Contracted Work defined in clause 3.2 or 30 days before Date of Completion, whichever occurs first, and
 - (b) Aboriginal Participation report at 90% completion of the Contracted Work, which explains how the Aboriginal Participation Plan has been implemented and what outcomes have been achieved.
- .2 to the RMS Representative only:
 - (a) if requested, a draft Aboriginal Participation Plan referred to in clause 7.18.1(a), within 20 days after the Start Date of the Contracted Work defined in clause 3.2 or 40 days before Date of Completion, whichever occurs first;
 - (b) quarterly, its Aboriginal Participation Report in the form set out in Schedule 5, providing details of the implementation of the Policy and achievement of targets; and
 - (c) final Aboriginal Participation Report, at the end of 12 month period after the Date of Completion. Details included in the final Aboriginal Participation Report must explain how the Aboriginal Participation Plan has been implemented within the specified period and what actual outcomes have been achieved.
- .3 For Term Services Contract, the Contractor must provide an annual Aboriginal Participation Plan. The annual

Aboriginal Participation Plan is to detail the initiatives that will likely apply for the next 12 months. 30 days prior to the Term Services Contract award anniversary date, the Contractor must provide an Aboriginal Participation Plan covering the next 12 month period of the Term Services.

The Aboriginal Participation Plans and the Aboriginal Participation Reports (except the reports referred to in clause 7.18.2(b)) must be prepared in accordance with the NSW Government *Policy on Aboriginal Participation in Construction* and in the format prescribed by the NSW Procurement Board. Templates are available at:
(<https://www.procurepoint.nsw.gov.au/aboriginal-participation-construction-information-contractors>).

Doing the Work: Directions and variations

8. Directions

8.1. Comply with directions

You must comply with all directions of the RMS Representative in carrying out the Contracted Work and performing any of your other obligations under the Contract.

8.2. Directions to be confirmed in writing

The RMS Representative may issue directions verbally or in writing. Unless the RMS Representative informs you that urgent compliance is required, you need not comply with a verbal direction until it is confirmed in writing.

8.3. Payment for directions

Unless you have a specific entitlement to payment for a particular direction, you must comply with a direction at your own cost.

9. Variations

9.1. RMS may vary the Contracted Work

The RMS Representative may direct you to:

1. Increase, decrease or omit part of the Contracted Work, or
2. Change the character or quality of material or work used in the Contracted Work, or

3. Change the levels, lines, positions or dimensions of part of the Contracted Work, or
4. Do additional work.

You may not vary the Contracted Work without a written direction from the RMS Representative stating that it is a variation direction.

9.2. Your right to claim that a direction is a variation

If the RMS Representative issues a direction which you consider to be a variation direction but which does not state that it is a variation direction, you must promptly write to the RMS Representative setting out the reasons why you consider the direction to be a variation direction.

Whenever possible, your written notice must be given to the RMS Representative before you start to comply with the direction. If you do not give the notice within 7 days of the date of the direction, you cannot later claim that the direction was a variation.

9.3. Effect of variations

No variation invalidates the Contract.

9.4. Valuation of variations

The RMS Representative will determine the value of variation after taking into account applicable contract rates and prices, your views on the value of the variation, relevant pricing information submitted by you at the time of tender and objective available evidence of relevant market prices.

Doing the Work: Miscellaneous

10. Comply with legal requirements, codes and standards

You must comply with:

1. all legal requirements relating to performance of the Contracted Work and the conduct of your business.

Legal requirements include, without limitation, all taxation legislation, workers' compensation, environmental laws and regulations, work, health and safety laws, all applicable codes of practice and regulations, vehicle registration legislation and requirements of governmental or semi-governmental authorities.

If you consider there is a conflict between any legal requirement and an obligation imposed by the Contract, you must write to the RMS Representative advising of the perceived conflict and seeking a direction.

2. chain of responsibility provisions of the Heavy Vehicle National Law (NSW) (2013).
3. the RMS Statement of Business Ethics available from the RMS' website.
4. the RMS Customer Charter available from the RMS' website

11. Keep information confidential

If, because of the Contract, you or your employees, subcontractors or agents have access to information of RMS or another person which is not publicly available, you must:

- .1 Keep the information confidential.
- .2 Not disclose or allow the information to be disclosed to an unauthorised person.
- .3 Take all steps and do all things necessary, prudent or desirable to safeguard the confidentiality of the information including things specifically required by RMS.
- .4 Not remove or copy the information and only make use of it if expressly authorised to do so, and then only for the purposes expressly authorised by the Contract.
- .5 Ensure that your employees, subcontractors and agents are aware of this clause and do not do anything which would cause the information to become public without the express written consent of RMS or the owner of the information.

12. Media releases and enquiries

You must seek the RMS' prior written approval to:

- .1 any press release or advertisement concerning the Contract, RMS or the Contracted Work, or
- .2 the release for publication in any media of any information, publication, document or article concerning the Contract, RMS or the Contracted Work.

You must refer any media enquiries concerning RMS, the Contract or the Contracted Work to the RMS Representative.

You must ensure that all consultants, subcontractors and suppliers engaged by you for the performance of the Contract or the Contracted Work, comply with the requirements of this clause.

13. Intellectual property warranty

You warrant that you will not infringe intellectual property rights in performing the Contracted Work. You indemnify RMS against any claim or action which may be brought or made against RMS, its employees or agents as a result of an infringement of intellectual property rights by you, your employees or agents.

14. Ownership of things found

RMS owns anything of value or interest which is found on an RMS work site or premises unless the Contract states otherwise. If you discover anything of possible archaeological, environmental or cultural significance on an RMS site while carrying out the Contracted Work, you must not disturb or destroy the thing found unless directed to do so in writing. Nothing in this clause limits any legal obligations relating to the protection or preservation of the thing found.

15. RMS' right to do things not done by you

If you don't do something you are required to do or don't do it as well as you are required to do it under the Contract, RMS may do it at your cost (using either its own or contract resources). Money owing by you under this clause may be deducted from future payments under the Contract. Any shortfall may be recovered as a debt due and payable.

Unless the RMS Representative considers that urgent action is required, RMS will give you prior written notice of its intention to take action under this clause.

Relationships and representation

16. Relationship and representation

16.1. Your relationship with RMS

You may not act outside the scope of the authority conferred on you by the Contract, and may not bind RMS in any way or hold yourself out as having authority to do so.

16.2. RMS Representative

16.2.1. Role and identity

RMS will appoint a representative to act for it in all matters under or relating to the Contract.

The RMS Representative acts as the agent of RMS and not with the exercise of independent judgment or as an independent certifier, assessor or valuer. If you disagree with any valuation, assessment or other decision of the RMS Representative, you may dispute it in accordance with clause 28.

The RMS Representative is described in the Contract Schedule. RMS may change its representative by written notice to you.

16.2.2. Site Representatives

The RMS Representative may appoint one or more others to assist in administration of the Contract and to exercise any of the powers, duties, functions and discretions of the RMS Representative under the Contract. A person appointed under this clause is known as a 'Site Representative'.

The RMS Representative must notify you in writing of the appointment of a Site Representative, and of the specific powers and functions exercisable by that person.

16.3. Your representative

You need to nominate a person with authority to represent you for the purposes of the Contract. You must notify RMS in writing of the name and contact details for your representative and keep RMS advised in writing of any changes to those details.

Matters within the knowledge of your representative are taken to be within your knowledge.

Liabilities, insurances and securities

17. Liability for Project Works

This clause applies if you are required to undertake Project Works and a work site has been made available to you for that purpose.

17.1. Care of the Project Works

From the time you are given access to the work site or sites until the Date of Completion, you are solely liable for the care of:

- .1 The Project Works.

- .2 Materials, equipment and things brought onto the work site by you or by your subcontractors, employees or agents for the purpose of carrying out the Project Works.
- .3 Materials, equipment and things given to you by RMS for the purpose of carrying out the Project Works.

Subject to clause 17.2, you must make good loss or damage which occurs to any of the above while you are liable for their care.

17.2. Payment for loss or damage to Project Works and other property

You do not need to make good loss or damage under clause 17.1 unless RMS directs you to do so as a variation to the Project Works if the loss or damage is caused by one or more of the following:

1. A negligent act or omission of RMS, its employees, consultants or agents.
2. War or other hostilities or confiscation by order of a public authority.
3. Contamination by radioactivity which is not caused by you, your employees, subcontractors or agents.

18. Indemnity for property damage or personal injury

You indemnify RMS against loss or damage to RMS property and against any claim or action which may be brought or made against RMS, its employees or agents in respect of personal injury or death or loss of or damage to property caused by your act or omission or the act or omission of your employees, subcontractors or agents.

18A Limitation of liability

18A.1 Limitation

Subject to clauses 18A.2 and 18A.3, your total liability to RMS under the Contract in respect of any event that occurs or a liability that arises for which insurance is required by clause 19 (**Risk Event**) is limited to the sum of the total aggregate limits of liability or sums insured (**Policy Limits**) of all insurances applicable to the Risk Event. The amount which represents your total liability is determined by reference to the Policy Limits of the insurances, whether or not the insurance actually provides cover for the Risk Event.

18A.2 Liability that is not limited

Clauses 18A.1 and 18A.3 do not limit your liability:

- .1 in respect of liability which:
 - (a) cannot be limited at law;
 - (b) arises under clauses 5.4.3 (liquidated damages) or 13 (intellectual property warranty);
 - (c) is due to your wilful or reckless misconduct, gross negligence, fraud or criminal conduct; or
 - (d) arises in connection with your abandonment of your obligations under the Contract;
- .2 to the extent that any insurer under a policy referred to in clause 19 seeks to exercise a right of subrogation against you;
- .3 to the extent that (ignoring the application of clauses 18A.1 and 18A.3), you are entitled to recover that liability from any third party (including any of your subcontractors), or would have been entitled to recover that liability but for any act or omission on your part;
- .4 to pay interest or other amounts which the Contract expressly treats as recoverable debts;
- .5 for unliquidated damages in lieu of unenforceable liquidated damages;
- .6 for personal injury (including death) or illness to any person.

and those liabilities will not be included in any calculation of your total liability under clause 18A.1.

18A.3 Losses and costs for which you are not liable to RMS

You are not liable to RMS for:

- .1 loss of business opportunity;
- .2 loss of goodwill;
- .3 loss of contracts;
- .4 loss arising from business interruption;
- .5 loss of or corruption of data;
- .6 loss of anticipated savings; or

.7 the cost of capital or other financing costs,

which loss or cost arises due to the performance of the Contracted Work.

18A.4 Losses and costs for which RMS is not liable to you

RMS is not liable to you for:

- .1 loss of business opportunity;
- .2 loss of goodwill;
- .3 loss of contracts;
- .4 loss arising from business interruption;
- .5 loss of or corruption of data;
- .6 loss of anticipated savings; or
- .7 the cost of capital or other financing costs,

arising out of or in connection with the performance of the Contracted Work or the Contract.

19. Insurances

19.1. The insurances you must have

You must hold the insurances set out in the Contract Schedule whenever you are performing Contracted Work and until the end of the last warranty period relating to the Contracted Work.

19.1.1. Policies must be with approved insurers

To be acceptable for the purposes of the Contract, an insurance policy must be issued by:

- .1 an Australian registered insurance company which is approved by the Australian Prudential Regulatory Authority (APRA) to conduct general insurance business in Australia; or
- .2 Lloyds Underwriters; or
- .3 if there is any placement of the risk overseas, a related general insurance company in Australia which is approved by the APRA and who has accepted the insurance transfer; or
- .4 if there is any placement of the risk overseas, and does not apply to items 2 and 3 above, the following

actions/documentation need to take place and be provided to RMS:

- (a) The Contractor's Finance Committee or appropriate finance personnel of the Contractor, must undertake a full financial risk assessment of the insurer/s being proposed for insurance where the following points must be achieved:
 - (i) the financial rating of the insurer by independent financial advisers must have credit rating of at least "A" Standard & Poors (S & P) or the equivalent rating by the Moody's Investment Service or A M Best;
 - (ii) The Contractor's Insurance Brokers' Financial Committee or appropriate financial personnel of the Insurance Broker, must have its own report and approve the dealing with the Approved Insurer in addition to point (i) above; or
- .5 in respect of NSW workers compensation insurance, an insurance company which has been granted the licence of the NSW Work Cover Authority to undertake workers compensation insurance in NSW; or
- .6 Treasury Managed Fund insurance scheme with the NSW State Government; or
- .7 the Comcover insurance scheme for the Australian Federal Government.

19.1.2. Requirements for policies generally

All insurance policies (not including workers compensation unless the Contract states otherwise) must:

- .1 include RMS and your subcontractors (if any) as additional named insureds, and
- .2 indemnify RMS, and
- .3 include a Cross Liability and Waiver of Subrogation Clause:

Cross Liability and Waiver of Subrogation clause means the insurer agrees to waive all rights of subrogation or action that it may have or acquire against all or any of the persons comprising the insured and for the purpose of which the insurer accepts the term "insured" as applying to

each of the persons comprising the insured as if a separate policy of insurance has been issued to each of them (subject always to the overall insured sum).

19.1.3. Evidence of your insurance

You must provide evidence of insurances prior to starting the Contracted Work and whenever requested to do so. The evidence must be in a form set out in Schedule 3.

19.2. Principal Arranged Insurance

RMS has arranged contract works insurance and third party liability insurance for the Contracted Work. This insurance covers your liabilities to RMS and to third parties for the limits of liability as stated in the Contract Schedule. This Principal Arranged Insurance is in the RMS' name, your name and the name of your subcontractors employed in relation to the Contracted Work.

- .1 RMS will maintain the Principal Arranged Insurance for the Warranty on Completion period as set out in the Contract Schedule.
- .2 Before commencing Contracted Work and no later than 14 days after the formation of the Contract in clause 2, you must contact the RMS' Insurance Broker to:
 - (a) provide various details including contract, subcontractor/s and insurance information necessary for the Principal Arranged Insurance; and
 - (b) confirm the Principal Arranged Insurance excess amount which you are required to pay for each and every loss.
- .3 You must provide any further details, necessary for the Principal Arranged Insurance, to the RMS' Insurance Broker whenever requested to do so.
- .4 An extract of the terms of the Principal Arranged Insurance is set out in Schedule 4 and you may inspect the terms of the Principal Arranged Insurance at the address of the RMS' Insurance Broker.
- .5 You acknowledge that RMS has obtained the Principal Arranged Insurance at its own cost and that your tendered rates and prices (including any lump sum price) do not include any allowance for the cost of contracts works insurance or third party liability insurance for the Contracted Work.

19.2.1. Excess

You are responsible for meeting the amount of excess payable under the Principal Arranged Insurance as set out in the Contract Schedule. You may effect your own insurance to cover the amount of that excess.

20. Security for performance

If the Contract Schedule states that security is required, you must provide security for your performance of the Contract.

You must lodge the security with RMS within 14 days of the date of the RMS' letter accepting your tender or offer for the Contracted Work.

The security must be for the amount described in the Contract Schedule and must be in cash or an unconditional undertaking in the form set out in Schedule 1. The security provider must be a bank, financial institution or insurance company which is subject to the prudential supervision of the Australian Prudential Regulation Authority.

RMS may call on the security whenever:

- .1 the Contract states that RMS may do so, or
- .2 you owe RMS money, or
- .3 RMS is entitled to recover money or damages from you, or
- .4 RMS does something at your cost under the Contract, or
- .5 RMS is entitled to deduct money from a payment and the amount of the payment is insufficient to cover the amount which RMS is entitled to deduct.

21. Related company guarantees and related body corporate

21.1 Related company guarantees

You must provide guarantees from related companies or from your directors as security for your performance of the Contract if requested to do so by RMS. A guarantee provided under this clause must be in terms acceptable to RMS. RMS may request a guarantee under this clause even if the Contract Schedule indicates that security is not required.

21.2 Related body corporate

To enable RMS to comply with Division 5 of Part 3 of the Government Information (Public Access) Act 2009 (GIPA), you must promptly advise RMS of;

- (a) particulars of any related body corporate (within the meaning of the Corporations Act 2001 of the Commonwealth) in respect of your company, or;
 - (b) any other private sector entity in which you have an interest, that will be involved in carrying out any of your obligations under the contract, or will receive a benefit under the contract;
- not previously advised during the tender period.

Getting paid

22. Price

22.1. Your price covers everything required

You warrant that your tendered rates and prices (including any lump sum price) for the Contracted Work include the cost of everything associated with or necessary for the proper performance of the Contracted Work.

22.2. Calculation of amount payable by RMS

The amount payable by RMS for your performance of the Contracted Work is as follows:

- .1 To the extent that your tender was for a lump sum price, RMS must pay the lump sum price (as adjusted by any additions or deductions made in accordance with the Contract).
- .2 To the extent that your tender was based on a schedule of rates, RMS must pay you the amount calculated by multiplying the measured quantity of each section or item of work actually carried out under the Contract by the rate set out in your tender for that section or item (as adjusted by any additions or deductions made in accordance with the Contract).

22.3. Estimates of quantities

If the Contract includes a Schedule of Rates, the quantities stated in the Schedule were prepared by RMS purely for the purpose of comparing tenders. They are not to be regarded as indicating the quantity of work which may be required or paid for under the Contract.

If the Contract includes a Schedule of Prices, the quantities stated in the Schedule were prepared by RMS for the purpose of comparing tenders and valuing variations. They are not to be

regarded as indicating the quantity of work which may be required under the Contract.

22.4 Not Used

22.5 Price adjustments for rise and fall

The Contract rates and prices will not be adjusted for rise and fall unless the Contract Schedule states that rise and fall applies.

If cost adjustment for rise and fall applies, your rates and prices (excluding any rates or prices subject to adjustment under clause 22.6) will be adjusted annually to take account of movements in the Consumer Price Index. The adjustment will apply to all payments after the date of the adjustment and will be made by reference to the CPI (All Groups) published for Sydney.

The base date for calculation of the CPI is the last day of the quarter preceding the date of your offer or tender for the Contracted Work.

If the Contract is one where RMS accepted a lump sum price, the adjustment will be made only for that part of the lump sum price as relates to the remaining term of the Contract.

22.6 Price adjustment for the supply of bitumen

The Contract rates and prices for the supply of bitumen will not be adjusted for rise and fall unless the Contract Schedule states that rise and fall for the supply of bitumen applies.

If cost adjustment for bitumen applies the Contract Sum shall be subject to adjustments for variations in the cost of bitumen supplied by you. The adjustment shall be effected in the payment claims submitted by you in accordance with clause 23.

Any cost adjustment under this clause shall be calculated from the formula -

$$D = (C - B) \times A$$

where -

A = the quantity of bitumen derived from:

- 1) The calculation of residual bitumen at 15 degrees Centigrade where the product is sprayed bituminous surfacing or a tack coat.
- 2) The approved design binder content where the product is asphalt.

- 3) The approved residual binder content where the product is a bituminous slurry surfacing

B = the Price of Class 170 bitumen applicable on the last day of the month immediately preceding the month during which the tenders closed;

C = the Price of Class 170 bitumen on the last day of the month immediately preceding the month during which the work is performed; and

D = the applicable cost adjustment for this payment claim.

The Price of Class 170 bitumen shall be the average of the prices for the suppliers contracted to supply RMS on its panel contract for the Supply of Bitumen and Related Products.

22.7 Provisional Quantities

If, in respect of any work for which a provisional quantity is included in the Contract, the RMS Representative directs that a greater or lesser quantity than the provisional quantity shall be carried out, or that no work shall be carried out, the value of the difference between the provisional quantity and the quantity carried out pursuant to that direction, calculated at the rate for that work stated in the Contract, shall be certified by the RMS Representative and shall be taken into account in determining the final Contract Sum.

23. Payment

23.1. Your payment claims

23.1.1 Time for submission of claims

If the Contract does not contain specific payment dates and amounts, you must submit a claim for payment for each month in which you are carrying out Contracted Work.

23.1.2 Place for lodgement of claims

Payment claims must be lodged with RMS Representative either in person or by post at the address set out in the Contract Schedule as the address for service of notices on RMS Representative.

A payment claim lodged with RMS Representative in accordance with this clause is deemed to have been properly served on the RMS for the purposes of section 13(1) of the Building and Construction Industry Security of Payment Act 1999 (NSW).

23.1.3 Contents of claims

A payment claim must:

- .1 identify the Contracted Work to which the claim relates, and
- .2 indicate the amount which you consider to be due under the Contract for the Contracted Work done within the period covered by the claim, and
- .3 include any details (such as conformance records) required by the Contract or reasonably requested by the RMS Representative for the purposes of assessing your claim.

If a payment claim includes a claim for reimbursement or payment of, or contribution towards, an expense, loss or outgoing, your claim must be limited to the sum of:

- The amount of the expense, loss or outgoing net of any related input tax credits to which you are entitled, and
- If the expense, loss or outgoing is a taxable supply by you to RMS, any GST payable in respect of that supply.

23.2 Contractor Statement

All claims for payment must be accompanied by a Contractor Statement and a Supporting Statement in the form set out in Schedule 2 made by you or by a person who is in a position to know the facts attested to in the presence of a solicitor, Justice of the Peace or another person who is authorised to administer oaths in the jurisdiction where the Contractor Statement and Supporting Statement are made.

23.3 Payment Schedule

The RMS Representative will assess each payment claim and issue a payment schedule to you within 10 Business Days of receipt of the claim.

The payment schedule will:

- .1 identify the payment claim to which it relates, and
- .2 indicate the amount of the payment (if any) that RMS proposes to make, and
- .3 include reasons for any difference between the amount claimed and the amount assessed to be payable on the claim, and

- .4 if applicable, be in the form of a Recipient Created Tax Invoice.

Reasons why the assessed amount in the payment schedule is less than the amount claimed may include your failure to supply the Contractor Statement and Supporting Statement in accordance with clause 23.2, details for Principal Arranged Insurance in accordance with clause 19.2 or proof of insurances in accordance with clause 19.1.3

RMS confirms, for the purposes of section 14(1) of the Building and Construction Industry Security of Payment Act 1999 (NSW), that a payment schedule issued by the RMS Representative is made and issued with the full authority of and on behalf of RMS and is the payment schedule under the Act.

23.4 GST provisions and Recipient Created Tax Invoices

You must be registered for GST before submitting any claim for payment.

You must notify RMS if you cease to be registered for GST at any time.

RMS must notify you if it ceases to be registered for GST or if it ceases to be eligible to issue Recipient Created Tax Invoices at any time.

The following provisions apply unless RMS gives you notice that it is no longer eligible to issue Recipient Created Tax Invoices:

- RMS will be responsible for issuing Recipient Created Tax Invoices and Adjustment Notes in respect of adjustment events known to RMS and relating to the Contract.
- You must notify RMS of details of any adjustment event not otherwise known to RMS.
- All progress or payment certificates or schedules issued under the Contract will be issued in the form of Recipient Created Tax Invoices on behalf of RMS.

This clause does not apply if you have notified RMS that you are not registered for GST or if you have entered into a Voluntary Agreement with RMS for the withholding of Pay as You Go taxation.

Terms used in this clause have the meanings given to them in the GST Legislation.

23.5 Time for payment

RMS must pay you the amount due on any payment schedule within 15 days of the payment claim.

23.6 Valuation of Payment Claims

Payment claims will be valued by the RMS Representative as follows:

.1 *Where a lump sum price applies*

For Contracted Work covered by a lump sum price, the RMS Representative will assess the quality and quantity of work done within the period of the claim.

If the Contract includes a Schedule of Prices, claims will generally be valued by multiplying the measured quantity of each section or item of work actually done in accordance with the Contract by the rate set out in the Schedule of Prices for that section or item. However, once the total price for any section or item has been reached, no additional payment for that section or item will be made.

If the Contract does not include a Schedule of Prices, the RMS Representative will determine the value of the work done either on a pro-rata basis against the total lump sum price or on another basis set out in the Contract.

Nothing in this clause limits your entitlement to the whole of the lump sum price for completion of the whole of the work covered by that lump sum price.

.2 *Where Schedule of Rates applies*

For Contracted Work covered by a Schedule of Rates, the RMS Representative will multiply the measured quantity of each section or item of work actually done in accordance with the Contract by the rate set out in the Schedule of Rates for that section or item.

.3 *Where the Contract contains other specific valuation provisions*

If the Contract contains specific valuation provisions different from the above, the RMS Representative must apply those provisions to determine the value of the payment claim.

4. *Defective or non-conforming work*

If any of the work covered by a payment claim is defective or non-conforming or if conformance records are required

and have not been provided, the RMS Representative in valuing the claim may, at his/her sole discretion but without limiting any other specific provisions of the Contract:

- disregard the defective or non-conforming work or the work for which conformance records have not been provided, or
- reduce the amount of the claim by an amount equal to the estimated cost of rectifying the defective or non-conforming work.

.5 *Variations*

Progress claims for variations will be valued in accordance with the above provisions, based on the determination of the value of the variation made under clause 9.4.

6. *Set-off*

If RMS is entitled to make a deduction under clause 23.7, the RMS Representative must also include the amount of the deduction in the valuation of the claim.

7. *Withholdings*

If clauses 23.8 or 23.10.1 apply, the RMS Representative must also include the amount to be withheld in the valuation of the claim.

23.7. Set-off

RMS may deduct from an amount payable to you under the Contract any amount which is, or in the opinion of RMS is likely to become, payable by you to RMS.

23.8 Withholdings under PAYG

If you do not quote your ABN in your tender or on your payment claims or otherwise advise RMS of your ABN, RMS will withhold tax from payments in accordance with the *A New Tax System (Pay As You Go) Act 1999*.

23.9. Effect of payment

Payments by RMS are on account only and do not evidence the RMS' acceptance of the Contracted Work done by you.

23.10 Non-payment of Workers and Subcontractors

23.10.1. *RMS may withhold payment to you*

If a Contractor Statement lodged by you indicates that money due and payable to a Worker is unpaid, RMS may withhold payment to you of an amount equal to the unpaid money.

23.10.2. *RMS may make direct payments on request*

At your written request and out of money due and payable to you, RMS may pay money on your behalf to Workers or Subcontractors.

23.10.3. *RMS may pay on court order*

RMS may pay money direct to a Worker or Subcontractor and recover the amount paid from you as a debt due if RMS is presented with:

- .1 a court order in respect of money payable to the Worker or Subcontractor under an award, enterprise agreement or Subcontract for work, services, materials, plant, equipment or advice supplied for the work under the Contract, and
- .2 a statutory declaration that the money has not been paid under the court order.

23.11. Concurrence of external administrator required

If an external administrator is appointed to you within the meaning of Part 5 of the Corporations Law, RMS will not make any payment to a Worker or Subcontractor without the concurrence of the external administrator.

Completing Contracted Work

24. Your hand over obligations

At the completion of the Contracted Work or the end of the Term or on earlier termination of the Contract, promptly:

1. Deliver or hand over the Project Works (if applicable) and all materials, documentation and things produced as part of the Contracted Work, and
2. Return materials, documentation and other things provided to you by RMS for the purposes of the Contract (unless those materials or things have been used up in the process of performing the Contract), and

3. Obtain and provide to RMS releases from persons who may have been affected by the performance of the Contracted Work if requested to do so by RMS. Releases must be in the form required by RMS.

In a Term Services Contract, these obligations apply at the end of the Term.

This clause does not reduce any obligation you may have to hand over or deliver materials, documentation or things progressively.

Materials and documents to be handed over under this clause must be in electronic format if the RMS Representative so requires.

25. Time of completion

If a Date for Completion applies to the Contracted Work, the date of completion is determined by the RMS Representative issuing a certificate of completion.

26. Warranty on completion

You warrant that the Contracted Work as completed will be free from defects in workmanship and materials for the period set out in the Contract Schedule after completion of the Contracted Work.

In a Term Services Contract, your warranty applies to each item of Contracted Work done on and from the time you complete that item.

If you need to fix something during the warranty period because it does not comply with the warranty, the warranty applies again from the time when the thing is fixed – but only with respect to the thing fixed.

27. Release of security

After the end of the last warranty period, you may request that RMS release your security (or the balance remaining at that time). RMS will do so within 14 days of your request if RMS is satisfied that:

- .1 the last warranty period has expired, and
- .2 you have fulfilled all your obligations under the Contract, and
- .3 you have no outstanding claims against RMS in connection with the Contract, and
- .4 there are no outstanding claims by third parties in connection with the Contract or the Contracted Work.

Disputes and termination

28. Resolving disputes

The parties will attempt to resolve disputes speedily by negotiation in good faith.

If a dispute cannot be resolved by negotiation between our respective representatives within 2 months of commencement of negotiations, the dispute will be referred for further discussion and negotiation to an appropriate senior executive nominated by each party. If the senior executives are unable to resolve the dispute within 14 days of commencement of discussion (or such longer time as is agreed between them), either party may commence formal dispute resolution proceedings by expert determination.

The expert determination will be conducted in accordance with the RMS' Rules for the Conduct of Expert Determination and the RMS' Code of Conduct for an Expert. A copy of the Rules and Code of Conduct are available on request.

The parties must continue to perform their obligations under the Contract in spite of a dispute.

29. If you default

If you breach or default under the Contract, RMS may suspend payment to you until the breach or default is rectified to the RMS' satisfaction.

RMS may also issue you with a notice requiring you to show cause why the Contract should not be terminated. If you do not respond showing cause to the satisfaction of RMS within 14 days, RMS may terminate the Contract by written notice which takes effect immediately.

Termination under this clause is not effective to terminate a Work As Ordered Contract. If RMS wishes to terminate a Standing Offer, it must do so in accordance with the Conditions of Standing Offer.

30. If you are insolvent

RMS may terminate the Contract immediately by written notice to you if you are unable to pay your debts as and when they fall due, or if you become subject to external administration within the meaning of chapter 5 of the Corporations Law.

General

31. Joint and several liability

If you comprise 2 or more persons, each of you is jointly and severally liable for obligations and liabilities under the Contract.

32. Notices

32.1. Notices to you

A formal notice given to you under the Contract must be addressed to the address set out in the Form of Agreement or to the address last notified by you to RMS.

32.2. Notices to RMS and the RMS Representative

A notice to RMS must be addressed to the address shown in the Contract Schedule for RMS, or the address last notified by RMS to you as the RMS' address for the purposes of the Contract.

A notice to the RMS Representative must be addressed to the address shown in the Contract Schedule for the RMS Representative or the address last notified by RMS or the RMS Representative as the RMS Representative's address.

32.3. Notices generally

Notices must be in writing signed by an authorised officer of the sender.

Notices are taken to have been given or made (in the case of delivery in person or by fax, post or e-mail) when delivered, received or left in the care of a person at the specified address.

33. No assignment

You may not assign or encumber a right or interest under the Contract without the prior written consent of RMS.

34. No waiver

Just because RMS does not insist on you performing a term of the Contract, that does not mean that RMS cannot later insist on you performing that term or another term.

If RMS waives a breach of contract by you, the waiver only applies to the particular breach and RMS can continue to insist on you performing the same obligation when it falls to be performed again. A waiver by RMS is

only effective if it is stated to be a waiver and is made in writing signed by the RMS Representative.

35. Governing law

The Contract is governed by New South Wales law.

36. Definitions

Words used in the Contract have the meanings set out below, unless the context otherwise requires. Words defined in this document can be identified in this and other documents because they commence with a capital letter.

Defined term	Meaning
Business Day	Any day other than a Saturday, Sunday, public holiday in NSW, or 27, 28, 29, 30 or 31 December.
Conditions of Standing Offer	The document headed 'Conditions of Standing Offer'. Only applies to Work-as-Ordered Contracts.
Contract	(a) Either: <ul style="list-style-type: none"> (i) a Work Order issued under a Works-as-Ordered Contract; or (ii) a Project Contract; or (iii) a Term Services Contract, whichever is applicable, and (b) all of the documents making up the agreement between the parties as described in the Form of Agreement signed by the parties.
Contract Interpretation Guide	This document.
Contract Schedule	The schedule which accompanies the Terms for Contracted Work and sets out the specific requirements of RMS for the Contracted Work.
Contract Sum	If the Contract is for a lump sum, the lump sum price. If the Contract is a schedule of rates contract, the sum of the tendered rates multiplied by the quantities stated in the Schedule of Rates.

Defined term	Meaning
	If the Contract is a combined lump sum/schedule of rates contract, the lump sum price plus the sum of the tendered rates multiplied by the stated quantities.
Contracted Work	The work or services required under the Contract, including (if applicable) and Project Works.
Date of Completion	The date when you complete the Contracted Work to the satisfaction of the RMS Representative. Does not apply to Term Services Contracts.
Date for Completion	The date or time on or by which you are required to complete Contracted Work as extended by an extension of time granted under the Terms for Contracted Work. Does not apply to Term Services Contracts.
Day	A Calendar day, including all Business Days and non-Business Days.
Form of Agreement	The formal document signed by the parties and headed 'Form of Agreement'.
GST	The Goods and Services Tax introduced in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> .
GST Legislation	All laws and regulations relating to GST.
Offer Term	The period during which a Standing Offer is open. This is defined in the Contract Schedule. Only applies to Work-as-Ordered Contracts.
Panel	A generic term used to describe the group of contractors who have each entered into a Panel Contract offering to provide a particular work or service during the same Offer Term.
Panel Contract	A Work-as-Ordered Contract under which you are one of a number of contractors on a Panel.
Pricing Schedules	The schedules or other documents which set out the prices, rates or lump sums tendered by you.
Project Contract	A contract under which you are engaged to carry out Contracted Work in order to complete a particular project. Not a Term Services Contract or a Work-as-

Defined term	Meaning
	Ordered Contract.
Project Works	Works forming a part of the Contracted Work that are required to be constructed on an RMS worksite and handed over to RMS on their completion.
Provisional Quantities	The quantity of an item of work which is specified in the Contract, but the quantity of which or whether that item of work will actually be required is not known definitively at the time of award.
Recipient Created Tax Invoice	As defined in the GST Legislation.
RMS (or the 'Principal')	Roads and Maritime Services , the principal under the Contract.
RMS Representative (or the 'Superintendent')	The person described as RMS Representative in the Contract Schedule and the Terms for Contracted Work.
"RTA" or "Roads and Traffic Authority"	The Principal, and a reference to any "RTA" document (including an RTA Specification, Test Method or other document) is a reference to the equivalent document published by the Principal (or its predecessor, the RTA), regardless of whether it is titled "RTA" or "Roads and Maritime Services" or "RMS" (in this respect, the parties acknowledge that the Principal is progressively updating its documents from "RTA" to "RMS" and that this is likely to be ongoing during the currency of the Contract)."
Site Representative	A delegate of RMS Representative or a private company or person engaged by RMS to act in the capacity of Site Representative.
Specification	The document or documents described as the 'Specification' or as the 'Brief' or by any other name which sets out the RMS' detailed requirements for the work or services under the Contract. 'Specification' includes any associated drawings.
Subcontract	A contract, whether written or oral, under which work, services, material, plant, equipment or advice is provided

Defined term	Meaning
Subcontractor	<p>by a Subcontractor.</p> <p>A person who supplies work, services, materials, plant, equipment or advice to you, any of your subcontractors or any of their subcontractors in connection with the Contracted Work.</p>
Targeted Project Spend	<p>An amount identified in the Contract Schedule. It represents 1.5% of:</p> <p>(a) for Project Contract, the Contract Sum (excluding GST) as at the date when RMS writes to the Tenderer accepting its tender;</p> <p>(b) for Work-as-Ordered Contract, the value of Work Order (excluding GST), as at the date of issue of relevant Work Order; and</p> <p>(c) for Term Services Contract, the value of annual notional Contract Sum (excl GST),</p> <p>less allowable exclusions, in line with the NSW Government <i>Policy on Aboriginal Participation in Construction</i> goals</p> <p>Allowable exclusions are costs incurred by the Contractor over which it has little or no control, e.g.:</p> <p>.1 specialised capital equipment (e.g. tunnel exhaust fans, tunnel boring machines, batch plants);</p> <p>.2 imported materials;</p> <p>where no suitable Australian supplier exists in the market, and</p> <p>.3 value of existing and new non-Contract/Project specific assets apportioned to the Contract/Project, where they are used in delivery of the Contract/Project;</p> <p>.4 property i.e. acquisitions, indirect leasing costs, extra land, adjustments; and</p> <p>.5 non-construction related services;</p> <p>as agreed between RMS and the Contractor.</p>

Defined term	Meaning
Tender Documents	<p>The documents on which your tender is based. The Tender Documents are usually described in the Tender Form submitted by you as your tender offer.</p> <p>The Tender Documents include the Terms for Contracted Work, the Contract Schedule issued at the time of tender, the Contract Interpretation Guide and the Specification.</p> <p>In a Work-as-Ordered Contract, the Tender Documents also include the Conditions of Standing Offer.</p> <p>The Tender Documents do not include the Conditions of Tender and Notice to Tenderers or documents provided for information only.</p>
Tender Form	<p>The form submitted by you at the time of tender setting out your tender offer.</p>
Term	<p>The period of time during which you agree to provide the Contracted Work as extended by formal agreement between the parties. If the Contract is terminated, the term ends on the date of termination regardless of anything else in the Contract. Only applies to Term Services Contracts.</p>
Term Services Contract	<p>A contract under which you agree to provide the Contracted Work on a regular basis or as specified over a certain agreed period of time.</p>
Terms for Contracted Work	<p>The conditions of contract relating to the performance of the Contracted Work.</p>
WHS Laws	<p>The <i>Work Health and Safety Act 2011</i> (NSW) and the <i>Work Health and Safety Regulations 2011</i> (NSW).</p>
Work Order	<p>An order for work or services issued under a Work-as-Ordered Contract.</p>
Work-as-Ordered Contract	<p>A contract under which you offer to provide Contracted Work for RMS at pre-agreed rates or prices whenever issued with a Work Order during an agreed Offer Term.</p>

Defined term	Meaning
	A Work-as-Ordered Contract may also be a Panel Contract.
Worker	An employee of the Contractor or a Subcontractor who does work connected with the Contract.
You (or the 'Contractor')	The person or entity engaged as the contractor under the Contract.

37. Rules of interpretation applying to the Contract

The rules set out below govern the interpretation of the Contract:

- .1 Headings and underlinings are for convenience only.
- .2 No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of the Contract.

Unless the context otherwise requires:

- .3 Words in the singular include the plural and vice versa.
- .4 Words which suggest a gender include any gender.
- .5 An expression which suggests a natural person includes a company, partnership, joint venture, association, corporation or other body corporate and a governmental agency.
- .6 A reference to a thing (including, without limitation, the Contract and the Contracted Work) includes a part of the thing.
- .7 A reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances, or by-laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute.
- .8 A reference to a document includes an amendment or supplement to, or replacement or novation of, that document.
- .9 A reference to a party is a reference to a party to the Contract and includes that party's successors and permitted assigns.

- .10 Other parts of speech and grammatical forms of a word or phrase defined in the Contract have a corresponding meaning.
 - .11 A reference to a clause, sub-clause, attachment, schedule or annexure in any of the Contract documents is a reference to a clause and a sub-clause of, and an attachment, schedule or annexure to that document.
-

SCHEDULE 1 Unconditional Undertaking

On behalf of the Contractor

Name of Financial Institution:

The Principal: Roads and Maritime Services (RMS) of 20-44 Ennis Road,
Milsons Point, North Sydney, NSW 2061

The Contractor:

ACN/ABN

Security Amount: \$

The Contract: The contract between the Principal and the Contractor

Contract Description: »

Contract Number: »

Undertaking

- .1 At the request of the Contractor and the Financial Institution, and in consideration of the Principal accepting this *Undertaking* from the Financial Institution in connection with the Contract, the Financial Institution unconditionally undertakes to pay on demand any amount or amounts demanded by the Principal to the maximum aggregate sum of the Security Amount.
- .2 The Financial Institution unconditionally agrees that, if notified in writing by the Principal (or someone authorised by the Principal) that it requires all or some of the Security Amount, the Financial Institution will pay the Principal at once, without reference to the Contractor and despite any notice from the Contractor not to pay.
- .3 The Principal must not assign this *Undertaking* without the prior written agreement of the Financial Institution, which must not be unreasonably withheld.
- .4 This *Undertaking* continues until one of the following occurs:
 - .1 the Principal notifies the Financial Institution in writing that the Security Amount is no longer required;
 - .2 this *Undertaking* is returned to the Financial Institution; or
 - .3 the Financial Institution pays the Principal the whole of the Security Amount, or as much as the Principal may require overall.
- .5 At any time, without being required to, the Financial Institution may pay the Principal the Security Amount less any amounts previously paid under this *Undertaking* (or a lesser sum specified by the Principal), and the liability of the Financial Institution will then immediately end.

Dated at

Execution by the Financial Institution:

SCHEDULE 2 CONTRACTOR STATEMENT AND SUPPORTING STATEMENT

<h3 style="margin: 0;">Contractor Statement</h3> <p style="margin: 0;">Payment of Workers, Worker's Compensation Premiums & Payroll Tax</p>	 Transport Roads & Maritime Services
<p style="font-size: small;">This Statement must be provided whenever payment is sought for any work carried out for Roads and Maritime Services (RMS) by a Contractor (<i>see Notes 1 & 5 overleaf</i>). RMS is entitled to withhold payment until this Statement is provided (<i>see Note 2</i>).</p>	<p style="font-size: x-small;">Workers Compensation Insurance Certificate of Currency for the work period in question. Unless the contractor is exempt</p> <div style="border: 1px solid black; padding: 2px; display: inline-block; text-align: center;"> Attach </div>
Details	
Contractor's Legal Name	<input style="width: 100%;" type="text"/>
Contractor's Trading / Business Name	<input style="width: 100%;" type="text"/>
Contractor's ABN	<input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/>
Contractor's ACN	<input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/>
Contractor's Address	<input style="width: 100%;" type="text"/>
Name or description of Contract or Works	<input style="width: 100%;" type="text"/>
Period of Work this Statement applies to (<i>see Note 3</i>)	From <input style="width: 150px;" type="text"/> To <input style="width: 150px;" type="text"/>
Invoice or Payment Claim Numbers this applies to	<input style="width: 100%;" type="text"/>
Invoice or Payment Claim Dates this Statement applies to	<input style="width: 100%;" type="text"/>
Statement Validity Period	
This Statement applies to all work performed by the Contractor for RMS in respect of the above Contract/ Works for the period stated above (<i>see Notes 3 & 4</i>).	
Declaration	Tick one in each row
I declare that the following is true to the best of my knowledge and belief in respect of the Period of Work above:	
<ul style="list-style-type: none"> • All workers engaged by the Contractor in respect of the works have been paid (<i>see Note 6</i>); 	<input type="checkbox"/>
<ul style="list-style-type: none"> • All workers compensation insurance premiums have been paid and attached is a true copy of a Certificate of Currency for workers compensation insurance valid for the period covered by this Statement; or 	<input type="checkbox"/>
<ul style="list-style-type: none"> • the Contractor is an exempt employer for workers compensation purposes (<i>see Note 7</i>); 	<input type="checkbox"/>
<ul style="list-style-type: none"> • The Contractor is registered as an employer under the <i>Payroll Tax Act 2007</i> and has paid all payroll tax due in respect of employees; or 	<input type="checkbox"/>
<ul style="list-style-type: none"> • the Contractor is not required to be registered; 	<input type="checkbox"/>
<ul style="list-style-type: none"> • The Contractor has not engaged any subcontractors for the works; or 	<input type="checkbox"/>
<ul style="list-style-type: none"> • The Contractor has engaged subcontractors and has obtained a similar statement to this Statement from each of those subcontractors (and believes it to be true) 	<input type="checkbox"/>
<ul style="list-style-type: none"> • I am authorised to make this declaration and I am in a position to know the truth of its contents 	<input type="checkbox"/>
Signature of Authorised Person	Name of Signatory (<i>print</i>)
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>
Date	Position / Job Title of Signatory (<i>print - see Note 4</i>)
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>
(<i>see Notes on page 2</i>)	
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Notes for Contractor Statement

1. A Contractor is any person or company who carries out work under a contract of any kind for any business of RMS. References to "Subcontractor" and "Principal Contractor" in the legislation mentioned below have been changed in this Statement to "Contractor" and "RMS" respectively to avoid confusion.
2. This form is prepared for the purposes of section 127 of the *Industrial Relations Act 1996* ("IRA"), section 175B of the *Workers Compensation Act 1987* ("WCA") and Schedule 2 Part 5 of the *Payroll Tax Act 2007* ("PTA"). These provisions allow RMS to withhold payment from a Contractor without any penalty unless and until the Contractor provides to RMS a Statement declaring that:
 - a. All workers compensation insurance premiums payable up to and including the date(s) on the Statement have been paid, and all premiums owing during the term of the contract will be paid; and
 - b. all remuneration payable to relevant employees for work under the contract has been paid; and
 - c. all payroll tax payable relating to the work undertaken has been paid.
3. Section 127 of the IRA says that the Statement must state the period to which it relates. For sequential statements ensure that the dates provide continuous coverage.
4. The person signing this declaration must be a person who is authorised by the Contractor either to sign this Statement (or to sign statements of this kind) and must be a person who is in a position to know the truth of the statements. The Contractor's principal accounting/financial officer may be appropriate. An individual project manager will normally not be appropriate. If the Contractor is a company then the person signing should be a director unless the company has delegated the power to sign such statements to another person (eg the principal accounting officer).
5. A Statement is not required where RMS is making payment to a receiver, liquidator or trustee in bankruptcy (see section 127(10) of the IRA, section 175B(12) of the WCA and Sch 2 Part 5 (20) of the PTA).
6. Section 127(6) of the IRA says that references to payments to workers means all types of remuneration to which they are entitled.
7. As of 30 June 2011, an employer is exempt from taking out workers compensation insurance if the employer pays less than \$7500 annually on wages, does not employ an apprentice or trainee and is not a member of a group for workers compensation purposes.

Generic Version of Statement

This form has been specially adapted for use specifically for Contractors working for RMS. Generic versions of this Statement for non-RMS use can be obtained at:
http://www.industrialrelations.nsw.gov.au/pdfs/subcontractor_statement_form.pdf; or
<http://www.osr.nsw.gov.au/lib/doc/forms/opt011.pdf>.

Record Retention

RMS will keep a copy of this Statement for 7 years. If the Contractor obtains a similar statement from its subcontractor then the Contractor must keep that statement for 7 years.

Offences for False Statement

Knowingly giving a false statement may be an offence under section 127(8) of the IRA, section 175B of the WCA and Sch 2 Part 5 clause 18(8) of the PTA.

Further Information

These notes are not intended as legal advice and Contractors should obtain their own professional advice if they have any questions about this Statement or these Notes. For more information, refer to OSR Revenue Ruling PT 59 at <http://www.osr.nsw.gov.au/lib/doc/rulings/rrpt59.pdf>, visit the WorkCover website www.workcover.nsw.gov.au, Office of State Revenue website www.osr.nsw.gov.au, or the Office of Industrial Relations, Department of Commerce website www.commerce.nsw.gov.au. Copies of the *Workers Compensation Act 1987*, the *Payroll Tax Act 2007* and the *Industrial Relations Act 1996* can be found at www.legislation.nsw.gov.au.

Supporting Statement

This statement must accompany any payment claim served on a principal to a construction contract by a head contractor.

For the purposes of this Statement the terms "principal", "head contractor", "subcontractor", and "construction contract" have the meanings given in section 4 of the Building and Construction Industry Security of Payment Act 1999.

The Contractor is a "head contractor" in terms of the Building and Construction Industry Security of Payment Act 1999, and makes relevant statements below accordingly.

This Statement must be signed by the Contractor (or by a person who is authorised, or held out as being authorised, to sign the statement by the Contractor).

Relevant legislation includes *Building and Construction Industry Security of Payment Regulation 2008 cl 4A*

Main Contract

Head contractor:

(Business name of the head contractor)

ABN

ACN

Of

(Address of Contractor)

has entered into a contract with

Roads and Maritime Services

Contract description

Contract number/identifier

Subcontracts

The head contractor has entered into a contract with the subcontractors listed in the attachment to this Statement

Period

This Statement applies for work between: _____ and _____ inclusive,

subject of the payment claim dated: _____

I, _____ (full name) being the head contractor, a director of the head contractor or a person authorised by the head contractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters that are contained in this supporting statement and declare that, to the best of my knowledge and belief, all amounts due and payable to subcontractors have been paid (not including any amount identified in the attachment as an amount in dispute).

Signature: _____

Date: _____

Full Name: _____

Position / Title: _____

SCHEDULE 3 – INSURANCES

Clause 19 INSURANCE SCHEDULE

NOTES TO RMS STAFF AND TENDER DOCUMENTER: (delete this boxed text after drafting RMS C41:

Contact the RMS’ Insurance Team where any insurance submissions or provisions are not complying with this document or where additional specific insurances may be required.

All enquiries are to be directed to RMS’ Insurance team (Ph: (02) 9462 6150).

Details in Schedule 3 were current at the time of issuing Revision 34 of C41 model document. Contact the RMS Insurance Team regarding the latest insurance policy details and update Schedule 3 accordingly, prior to including C41 in tender documents.

Principal Arranged Insurance - Insurance Schedule 2011-2012

	TYPES OF INSURANCES	MINIMUM SUM INSURED	PERIOD OF INSURANCE	INSURANCE COVER IS TO INCLUDE THE FOLLOWING
Principal Arranged Insurance (RMS)				
The details of the policies below are provided in the Aon certificate of currency. A copy of these policies may be inspected by appointment at the offices of the RMS’ insurance broker				
1	Contract Works	Contract Works – as per Declared Value	Duration of the Works – covering RMS, Construction Manager and subcontractors and other parties as specified in the works contract	RMS has arranged standard policies of insurance for contract works insurance (reinstatement cost) insurance under its principal arranged insurance program.
Excess for Contract Works	The Contractor is responsible for meeting the amount of any excess payable under the principal-arranged insurance. The excess amounts current at the date of the Contract are: <ul style="list-style-type: none"> • Contract Works Value (up to \$5m) - excess is \$15,000 per Event/Occurrence (4.7(a)) • Contract Works Value (between \$5m & \$20m) – excess is \$50,000 per Event/Occurrence (4.7(a)) • Contract Works Value (between \$20m & \$50m) – excess is \$100,000 per Event/Occurrence (4.7(a)) Other than: <ul style="list-style-type: none"> • Contracts Works (between \$50m and \$100m) - Water Damage - excess is \$250,000 per Event/Occurrence (4.7(a)) • Any other claim – excess is \$100,000 per Event/Occurrence (4.7(a)) • Tunnelling Contracts – excess is \$250,000 per Event/Occurrence (4.7(a)) (where applicable) The Contractor may effect insurance to cover the amount of that excess.			
2	Public and Products Liability	Public and Products Liability	Duration of the Works – covering RMS, Construction Manager	RMS has arranged standard policies of insurance for contract works insurance (reinstatement cost) and third party

	TYPES OF INSURANCES	MINIMUM SUM INSURED	PERIOD OF INSURANCE	INSURANCE COVER IS TO INCLUDE THE FOLLOWING
		\$200m	and subcontractors and other parties as specified in the works contract	liability insurance under its principal arranged insurance program.
Excess for Public and Product Liability	<p>The Contractor is responsible for meeting the amount of any excess payable under the principal-arranged insurance. The excess amounts current at the date of the Contract are:</p> <ul style="list-style-type: none"> • Injury to Contractors – excess is \$50,000 per Event/Occurrence (4.2) • Products Liability – excess is \$50,000 per Event/Occurrence (4.2) • Underground Services – excess is \$50,000 per Event/Occurrence (4.2) • Any other claim – excess is \$10,000 per Event/Occurrence (4.2) <p>The Contractor may effect insurance to cover the amount of that excess.</p>			
3	Professional Indemnity	RMS has affected a Principal Professional Indemnity policy for its own benefit.		
Contractor Arranged Insurances				
4	Motor Vehicle Comprehensive or Third Party Property Damage effected with an approved insurer as defined in Definitions and Notes clause 1 below	\$20 million for any single occurrence	Annual	<p>(a) Motor Vehicles owned or used by the Contractor or subcontractors directly or indirectly engaged in performance of the Services.</p> <p>(b) Is governed by the law of New South Wales and subject to Australian jurisdiction as defined in Definitions and Notes clause 2 below.</p> <p>(c) If applicable to the contract – all plant and equipment owned or used by the Contractor or subcontractors directly or indirectly in the performance of the Services.</p>
5	Workers Compensation effected with an approved insurer as defined in Definitions and Notes clause 1 below	As per the relevant Workers Compensation legislation	Annual	As per State Workers Compensation legislation.
6	Professional Indemnity	RMS will not set any requirements for the minimum sum insured for professional indemnity in the Contract. The contractor / consultant / supplier should make their own independent decision regarding their own Professional Indemnity requirements.		

Definitions and Notes:

1. Approved insurer means:

- (a) An Australian registered insurance company which is approved by the Australian Prudential Regulatory Authority (APRA) to conduct general insurance business in Australia; or
- (b) Lloyds Underwriters; or
- (c) A Treasury Managed Fund insurance scheme with the NSW State Government; or
- (d) The Comcover insurance scheme for the Australian Federal Government.

Note that where the insurance risk is insured by an insurer not listed in Note 1(a) or 1(b) then a 'fronting' placement is acceptable from an insurer list in Note 1(a) or 1(b).

2. Insurances policies must be subject to the laws of Australian (or an Australian State or Territory) and their courts.

SCHEDULE 4 – PA INSURANCES EXTRACT

Links to the Policy documents

Copies of the Policy documents are available on the Road and Maritime website under **Business & Industry > Partners & Suppliers > Specifications > Model Legal Documents** at the following links

<http://www.rta.nsw.gov.au/cgi-bin/doingbusinesswithus/specifications/index.cgi?pai-primary-ppl.pdf>

<http://www.rta.nsw.gov.au/cgi-bin/doingbusinesswithus/specifications/index.cgi?pai-primary-cw.pdf>

SCHEDULE 5 - ABORIGINAL PARTICIPATION IN CONSTRUCTION - QUARTERLY REPORT

PROJECT DETAILS	
Contract No and Description	
Contractor:	
Contract Award Value (or Project Value, where relevant) (excl GST)	
Project APiC Category:	
Targeted Project Spend (TPS) \$(excl GST)	
Date of APiC report:	

PROJECT PARTICIPATION	
Total number of people (all) employed on the project:	
Total number of hours worked by all employees on this project:	
Total number of sub-contractors on the project:	
Total number of people employed by sub-contractors on project:	

ABORIGINAL PARTICIPATION	
Total number of Aboriginal people employed on the project:	
Total number of hours worked by Aboriginal people employed on this project:	
Total number of Aboriginal people employed by sub-contractors on project:	

ABORIGINAL PARTICIPATION – DIRECT EXPENDITURE		
Type of expenditure	Recipients (if known)	Actual Amount
a) Direct employment (employees, apprentices)		
b) Other employment (contractors, group training)		
c) Goods/services bought from Aboriginal businesses		
d) Education expenses <ul style="list-style-type: none"> • Apprentices • Trainees • Cadets • Other 	•	•
e) Payments to Aboriginal business/community organisations		
f) Other type of expenditure approved by RMS		
Total Direct Expenditure Amount (\$)		
Proposed expenditure in participation plan (\$)		

ABORIGINAL PARTICIPATION – INDIRECT EXPENDITURE			
Proposed expenditure amount (\$) in participation plan		Actual expenditure amount (\$)	
<i>Description of activities (include participating business/community group details) and outcomes</i>			

ABORIGINAL PARTICIPATION – ACTUAL SPEND			
Actual spend on APiC in reporting Quarter: \$ (excl GST)	\$	Total Actual spend on APiC (Cumulative): \$ (excl GST)	\$
Actual spend on APiC in reporting Quarter: as % of TPS	%	Total Actual spend on APiC (Cumulative): as % of TPS	%

Number of Aboriginal businesses invited to tender/supply who were unsuccessful and reasons for rejection (e.g. price, inability to meet required timeframe, did not respond)		
Tender details	No.	Reason

Comments:

Approved by (Name and Position in the Organisation):

Minor Physical Works and Services

Tender Form



Work:

Contract no:

To: Roads and Maritime Services ('RMS')

1. Our Offer

We offer to carry out the Contracted Work in accordance with the Tender Documents for the price and/or rates and prices set out in the Pricing Schedule(s) as adjusted from time to time in accordance with the Contract.

2. Tender Documents

The Tender Documents are:

- .1 This Tender Form.
- .2 The Pricing Schedule(s) completed and submitted by us.
- .3 The Interpretation Guide.
- .4 The Conditions of Standing Offer (if the Contract is a Work-as-Ordered Contract).
- .5 The Terms for Contracted Work.
- .6 The Contract Schedule issued by RMS for this Tender.
- .7 The Specification(s) issued by RMS for this Tender.
- .8 Drawings (*if applicable*)
- .9 Addenda issued by RMS during the tender period.

3. Acknowledgement of Addenda

We acknowledge that we have received the addenda listed in the schedule to this document and that we have taken them into account in preparing this Offer.

4. Compliance with Code of Practice for Procurement and Implementation Guidelines

We agree to comply with the NSW Government's Code of Practice for Procurement (NSW Code) and the New South Wales Government's

Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction (NSW Guidelines).

5. Sharing of information between Government Agencies

We authorise RMS to make information about our performance, claims record (both past, present and future) and financial affairs available to other NSW Government agencies, Local Government authorities and members of Austroads Incorporated.

We release RMS and all other agents of the Crown in right of New South Wales from claims and actions which we or a person claiming on our behalf may otherwise be entitled to make in connection with the sharing of information.

6. Collusive arrangements

6.1. Our warranties

We warrant that:

- .1 We are not aware of any other tenderer's tender price.
- .2 We have not directly or indirectly communicated our tender price to another tenderer.
- .3 Except as disclosed in a statutory declaration lodged with the tender, we have not entered into a contract, arrangement or understanding with anyone in connection with this Tender to the effect that a successful tenderer will pay money to or confer a benefit upon an unsuccessful tenderer or a trade or industry association (above the published standard fee).
- .4 We have not entered into a contract, arrangement or understanding which may have or is likely to have an anti-competitive effect or an adverse effect on the probity of the tender process in connection with this Tender.
- .5 Our Tender Price does not include an allowance on account of any such contract, arrangement or understanding.

6.2. Obligations regarding money or benefits received

We agree that money or the monetary value of a benefit received by us from another tenderer in connection with this Tender belongs in equity to RMS and is immediately payable to RMS.

6.3. Obligation to notify

We must immediately notify RMS if we receive or are offered money or another benefit from another tenderer in connection with this Tender.

7. Offer open for acceptance for 60 days

Our offer is firm and binding and may be accepted by RMS at any time within 60 days after the closing date for Tenders.

8. Consideration for this offer

The offer and warranties made in this Tender Form are made in consideration of the RMS' promise to consider the offer in accordance with the Request for Tender and the administrative time and expense to RMS in so doing.

9. Aboriginal Participation in Construction

We agree to comply with the NSW Government *Policy on Aboriginal Participation in Construction* and will provide:

- on request:
 - an undertaking that, in the event that it becomes the Contractor, it is prepared to provide an Aboriginal Participation Plan and the Aboriginal Participation Reports, which must comply with the Policy;
 - evidence of its ability to meet the obligations under the Policy on the Contract;
 - details of its Aboriginal participation in construction performance outcomes on other RMS or NSW Government contracts; and
 - proposed exclusions for determining the targeted project spend (TPS), and
- if successful and where required by the Contract, a project Aboriginal Participation Plan and the Aboriginal Participation Reports, at times specified in the Contract.

Schedule to Tender Form

(This schedule may be produced electronically by the Tenderer for ease of completion)

Tenderer's name

[Must include ACN or ABN if applicable]

.....

Address of Tenderer for service of notices

[If a post box address is given, a street address must also be given]

.....
.....
.....

Lump sum price (if Tender Price is lump sum or includes a lump sum)

[Delete this item if the tender is for a schedule of rates only contract. Only include lump sum component of the price if the tender is for a combined lump sum/schedule of rates contract - don't include combined total]

..... dollars

andcents(\$.....),

which is the total amount shown in the Schedule of Prices

(Lump sum must always equal the total amount shown in the Schedule of Prices)

Addenda received and taken into account

[Tenderer to insert number and date of each Addendum]

Addendum no.	Date
--------------	------

Tenderer's signature

Signed for and on behalf of the Tenderer by its authorised signatory in the presence of:

.....
Witness

.....
Authorised signatory

.....
Name (print)

.....
Name (print)

.....
Position title (print)

Date:

Minor Physical Works and Services Term Services Contract

Contract for [xxx]



© Roads and Maritime Services

RMS Minor Physical Works and Services Term Services Contract Form of Agreement

Date	
Parties	Roads and Maritime Services (RMS) of 20-44 Ennis Road, Milsons Point, New South Wales 2061
	Your name: _____
	ACN :.....
Project RMS file	

Agreement	<ol style="list-style-type: none"> You agree to do the Contracted Work for the Term in accordance with the Contract. RMS agrees to pay you for the Contracted Work as set out in the the Contract. Both parties agree to perform all their other obligations under the Contract. The Contract incorporates the Tender Documents and the following post-tender documents: <ul style="list-style-type: none"> The Tender Form signed and lodged by you with your tender The Pricing Schedules signed and lodged by you with your tender The RMS letter accepting your tender and the documents listed in that letter as forming part of the Contract Capitalised terms used in this Form of Agreement, unless otherwise defined or indicated in this Form of Agreement, have the meaning given to those terms in the Minor Physical Works and Services Terms for Contracted Work.
------------------	--

Signatures	<p>RMS: Signed by Roads and Maritime Services by its delegate in the presence of:</p>								
	<table style="width: 100%;"> <tr> <td style="width: 50%; text-align: center;">_____</td> <td style="width: 50%; text-align: center;">_____</td> </tr> <tr> <td style="text-align: center;">Witness</td> <td style="text-align: center;">RMS delegate</td> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> <tr> <td style="text-align: center;">Name of witness</td> <td style="text-align: center;">Name of RMS delegate</td> </tr> </table>	_____	_____	Witness	RMS delegate	_____	_____	Name of witness	Name of RMS delegate
_____	_____								
Witness	RMS delegate								
_____	_____								
Name of witness	Name of RMS delegate								

Minor Physical Works and Services

Tender Form



Work:

Contract no:

To: Roads and Maritime Services ('RMS')

1. Our Offer

We offer to carry out the Contracted Work in accordance with the Tender Documents for the price and/or rates and prices set out in the Pricing Schedule(s) as adjusted from time to time in accordance with the Contract.

2. Tender Documents

The Tender Documents are:

- .1 This Tender Form.
- .2 The Pricing Schedule(s) completed and submitted by us.
- .3 The Interpretation Guide.
- .4 The Conditions of Standing Offer (if the Contract is a Work-as-Ordered Contract).
- .5 The Terms for Contracted Work.
- .6 The Contract Schedule issued by RMS for this Tender.
- .7 The Specification(s) issued by RMS for this Tender.
- .8 Drawings (*if applicable*)
- .9 Addenda issued by RMS during the tender period.

3. Acknowledgement of Addenda

We acknowledge that we have received the addenda listed in the schedule to this document and that we have taken them into account in preparing this Offer.

4. Compliance with Code of Practice for Procurement and Implementation Guidelines

We agree to comply with the NSW Government's Code of Practice for Procurement (NSW Code) and the New South Wales Government's

Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction (NSW Guidelines).

5. Sharing of information between Government Agencies

We authorise RMS to make information about our performance, claims record (both past, present and future) and financial affairs available to other NSW Government agencies, Local Government authorities and members of Austroads Incorporated.

We release RMS and all other agents of the Crown in right of New South Wales from claims and actions which we or a person claiming on our behalf may otherwise be entitled to make in connection with the sharing of information.

6. Collusive arrangements

6.1. Our warranties

We warrant that:

- .1 We are not aware of any other tenderer's tender price.
- .2 We have not directly or indirectly communicated our tender price to another tenderer.
- .3 Except as disclosed in a statutory declaration lodged with the tender, we have not entered into a contract, arrangement or understanding with anyone in connection with this Tender to the effect that a successful tenderer will pay money to or confer a benefit upon an unsuccessful tenderer or a trade or industry association (above the published standard fee).
- .4 We have not entered into a contract, arrangement or understanding which may have or is likely to have an anti-competitive effect or an adverse effect on the probity of the tender process in connection with this Tender.
- .5 Our Tender Price does not include an allowance on account of any such contract, arrangement or understanding.

6.2. Obligations regarding money or benefits received

We agree that money or the monetary value of a benefit received by us from another tenderer in connection with this Tender belongs in equity to RMS and is immediately payable to RMS.

6.3. Obligation to notify

We must immediately notify RMS if we receive or are offered money or another benefit from another tenderer in connection with this Tender.

7. Offer open for acceptance for 60 days

Our offer is firm and binding and may be accepted by RMS at any time within 60 days after the closing date for Tenders.

8. Consideration for this offer

The offer and warranties made in this Tender Form are made in consideration of the RMS' promise to consider the offer in accordance with the Request for Tender and the administrative time and expense to RMS in so doing.

9. Aboriginal Participation in Construction

We agree to comply with the NSW Government *Policy on Aboriginal Participation in Construction* and will provide:

- on request:
 - an undertaking that, in the event that it becomes the Contractor, it is prepared to provide an Aboriginal Participation Plan and the Aboriginal Participation Reports, which must comply with the Policy;
 - evidence of its ability to meet the obligations under the Policy on the Contract;
 - details of its Aboriginal participation in construction performance outcomes on other RMS or NSW Government contracts; and
 - proposed exclusions for determining the targeted project spend (TPS), and
- if successful and where required by the Contract, a project Aboriginal Participation Plan and the Aboriginal Participation Reports, at times specified in the Contract.

Schedule to Tender Form

(This schedule may be produced electronically by the Tenderer for ease of completion)

Tenderer's name

[Must include ACN or ABN if applicable]

.....

Address of Tenderer for service of notices

[If a post box address is given, a street address must also be given]

.....

.....

.....

Lump sum price (if Tender Price is lump sum or includes a lump sum)

[Delete this item if the tender is for a schedule of rates only contract. Only include lump sum component of the price if the tender is for a combined lump sum/schedule of rates contract - don't include combined total]

..... dollars

andcents(\$.....),

which is the total amount shown in the Schedule of Prices

(Lump sum must always equal the total amount shown in the Schedule of Prices)

Addenda received and taken into account

[Tenderer to insert number and date of each Addendum]

Addendum no.	Date
--------------	------

Tenderer's signature

Signed for and on behalf of the Tenderer by its authorised signatory in the presence of:

.....

Witness

.....

Authorised signatory

.....

Name (print)

.....

Name (print)

.....

Position title (print)

Date:

Tender price summary sheet

Work:

Contract no:

Schedule of Rates

Total of extended amounts \$

Schedule of Prices

Total lump sum amount \$

GST

Total tender price:

\$
=====

Name of Tenderer:

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Schedule of estimated quantities

Work:

Contract no:

This Schedule relates to the items shown in the Schedule of Prices. The quantities shown in this Schedule are estimated quantities only and are not guaranteed to be the actual or correct quantities of work to be carried out.

Item no	Description of work	Quantity	Unit
----------------	----------------------------	-----------------	-------------

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Gately, Nathan

From: Chehoud, Nathan
Sent: Thursday, 3 August 2017 3:31 PM
To: Hafez, Linda; Radford, Kevin
Subject: RE: HVES - proposal to establish a maintenance panel
Attachments: 2113294A-CIV-LTR-028 RevA.docx

Hi guys,

Proposal now attached for your review. The original document is saved [here](#).

Please populate rates, finalise and issue to Alex at your earliest convenience.

Cheers,

Nathan Chehoud
Principal Civil Engineer



D: +61 2 92725214
M: +61 [REDACTED] 9497
Nathan.Chehoud@wsp.com

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Level 27, 680 George Street
Sydney NSW
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From: Chehoud, Nathan
Sent: Tuesday, 1 August 2017 7:45 PM
To: Hafez, Linda <Linda.Hafez@wsp.com>; Radford, Kevin <Kevin.Radford@wsp.com>
Subject: HVES - proposal to establish a maintenance panel

Hi guys,

Just an update...

I've drafted most of the proposal for this work (in letter format) but I won't be able to send it to you for review and issue until after I've received the documents I requested from Alex earlier this evening.

Assuming he sends them through tomorrow, I can review them and finalise the proposal late afternoon tomorrow for you to review.

I'll be in Rail Safety training tomorrow from 8:30am to 3:30pm but will be in touch after that.

Cheers,

Nathan Chehoud
Principal Civil Engineer



D: +61 2 92725214
M: +61 [REDACTED] 9497
Nathan.Chehoud@wsp.com

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Level 27, 680 George Street
Sydney NSW
2000 Australia

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Our ref: 2113294A-CIV-LTR-028 RevA.docx

By email
alex.p.dubois@rms.nsw.gov.au

1 August 2017

Alex Dubois
Compliance Project Manager
Roads and Maritime Services
99 Phillip Street
Parramatta NSW 2150

Dear Alex

Proposal to establish a Heavy Vehicles Branch Maintenance Panel

Roads and Maritime Heavy Vehicles Branch is seeking to establish a panel for maintenance of existing and future enforcement sites. A maintenance panel will enable Heavy Vehicles Branch to more easily procure experienced, cooperative and responsive contractors for scheduled and ad-hoc work. Achieving this outcome requires a focus on three key areas:

- Recommend an effective procurement method
- Prepare clear and concise procurement documentation
- Administer the maintenance panel

This proposal outlines how WSP will support Roads and Maritime in each of these key areas, and will

Recommend an effective procurement method

WSP and Roads and Maritime met on August 1, 2017 to workshop possible procurement methods.

It was noted that maintenance work is required at three types of enforcement sites – namely Point-to-Point Camera sites, Safety Camera sites, and Heavy Vehicle Inspection sites – and at sites with 'overheight' warnings. The maintenance services required across these four different sites were discussed and grouped into two types, as outlined in Table 1 below.

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Sydney NSW 2000
GPO Box 5394
Sydney NSW 2001

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Fax: +61 2 9272 5101
www.wsp.com



Table 1 Maintenance Services

TYPE A SERVICES	TYPE B SERVICES
Civil works	'Weight in motion' equipment maintenance
Electrical works	Scale maintenance
Fabrication of steel support structures	Weighbridge maintenance
Installation of steel support structures	Brake testing equipment maintenance
Design and fabrication of signage	
Installation of signage	
Quality assurance for 'Type A' work	

The meeting established the minimum requirements for future panel members, as follows:

For Type A work:

- Demonstrated experience in providing these services to RMS Heavy Vehicles Branch within the last 12 months

For Type B work:

- Demonstrated experience in providing these services to RMS Heavy Vehicles Branch within the last 24 months; or,
- Demonstrated experience in providing these services to another State Government Agency within the last 24 months.

The meeting concluded with discussion and agreement on possible tender assessment criteria and weightings. These are outlined in Table 2 below.

Table 2 Possible Tender Assessment Criteria and Weightings

TENDER ASSESSMENT CRITERIA	WEIGHTING
Depth of experience (how often has the tenderer carried out this work, and what was the quality of the work?)	45%
Response time (how quickly has the tenderer responded to ad-hoc work requests in the past, and what systems are in place for future requests of this nature?)	30%
Cooperative relationship (how flexible was the tenderer in responding to ad-hoc requests that were outside of their scope, and what systems are in place for future requests of this nature?)	25%

Based on our meeting, and reviewing Roads and Maritime's guidelines, WSP recommends that this maintenance panel is established using a Non-Price Minor Physical Works and Services - Work As Ordered Contract.



Prepare clear and concise procurement documentation

WSP will collate the standard Minor Physical Works and Services contract documentation and carry out the necessary amendments for their use in this maintenance panel. We envisage that the contract documentation will comprise:

- Terms for Contracted Work (C41)
- Conditions of Standing Offer
- Instrument of Agreement – Work-as-Ordered Contract
- Contract Schedule – Work-as-Ordered Contract
- Request for Tender
- Tender Form
- RMS QA Specifications (as required)

Administer the maintenance panel

WSP will support Heavy Vehicles Branch with various tasks (as required) to administer the maintenance panel, which could include:

- Issuing Tender Documents to Tenderers and maintaining the Tender Distribution List
- Recording all enquiries on the Tender Enquiries Register
- Preparing Tender Addenda
- Convening and facilitating the Pre-Tender Meeting
- Receiving and opening Tenders, and preparing the Public List of Tenders Received
- Examining Tenders for conformity, and carrying out Tender Assessment
- Preparing the Tender Evaluation Report
- Preparing the Letter of Acceptance
- Preparing appropriate RMS QA specifications for Work Orders under the panel

ESTIMATE OF PROPOSED COST

WSP has already commenced work on this proposal. The time and resources expended to date are presented in Table 3 below.

Table 3 Cost to date

DATE	RESOURCE / TASK	HOURS	RATE	SUBTOTAL
1/8/2017	Nathan Chehoud — Client Meeting	2.5	???	???
3/8/2017	Nathan Chehoud — Review contract documents, liaison with RMS CPS Branch and recommend procurement method	3	???	???
TOTAL COSTS TO DATE				???



WSP proposes to prepare the procurement documentation as described above on a time and expense basis with an upper limit. Our estimate of the remaining work to prepare the procurement documentation is presented in Table 4 below.

Table 4 Estimate to prepare procurement documentation

RESOURCE	ESTIMATED HOURS	RATE	SUBTOTAL
Nathan Chehoud (Document Author)	30	???	???
Peter Letts (Document Reviewer)	5	???	???
Lind Hafez (Project Manager)	???	???	???
TOTAL UPPER LIMIT ESTIMATE			???

Depending on Roads and Maritime's requirements, WSP will assist RMS in administering the maintenance panel as needed using rates agreed under this contract.

TIMING OF PROPOSED WORK

WSP is ready to commence work immediately upon acceptance of this proposal. We estimate that the first draft procurement documentation will be issued to Heavy Vehicles branch for review within 5-6 working days of this proposal being accepted.

We are confident that this proposal will aid RMS Heavy Vehicles Branch in establishing a panel for maintenance of existing and future enforcement sites, and to simplify the procurement of experienced, cooperative and responsive contractors for scheduled and ad-hoc work.

We would be happy to discuss this proposal in further detail as required.

Yours sincerely

Linda Hafez
Principal Engineer, Transport

HVES - maintenance panel tender documents - first draft

From: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
To: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
Cc: "Hafez, Linda" <linda.hafez@wsp.com>
Date: Mon, 07 Aug 2017 17:26:24 +1000

Hi Alex,

Following our discussion today, we can advise that we will have our first draft set of procurement documents ready for review by Monday or Tuesday next week.

It would be good to organise a meeting on one of those days for us to present the documents and talk through any issues. Does that work for you?

Kind regards,

Nathan Chehoud
Principal Civil Engineer



D: +61 2 92725214
M: +61 [REDACTED] 9497
Nathan.Chehoud@wsp.com

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Sydney NSW
2000 Australia

wsp.com

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RE: HV Branch Maintenance Panel - follow-up to our meeting today

From: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
To: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
Cc: "Hafez, Linda" <linda.hafez@wsp.com>, "Radford, Kevin" <kevin.radford@wsp.com>
Date: Tue, 08 Aug 2017 13:33:12 +1000

Hi Alex,

Could you please send the RFT document in MS Word format. I think you only sent it in PDF in the first batch.

I think the filename is mwsrt.doc

Thanks,

Miri Pohys
Principal Civil Engineer



D: +61 2 92725214
M: +61 [REDACTED] 497
Nathan.Chehoud@wsp.com

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Level 27, 680 George Street
Sydney NSW
2000 Australia

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From: DUBOIS Alexandre [mailto:Alex.p.Dubois@rms.nsw.gov.au]
Sent: Wednesday, 2 August 2017 12:18 PM
To: Chehoud, Nathan <Nathan.Chehoud@wsp.com>
Cc: Hafez, Linda <Linda.Hafez@wsp.com>; Radford, Kevin <Kevin.Radford@wsp.com>
Subject: RE: HV Branch Maintenance Panel - follow-up to our meeting today

Good morning Nathan,

Please find attached documents as requested

As discussed, my goal is to have this panel in operation within 4-6 weeks , including tendering evaluation and finalisation.

Thank you

Regards,

From: Chehoud, Nathan [mailto:Nathan.Chehoud@wsp.com]
Sent: Tuesday, 1 August 2017 5:44 PM
To: DUBOIS Alexandre
Cc: Hafez, Linda; Radford, Kevin
Subject: HV Branch Maintenance Panel - follow-up to our meeting today

Hi Alex,

I thought the meeting today went really well – thanks for your time and input.

As discussed, could you please forward the following **Service Contract Documents** from the RMS Intranet in MS Word format:

- Terms of Contracted Work (C41)
- Conditions of Standing Offer
- Instrument of Agreement (Form of Agreement) – Work as Ordered Contract
- Contract Schedule – Work as Ordered Contract
- Request for Tenders
- Tender Form
- Schedule of Rates
- Schedule of Prices
- Schedule of Estimated Quantities
- Tender Price Summary Sheet

We won't necessarily use all of these document but if I have them all then we can choose any approach and just use the ones we need.

Linda or Kevin will forward you our proposal for this work tomorrow.

Kind regards,

Miri Pohys
Principal Civil Engineer



D: +61 2 92725214
M: +61 [REDACTED] 497
Nathan.Chehoud@wsp.com

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Panel Contract Review

When: Mon Aug 21 11:00:00 2017 (Australia/Sydney)
Until: Mon Aug 21 12:00:00 2017 (Australia/Sydney)
Organiser: SOLIMAN Samer <"o=rt/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=solimans">
Required Attendees: STEYN Craig G <craig.steyn@rms.nsw.gov.au>
DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>

Let's collectively review your guys progress and scope of the panel contract before proceeding further.

Cheers,
Samer

Maintenance panel - draft tender documents

From: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
To: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>, STEYN Craig G <craig.steyn@rms.nsw.gov.au>
Cc: "Hafez, Linda" <linda.hafez@wsp.com>
Date: Wed, 23 Aug 2017 14:28:50 +1000
Attachments: 01 Terms for Contracted Work - C41.doc (670.72 kB); 02 Conditions of Standing Offer.doc (67.07 kB); 03 Instrument of Agreement.doc (57.86 kB); 04 Contract Schedule.doc (81.92 kB); 05 Request for Tenders.doc (296.96 kB); 06 Tender Form.doc (61.44 kB); FORM A.docx (18.04 kB); FORM B.docx (18.18 kB)

Hi Alex,

Please find attached for your review the draft tender documents for the maintenance panel.

To make your review easier, I HAVE NOT made any changes to the following RMS model documents:

- Terms for Contract Work
- Conditions of Standing Offer
- Instrument of Agreement

I HAVE made changes to the following documents (additions are in ***bold italics*** and deletions are in ~~strikethrough~~):

- Contract Schedule
- Request for Tenders
- Tender Form

Also, I've created two forms (Form A and Form B) for the tenderers to complete. This should standardise the responses that you get.

Before we send out the tender docs, we will need to include the RMS QA specs – G, R, Q etc. I haven't amended the specs you provided, so I won't e-mail them back to you – but we just need to remember to include them when it comes time to send out the tender docs.

Please review these documents and let me know of any changes needed. You can reach me on the phone or by email tomorrow. I will make sure any changes are done before I go on leave.

Kind regards,

Nathan Chehoud
Principal Civil Engineer



D: +61 2 92725214
M: +61 [REDACTED] 9497
Nathan.Chehoud@wsp.com

WSP Australia Pty Limited
Level 27, 680 George Street
Sydney NSW
2000 Australia

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Minor Physical Works and Services

Terms for Contracted Work



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Getting started

1. Summary of your role

In a Project Contract, you must carry out and complete the Project in accordance with the Contract by the Date for Completion.

In a Term Services Contract, you must carry out the Contracted Work for the whole of the Term in accordance with the Contract.

In a Work-as-Ordered Contract, you must carry out and complete Contracted Work when a Work Order requires you to do so. If a Work Order is issued, you must carry out and complete the required work or services in accordance with the Contract and the Work Order.

2. Forming the Contract

2.1. Project Contracts

Project Contracts come into existence when RMS writes to you accepting your tender.

Until you sign the formal contract, the Contract is made up of the Tender Documents, the Tender Form, the Pricing Schedules, the RMS' letter of acceptance and any documents incorporated into the Contract by the letter of acceptance.

2.2. Term Services and Work-as-Ordered Contracts

Term Services and Work-as-Ordered Contracts are not binding on RMS until you sign and return the formal contract prepared by RMS.

3. Starting work

3.1. Things to do before starting

Before starting the Contracted Work, you must:

1. If security is required, lodge your security with RMS (*see clause 20 and Contract Schedule*).
2. Provide evidence of your insurances and the details necessary for Principal Arranged Insurance to the RMS'

Insurance Broker in the Schedule (*see clause 19 and Contract Schedule*).

3. If the Contract Sum is greater than \$25,000 and the Contracted Work is building and/or construction work to which the Building and Construction Industry Long Service Payments Act 1986 applies:
 - Pay to the Long Service Corporation or the Corporation's agent, the amount of the long service levy payable in respect of the Contracted Work,
 - If the Long Service Corporation serves a notice under [section 41 of] the Long Service Payments Act, pay any required additional amount of long service levy, within the time specified in the notice; and
 - Produce to RMS the document evidencing payment of the levy referred to above.

3.2. Start date

In a Project Contract, you must satisfy the conditions set out in clause 3.1 and start the Contracted Work within 14 days of the date of the RMS' letter accepting your tender, unless otherwise advised.

In a Term Services Contract, you must start the Contracted Work on the first day of the Term unless otherwise advised.

In a Work-as-Ordered Contract, you must start the Contracted Work within the time set out in the Specification or the Work Order. If no time is specified, you must start work as soon as possible and not later than 14 days from the date of the Work Order, unless otherwise advised.

Doing the Work: Quality

4. Quality of Contracted Work

4.1. Use skill and care

You must carry out the Contracted Work diligently and conscientiously and to a high standard of skill and care. RMS enters into the Contract relying on your skill and knowledge.

4.2. Comply with Contract

Everything you make, design or supply under the Contract must fully comply with the Contract and be reasonably suitable for its intended purposes.

4.3. Use new materials

You must use new materials unless the Contract clearly states that you can use materials which are not new.

4.4. Assign warranties

You must make sure that RMS obtains the benefit of warranties provided by manufacturers or suppliers of materials and things used in the Contracted Work if ownership of those materials or things will vest in RMS.

4.5. Permit inspection and testing and provide test results

This clause applies if a Quality System is not specified (see Contract Schedule).

4.5.1. Access for inspection and testing

You must give RMS access during working hours to inspect and test materials and things proposed to be used in the Contracted Work.

4.5.2. Payment for inspections and tests

RMS bears its own costs of inspections and tests which it undertakes under this clause, unless the materials or things tested are found not to be in accordance with the Contract. If materials or things tested are found not to be in accordance with the Contract, you must reimburse RMS for all costs associated with the relevant inspection and testing.

4.5.3. Submission of test results

If the Specification requires you to provide test results for product verification, you must do so within the time required by the Specification. If no time is specified, you must provide the results promptly.

4.6. Manage work for quality according to a Quality System

This clause applies if a Quality System is specified (see Contract Schedule).

4.6.1. Your Quality System

You must set up and maintain a Quality System which complies with the Quality System Specification.

4.6.2. Control the work

You must control the Contracted Work in accordance with your Quality System. This includes doing all testing and other things

necessary to demonstrate that your Contracted Work fully complies with the Contract.

4.6.3. Submit summary of product quality records

You must submit a summary of product quality records with every payment claim. The summary must demonstrate that each relevant lot or component of the Contracted Work conforms with the Contract.

Your entitlement to payment under the Contract may be reduced if you do not provide complete records or records which show full conformance.

4.6.4. Retain quality records and produce them as required

You must retain quality records for at least 5 years after the end of the last warranty period under the Contract (*see clause 27 and the Contract Schedule*).

During this period, you must give RMS access to those records during working hours and you must deliver to RMS any or all of the records if requested to do so. After the end of the last warranty period, RMS must give you at least 14 days notice if it requires access to, or delivery of, any quality records.

4.6.5. Testing

You must do your testing in accordance with the Contract and the Inspection and Test Plans submitted by you.

You must give reasonable notice to RMS of the time, date and place of any testing to which a Hold Point or Witness Point applies.

If you delay in doing a test which you are required to do, RMS may do the test itself at your cost after notifying you in writing.

You must provide test results for product verification within the time required by the Contract. If no specific time limit applies, provide the results promptly.

4.6.6. The RMS' powers

RMS may:

- .1 Conduct audits, surveillance and testing to verify that your Quality System is effective, or
- .2 Test materials or other components or parts of the Contracted Work (even if you are also doing the same tests), or
- .3 Direct you not to cover up Contracted Work or make it inaccessible without prior approval, or

- .4 Nominate any point in a work process as a Witness Point or Hold Point, or
- .5 As part of an audit, direct you to open up or pull down Contracted Work and to reinstate it later.

4.6.7. *QA costs*

RMS will reimburse you for all costs you incur in pulling down or opening up and then reinstating any part of the Contracted Work for the purposes of an audit - but only if the results of the audit indicate that the work was in compliance with the Contract. All other costs, losses, damages or expense which may be incurred or suffered by you in connection with anything done under this clause 4.6 are at your cost.

4.6.8. *Obligations not limited by Quality System compliance*

Your Quality System is a tool to demonstrate compliance with the Contract but does not in any way limit your obligation to ensure that the Contracted Work fully complies with the Contract.

4.7. Access to premises

You must make sure that RMS has access at all reasonable times to premises where Contracted Work is being carried out.

Doing the Work: Time

5. Time for carrying out Contracted Work

5.1. Carry out work expeditiously

You must carry out the Contracted Work in a timely and expeditious manner and so as to comply with any time requirements set out in the Contract.

5.2. Follow program

If you are required to provide a program, you must perform the Contracted Work according to the program submitted to RMS. Changes to the program must be notified to RMS.

Nothing in a program limits your obligations to meet time requirements set out in the Contract.

5.3. Notify delays or likely delays

You must promptly notify RMS if you become aware of anything which may delay the progress of the Contracted Work. Your notice must be in writing and must set out details of the possible delay and its cause.

5.4. Date for Completion and extensions of time

This clause only applies where the Contract specifies a Date for Completion of the Contracted Work.

5.4.1. Complete by the Date for Completion

You must complete the Contracted Work by the Date for Completion.

5.4.2. Extensions of time

The RMS Representative will agree to an extension of time to the Date for Completion if:

- .1 you are delayed in meeting the Date for Completion, and
- .2 you have given a written notice to RMS advising of the delay within 28 days of the start of the delay, and
- .3 your notice advising of the delay sets out details of the delay, its causes and the amount of extra time claimed, and
- .4 the delay starts before the Date for Completion, and
- .5 the cause of the delay is beyond your reasonable control, and
- .6 the RMS Representative reasonably considers that an extension of time is justified.

The length of extension of time agreed to will be decided by the RMS Representative, acting reasonably and having regard to the circumstances.

The RMS Representative may also extend the Date for Completion at any time and for any reason.

5.4.3. Pay liquidated damages for delay

If you do not complete the Contracted Work by the Date for Completion, you must pay RMS the amount of liquidated damages set out or referred to in the Contract Schedule. That amount is payable each week during the period between the Date for Completion and the date that you actually complete the Contracted Work and pro-rata for each part of a week.

5.5. Directions as to order and timing of Contracted Work

RMS may direct you as to the order and timing for performance of the Contracted Work.

5.6. Directions to suspend Contracted Work

RMS may direct you to suspend the whole or part of the Contracted Work for any reason for a period nominated by RMS.

If RMS directs a suspension because of a default or act or omission by you, your subcontractors, employees or agents, you are not entitled to make a claim against RMS for losses or damages you may incur or sustain in connection with the suspension.

Doing the Work: People and resources

6. People and resources**6.1. Warranty of capacity**

You warrant to RMS that you have the materials, people and resources to properly perform the Contracted Work.

6.2. Use competent people

You must provide people who are competent, experienced and qualified to carry out the Contracted Work.

If you have nominated particular people to do the Contracted Work and RMS requires you to use those people, you must do so unless RMS gives its written permission to the use of other people.

6.3. RMS may direct removal of personnel

The RMS Representative may direct you to remove a person from the Contracted Work if the RMS Representative considers the person to be:

- .1 Incompetent, negligent or guilty of misconduct, or
- .2 reckless or indifferent in relation to safety or the protection of the environment.

6.4. Subcontract only with approval

You may subcontract some of the Contracted Work but only with the RMS' prior written consent. Approval to subcontract does not relieve you of any liabilities or obligations under the Contract.

6.5. Wages and conditions of workers

You must ensure that all Workers are engaged on terms and conditions which are no worse (for the Worker) than those prescribed by relevant legislation, an award applicable to the worker or determination, judgment or a registered enterprise agreement concerning the Worker's minimum terms of employment. You must provide evidence of compliance with this clause if requested to do so by RMS.

6.6. Payments to Subcontractors and Workers

You must ensure that Subcontractors and Workers are fully paid money properly due and payable to them in connection with the Contracted Work under relevant awards, contracts and enterprise agreements.

6.7. Subcontract terms

6.7.1 Subcontracts with a value of \$25,000 or more

You must include the following terms in all of your Subcontracts with a value of \$25,000 or more at their commencement date:

- .1 A term equivalent to this clause.
- .2 A term allowing the Subcontractor (if it is required to provide security for its contractual obligations) to elect to provide an unconditional undertaking from a bank, financial institution or insurance company in lieu of a cash security or retention.
- .3 A term expressly acknowledging that cash securities and retentions belong in equity to the Subcontractor at all times (even though you may earn interest on them) unless and until you become contractually entitled to have recourse to them.
- .4 A term imposing an obligation on you to deposit all cash securities, retentions and cash proceeds of any converted securities (other than securities converted in the exercise of a contractual right of enforcement) into a trust account with a bank within 24 hours of the receipt, retention or conversion.
- .5 A term imposing an obligation on you to keep proper records of, and account to the Subcontractor with respect to, all securities and retentions and their proceeds.
- .6 A term imposing an obligation on you to pay interest on any money due to the Subcontractor and not paid on the date it is

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due. The rate of interest must not be less than the rate payable by RMS under the Contract on overdue payments.

- .7 Terms incorporating dispute resolution procedures similar to those in the Contract.
- .8 A term acknowledging that the Subcontractor is not required to comply with the dispute resolution procedures set out in the Subcontract if the only remedy sought by the Subcontractor is an order for payment of money which is not disputed to be due and payable under the Subcontract.
- .9 A term requiring you to provide the Subcontractor (before the Subcontractor starts work) with copies of this clause and clauses 6.5, 22 and 23.

6.7.2 All Subcontracts

You must ensure that every Subcontract, regardless of the subcontract value, includes provisions of clause 10.2 and a clause to the same effect as this clause 6.7.2 which is binding on the Subcontractor, and provide evidence of this to RMS when requested by the RMS Representative.

Doing the Work: Safety and environment

7. Protecting people, property and the environment

7.1. Comply with WHS requirements

You must comply with all work health and safety requirements of RMS relating to the Contracted Work or the use of RMS work sites or premises.

Unless the Contract Schedule states otherwise or the RMS Representative directs otherwise, you are appointed and deemed to be the principal contractor for the purposes of the WHS Laws and must discharge the responsibilities imposed on a principal contractor by the WHS Laws.

Where the Contract Schedule states that you are the principal contractor, you must:

- .1 ensure that the work site or premises where the Contracted Work is being carried out is clearly defined as a separate and distinct workplace at all times, including by installing physical boundaries if reasonably possible; and
- .2 not do or omit to do anything that causes RMS to breach the WHS Laws

7.2. Ensure safety and welfare of all people who may be affected

You must ensure the safety and welfare of all people including your employees and subcontractors, members of the public and road users who may be affected by your activities under the Contract or in relation to the Contracted Work.

7.3. Provide safety precautions

You must provide all safety devices, traffic control, barricades, signs and warnings required by RMS or which are necessary or desirable for the protection of people or property.

7.4. Comply with environmental requirements

You must comply with all environmental protection requirements of RMS relating to the Contracted Work or the use of RMS work sites or premises.

7.5. Properly supervise Contracted Work

You must be personally present or ensure that you have a competent representative present at any work site or premises where the Contracted Work is being carried out. Your representative must personally manage and supervise activities of your employees, subcontractors and agents at the worksite or premises. The representative must be a person acceptable to RMS.

7.6. Avoid damage to property and the environment

You must avoid damage to property and the environment while carrying out the Contracted Work.

7.7. Make good damage to property or the environment

You must, at your own cost, promptly make good any damage to property or the environment caused by you, your subcontractors, employees or agents while carrying out the Contracted Work.

7.8. Prevent nuisance or inconvenience

You must prevent nuisance or inconvenience to anyone who may be affected by the performance of the Contracted Work.

7.9. Clean up work sites and premises

You must clean up and keep clean and tidy all work sites and premises used for the Contracted Work. This includes ensuring that potential pollutants are prevented from being discharged from the site or premises.

7.10. Working times

Restricted working times may apply to work sites and premises made available to you by RMS. The permitted working times are set out or referred to in the Contract Schedule.

7.11. Use of RMS worksites and premises

You may only use RMS work sites or premises for the purposes of carrying out the Contracted Work. In particular, you may not use RMS worksites or premises for any residential purpose unless RMS has given you prior written authorisation to do so.

7.12. Take care of RMS things

You must take good care of things provided to you by RMS for the purposes of the Contract (unless the Contract states otherwise).

7.13. Do not interfere with RMS staff or contractors

You may not interfere with or disrupt the work of RMS staff or other contractors except to the minimum extent necessary for the proper performance of the Contracted Work.

7.14. RMS may instruct urgent work

The RMS Representative may instruct you to carry out any urgent work he or she considers necessary to:

- .1 prevent, avoid or minimise loss or damage to any property or harm to the environment or personal injury to any person arising in connection with the Contracted Work, or
- .2 ensure or protect the safety, health or welfare of any person connected with, or who may be affected by, the Contractor's performance of the Contracted Work.

You must comply with instructions issued by the RMS Representative under this clause immediately and, unless the RMS Representative determines otherwise, at your own cost.

7.15. The Australian Government Building and Construction WHS Accreditation Scheme

Where required in the Contract Schedule, you must maintain accreditation under the Australian Government Building and Construction WHS Accreditation Scheme (**the Scheme**) established by the Fair Work (Building Industry) Act 2012 (FWBI Act) while building work (as defined in section 5 of the FWBI Act) is carried out. The Contractor must comply with all conditions of the Scheme accreditation.

7.16. Building Code 2013

Where required in the Contract Schedule:

- .1 You must comply with the Building Code 2013 (**Code**) and the Supporting Guidelines for the Building Code 2013 (**Guidelines**). Copies of the Code and Guidelines are available at www.employment.gov.au/buildingcode
- .2 Compliance with the Code and Guidelines shall not relieve you from responsibility to perform the Contract, or from liability for any defect in the works arising from compliance with the Code and Guidelines.
- .3 Where a change in the Contract is proposed and that change would affect compliance with the Code and Guidelines, you must submit a report to the Commonwealth specifying the extent to which your compliance with the Code and Guidelines will be affected.
- .4 You must maintain adequate records of the compliance with the Code and Guidelines by yourself, your subcontractors, consultants and your Related Entities (see

Guidelines for meaning including section 3.5 of the Guidelines).

- .5 If you do not comply with the requirements of the Code or the Guidelines in the performance of the Contract such that a sanction is applied by the Minister for Employment, the Code Monitoring Group or the Commonwealth, without prejudice to any rights that would otherwise accrue, those parties shall be entitled to record that non-compliance and take it, or require it to be taken, into account in the evaluation of any future tenders that may be lodged by you or a related entity in respect of work funded by the Commonwealth or its agencies.
- .6 While acknowledging that value for money is the core principle underpinning decisions on Government procurement, when assessing tenders, you may give preference to subcontractors and consultants that have a demonstrated commitment to:
 - (a) adding and/or retaining trainees and apprentices;
 - (b) increasing the participation of women in all aspects of the industry; or
 - (c) promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.
- .7 You must not appoint a subcontractor or consultant in relation to the Project where:
 - (a) the appointment would breach a sanction imposed by the Minister for Employment; or
 - (b) the subcontractor or consultant has had a judicial decision against them relating to employee entitlements, not including decisions under appeal, and has not paid the claim.
- .8 You agree to require that you and your subcontractors or consultants and your related entities provide the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:
 - (a) inspect any work, material, machinery, appliance, article or facility;
 - (b) inspect and copy any record relevant to the Contracted Work; and
 - (c) interview any person

as is necessary to demonstrate your compliance with the Code and Guidelines.

- .9 Additionally, you agree that you and your related entities will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax or by post.
- .10 For the avoidance of doubt, Clause 7.16 applies in relation to your new privately funded construction work.
- .11 You must ensure that all subcontracts impose obligations on subcontractors equivalent to the obligations under these Contract Clauses.

7.17. NSW Code of Practice for Procurement and Implementation Guidelines

Terminology

- .1 In addition to terms defined in this document, terms used in this clause have the same meaning as is attributed to them in the New South Wales Government's Implementation Guidelines to the NSW Code of Practice for Procurement: Building and Construction (**NSW Guidelines**) (as published by the NSW Treasury July 2013). The NSW Code and NSW Guidelines are available at www.industrialrelations.nsw.gov.au.

Primary Obligation

- .2 The parties must comply with and meet any obligations imposed by the NSW Government Code of Practice for Procurement (**NSW Code**) and the NSW Guidelines.
- .3 You must notify the Construction Compliance Unit (CCU) and RMS of any possible non-compliance with the NSW Code and NSW Guidelines and of remedial action taken, within 24 hours of becoming aware of the possible non-compliance.
- .4 Where you engage a subcontractor or consultant, you must ensure that that contract imposes on the subcontractor or consultant equivalent obligations to those in this section 2 (under the heading NSW Code and NSW Guidelines), including that the subcontractor or consultant must at all times comply with, and meet any obligations imposed by, the NSW Code and the NSW Guidelines.
- .5 You contractor must not appoint or engage another party in relation to the project where that appointment or

engagement would breach a sanction imposed on the other party in relation to the NSW Code or NSW Guidelines.

Access and information

- .6 You must maintain adequate records of compliance with the NSW Code and NSW Guidelines by you, your subcontractors, consultants and related entities.
- .7 You must allow, and take reasonable steps to facilitate, authorised personnel (including personnel of the CCU) to:
 - .1 enter and have access to sites and premises controlled by you, including but not limited to the project site;
 - .2 inspect any work, material, machinery, appliance, article or facility;
 - .3 access information and documents;
 - .4 inspect and copy any record relevant to the project;
 - .5 have access to personnel; and
 - .6 interview any person;

as is necessary for the authorised personnel to monitor and investigate compliance with the NSW Code and NSW Guidelines, by you, you subcontractors, consultants, and related entities.
- .8 you, and your related entities, must agree to, and comply with, a request from authorised personnel (including personnel of the CCU) for the production of specified documents by a certain date, whether in person, by post or electronic means.

Sanctions

- .9 You warrant that at the time of entering into the Contract, neither you, nor any of your related entities, are subject to a sanction in connection with the NSW Code or NSW Guidelines that would have precluded you from responding to a procurement process for work to which the NSW Code and NSW Guidelines apply.
- .10 If you do not comply with, or fail to meet any obligation imposed by, the NSW Code or NSW Guidelines, a sanction may be imposed against you in connection with the NSW Code or NSW Guidelines.
- .11 Where a sanction is imposed:

- .1 it is without prejudice to any rights that would otherwise accrue to the parties; and
- .2 the State of NSW (through its agencies, Ministers and the CCU) is entitled to:
 - .1 record and disclose details of noncompliance with the NSW Code or NSW Guidelines and the sanction; and
 - .2 take them into account in the evaluation of future procurement processes and responses that may be submitted by you, or your related entities, in respect of work to which the NSW Code and NSW Guidelines apply.

Compliance

- .12 You bear the cost of ensuring your compliance with the NSW Code and NSW Guidelines, including in respect of any positive steps you are obliged to take to meet your obligations under the NSW Guidelines. You are not entitled to make a claim for reimbursement or an extension of time from RMS or the State of NSW for such costs.
- .13 Compliance with the NSW Code and NSW Guidelines does not relieve you from responsibility to perform the works and any other obligation under the contract, or from liability for any defect in the works or from any other legal liability, whether or not arising from your compliance with the NSW Code and NSW Guidelines.
- .14 Where a change in the contract or works is proposed, and that change may, or may be likely to, affect compliance with the NSW Code and NSW Guidelines, you must immediately notify RMS of the change, or likely change and specify:
 - .1 the circumstances of the proposed change;
 - .2 the extent to which compliance with the NSW Code and NSW Guidelines will be, or is likely to be, affected by the change; and
 - .3 what steps you propose to take to mitigate any adverse impact of the change (including any amendments you propose to a Workplace Relations Management Plan or Work Health and Safety Management Plan);and

RMS will direct you as to the course you must adopt within 10 Business Days of receiving notice.

7.18. NSW Government Policy on Aboriginal Participation in Construction

Where required in the Contract Schedule you must comply with the NSW Government *Policy on Aboriginal Participation in Construction*.

Where applicable, the Targeted Project Spend (TPS) on Aboriginal participation is as stated in the Contract Schedule.

Where required in the Contract Schedule, you must prepare and submit the following:

- .1 to the RMS Representative and the NSW Procurement Board (nswbuy@finance.nsw.gov.au)
 - (a) Aboriginal Participation Plan within 60 days after the Start Date of the Contracted Work defined in clause 3.2 or 30 days before Date of Completion, whichever occurs first, and
 - (b) Aboriginal Participation report at 90% completion of the Contracted Work, which explains how the Aboriginal Participation Plan has been implemented and what outcomes have been achieved.
- .2 to the RMS Representative only:
 - (a) if requested, a draft Aboriginal Participation Plan referred to in clause 7.18.1(a), within 20 days after the Start Date of the Contracted Work defined in clause 3.2 or 40 days before Date of Completion, whichever occurs first;
 - (b) quarterly, its Aboriginal Participation Report in the form set out in Schedule 5, providing details of the implementation of the Policy and achievement of targets; and
 - (c) final Aboriginal Participation Report, at the end of 12 month period after the Date of Completion. Details included in the final Aboriginal Participation Report must explain how the Aboriginal Participation Plan has been implemented within the specified period and what actual outcomes have been achieved.
- .3 For Term Services Contract, the Contractor must provide an annual Aboriginal Participation Plan. The annual

Aboriginal Participation Plan is to detail the initiatives that will likely apply for the next 12 months. 30 days prior to the Term Services Contract award anniversary date, the Contractor must provide an Aboriginal Participation Plan covering the next 12 month period of the Term Services.

The Aboriginal Participation Plans and the Aboriginal Participation Reports (except the reports referred to in clause 7.18.2(b)) must be prepared in accordance with the NSW Government *Policy on Aboriginal Participation in Construction* and in the format prescribed by the NSW Procurement Board. Templates are available at:
(<https://www.procurepoint.nsw.gov.au/aboriginal-participation-construction-information-contractors>).

Doing the Work: Directions and variations

8. Directions

8.1. Comply with directions

You must comply with all directions of the RMS Representative in carrying out the Contracted Work and performing any of your other obligations under the Contract.

8.2. Directions to be confirmed in writing

The RMS Representative may issue directions verbally or in writing. Unless the RMS Representative informs you that urgent compliance is required, you need not comply with a verbal direction until it is confirmed in writing.

8.3. Payment for directions

Unless you have a specific entitlement to payment for a particular direction, you must comply with a direction at your own cost.

9. Variations

9.1. RMS may vary the Contracted Work

The RMS Representative may direct you to:

1. Increase, decrease or omit part of the Contracted Work, or
2. Change the character or quality of material or work used in the Contracted Work, or

3. Change the levels, lines, positions or dimensions of part of the Contracted Work, or
4. Do additional work.

You may not vary the Contracted Work without a written direction from the RMS Representative stating that it is a variation direction.

9.2. Your right to claim that a direction is a variation

If the RMS Representative issues a direction which you consider to be a variation direction but which does not state that it is a variation direction, you must promptly write to the RMS Representative setting out the reasons why you consider the direction to be a variation direction.

Whenever possible, your written notice must be given to the RMS Representative before you start to comply with the direction. If you do not give the notice within 7 days of the date of the direction, you cannot later claim that the direction was a variation.

9.3. Effect of variations

No variation invalidates the Contract.

9.4. Valuation of variations

The RMS Representative will determine the value of variation after taking into account applicable contract rates and prices, your views on the value of the variation, relevant pricing information submitted by you at the time of tender and objective available evidence of relevant market prices.

Doing the Work: Miscellaneous

10. Comply with legal requirements, codes and standards

You must comply with:

1. all legal requirements relating to performance of the Contracted Work and the conduct of your business.

Legal requirements include, without limitation, all taxation legislation, workers' compensation, environmental laws and regulations, work, health and safety laws, all applicable codes of practice and regulations, vehicle registration legislation and requirements of governmental or semi-governmental authorities.

If you consider there is a conflict between any legal requirement and an obligation imposed by the Contract, you must write to the RMS Representative advising of the perceived conflict and seeking a direction.

2. chain of responsibility provisions of the Heavy Vehicle National Law (NSW) (2013).
3. the RMS Statement of Business Ethics available from the RMS' website.
4. the RMS Customer Charter available from the RMS' website

11. Keep information confidential

If, because of the Contract, you or your employees, subcontractors or agents have access to information of RMS or another person which is not publicly available, you must:

- .1 Keep the information confidential.
- .2 Not disclose or allow the information to be disclosed to an unauthorised person.
- .3 Take all steps and do all things necessary, prudent or desirable to safeguard the confidentiality of the information including things specifically required by RMS.
- .4 Not remove or copy the information and only make use of it if expressly authorised to do so, and then only for the purposes expressly authorised by the Contract.
- .5 Ensure that your employees, subcontractors and agents are aware of this clause and do not do anything which would cause the information to become public without the express written consent of RMS or the owner of the information.

12. Media releases and enquiries

You must seek the RMS' prior written approval to:

- .1 any press release or advertisement concerning the Contract, RMS or the Contracted Work, or
- .2 the release for publication in any media of any information, publication, document or article concerning the Contract, RMS or the Contracted Work.

You must refer any media enquiries concerning RMS, the Contract or the Contracted Work to the RMS Representative.

You must ensure that all consultants, subcontractors and suppliers engaged by you for the performance of the Contract or the Contracted Work, comply with the requirements of this clause.

13. Intellectual property warranty

You warrant that you will not infringe intellectual property rights in performing the Contracted Work. You indemnify RMS against any claim or action which may be brought or made against RMS, its employees or agents as a result of an infringement of intellectual property rights by you, your employees or agents.

14. Ownership of things found

RMS owns anything of value or interest which is found on an RMS work site or premises unless the Contract states otherwise. If you discover anything of possible archaeological, environmental or cultural significance on an RMS site while carrying out the Contracted Work, you must not disturb or destroy the thing found unless directed to do so in writing. Nothing in this clause limits any legal obligations relating to the protection or preservation of the thing found.

15. RMS' right to do things not done by you

If you don't do something you are required to do or don't do it as well as you are required to do it under the Contract, RMS may do it at your cost (using either its own or contract resources). Money owing by you under this clause may be deducted from future payments under the Contract. Any shortfall may be recovered as a debt due and payable.

Unless the RMS Representative considers that urgent action is required, RMS will give you prior written notice of its intention to take action under this clause.

Relationships and representation

16. Relationship and representation

16.1. Your relationship with RMS

You may not act outside the scope of the authority conferred on you by the Contract, and may not bind RMS in any way or hold yourself out as having authority to do so.

16.2. RMS Representative

16.2.1. Role and identity

RMS will appoint a representative to act for it in all matters under or relating to the Contract.

The RMS Representative acts as the agent of RMS and not with the exercise of independent judgment or as an independent certifier, assessor or valuer. If you disagree with any valuation, assessment or other decision of the RMS Representative, you may dispute it in accordance with clause 28.

The RMS Representative is described in the Contract Schedule. RMS may change its representative by written notice to you.

16.2.2. Site Representatives

The RMS Representative may appoint one or more others to assist in administration of the Contract and to exercise any of the powers, duties, functions and discretions of the RMS Representative under the Contract. A person appointed under this clause is known as a 'Site Representative'.

The RMS Representative must notify you in writing of the appointment of a Site Representative, and of the specific powers and functions exercisable by that person.

16.3. Your representative

You need to nominate a person with authority to represent you for the purposes of the Contract. You must notify RMS in writing of the name and contact details for your representative and keep RMS advised in writing of any changes to those details.

Matters within the knowledge of your representative are taken to be within your knowledge.

Liabilities, insurances and securities

17. Liability for Project Works

This clause applies if you are required to undertake Project Works and a work site has been made available to you for that purpose.

17.1. Care of the Project Works

From the time you are given access to the work site or sites until the Date of Completion, you are solely liable for the care of:

- .1 The Project Works.

- .2 Materials, equipment and things brought onto the work site by you or by your subcontractors, employees or agents for the purpose of carrying out the Project Works.
- .3 Materials, equipment and things given to you by RMS for the purpose of carrying out the Project Works.

Subject to clause 17.2, you must make good loss or damage which occurs to any of the above while you are liable for their care.

17.2. Payment for loss or damage to Project Works and other property

You do not need to make good loss or damage under clause 17.1 unless RMS directs you to do so as a variation to the Project Works if the loss or damage is caused by one or more of the following:

1. A negligent act or omission of RMS, its employees, consultants or agents.
2. War or other hostilities or confiscation by order of a public authority.
3. Contamination by radioactivity which is not caused by you, your employees, subcontractors or agents.

18. Indemnity for property damage or personal injury

You indemnify RMS against loss or damage to RMS property and against any claim or action which may be brought or made against RMS, its employees or agents in respect of personal injury or death or loss of or damage to property caused by your act or omission or the act or omission of your employees, subcontractors or agents.

18A Limitation of liability

18A.1 Limitation

Subject to clauses 18A.2 and 18A.3, your total liability to RMS under the Contract in respect of any event that occurs or a liability that arises for which insurance is required by clause 19 (**Risk Event**) is limited to the sum of the total aggregate limits of liability or sums insured (**Policy Limits**) of all insurances applicable to the Risk Event. The amount which represents your total liability is determined by reference to the Policy Limits of the insurances, whether or not the insurance actually provides cover for the Risk Event.

18A.2 Liability that is not limited

Clauses 18A.1 and 18A.3 do not limit your liability:

- .1 in respect of liability which:
 - (a) cannot be limited at law;
 - (b) arises under clauses 5.4.3 (liquidated damages) or 13 (intellectual property warranty);
 - (c) is due to your wilful or reckless misconduct, gross negligence, fraud or criminal conduct; or
 - (d) arises in connection with your abandonment of your obligations under the Contract;
- .2 to the extent that any insurer under a policy referred to in clause 19 seeks to exercise a right of subrogation against you;
- .3 to the extent that (ignoring the application of clauses 18A.1 and 18A.3), you are entitled to recover that liability from any third party (including any of your subcontractors), or would have been entitled to recover that liability but for any act or omission on your part;
- .4 to pay interest or other amounts which the Contract expressly treats as recoverable debts;
- .5 for unliquidated damages in lieu of unenforceable liquidated damages;
- .6 for personal injury (including death) or illness to any person.

and those liabilities will not be included in any calculation of your total liability under clause 18A.1.

18A.3 Losses and costs for which you are not liable to RMS

You are not liable to RMS for:

- .1 loss of business opportunity;
- .2 loss of goodwill;
- .3 loss of contracts;
- .4 loss arising from business interruption;
- .5 loss of or corruption of data;
- .6 loss of anticipated savings; or

- .7 the cost of capital or other financing costs,
which loss or cost arises due to the performance of the Contracted Work.

18A.4 Losses and costs for which RMS is not liable to you

RMS is not liable to you for:

- .1 loss of business opportunity;
- .2 loss of goodwill;
- .3 loss of contracts;
- .4 loss arising from business interruption;
- .5 loss of or corruption of data;
- .6 loss of anticipated savings; or
- .7 the cost of capital or other financing costs,

arising out of or in connection with the performance of the Contracted Work or the Contract.

19. Insurances

19.1. The insurances you must have

You must hold the insurances set out in the Contract Schedule whenever you are performing Contracted Work and until the end of the last warranty period relating to the Contracted Work.

19.1.1. Policies must be with approved insurers

To be acceptable for the purposes of the Contract, an insurance policy must be issued by:

- .1 an Australian registered insurance company which is approved by the Australian Prudential Regulatory Authority (APRA) to conduct general insurance business in Australia;
or
- .2 Lloyds Underwriters; or
- .3 if there is any placement of the risk overseas, a related general insurance company in Australia which is approved by the APRA and who has accepted the insurance transfer;
or
- .4 if there is any placement of the risk overseas, and does not apply to items 2 and 3 above, the following

actions/documentation need to take place and be provided to RMS:

- (a) The Contractor's Finance Committee or appropriate finance personnel of the Contractor, must undertake a full financial risk assessment of the insurer/s being proposed for insurance where the following points must be achieved:
 - (i) the financial rating of the insurer by independent financial advisers must have credit rating of at least "A" Standard & Poors (S & P) or the equivalent rating by the Moody's Investment Service or A M Best;
 - (ii) The Contractor's Insurance Brokers' Financial Committee or appropriate financial personnel of the Insurance Broker, must have its own report and approve the dealing with the Approved Insurer in addition to point (i) above; or
- .5 in respect of NSW workers compensation insurance, an insurance company which has been granted the licence of the NSW Work Cover Authority to undertake workers compensation insurance in NSW; or
- .6 Treasury Managed Fund insurance scheme with the NSW State Government; or
- .7 the Comcover insurance scheme for the Australian Federal Government.

19.1.2. Requirements for policies generally

All insurance policies (not including workers compensation unless the Contract states otherwise) must:

- .1 include RMS and your subcontractors (if any) as additional named insureds, and
- .2 indemnify RMS, and
- .3 include a Cross Liability and Waiver of Subrogation Clause:

Cross Liability and Waiver of Subrogation clause means the insurer agrees to waive all rights of subrogation or action that it may have or acquire against all or any of the persons comprising the insured and for the purpose of which the insurer accepts the term "insured" as applying to

each of the persons comprising the insured as if a separate policy of insurance has been issued to each of them (subject always to the overall insured sum).

19.1.3. Evidence of your insurance

You must provide evidence of insurances prior to starting the Contracted Work and whenever requested to do so. The evidence must be in a form set out in Schedule 3.

19.2. Principal Arranged Insurance

RMS has arranged contract works insurance and third party liability insurance for the Contracted Work. This insurance covers your liabilities to RMS and to third parties for the limits of liability as stated in the Contract Schedule. This Principal Arranged Insurance is in the RMS' name, your name and the name of your subcontractors employed in relation to the Contracted Work.

- .1 RMS will maintain the Principal Arranged Insurance for the Warranty on Completion period as set out in the Contract Schedule.
- .2 Before commencing Contracted Work and no later than 14 days after the formation of the Contract in clause 2, you must contact the RMS' Insurance Broker to:
 - (a) provide various details including contract, subcontractor/s and insurance information necessary for the Principal Arranged Insurance; and
 - (b) confirm the Principal Arranged Insurance excess amount which you are required to pay for each and every loss.
- .3 You must provide any further details, necessary for the Principal Arranged Insurance, to the RMS' Insurance Broker whenever requested to do so.
- .4 An extract of the terms of the Principal Arranged Insurance is set out in Schedule 4 and you may inspect the terms of the Principal Arranged Insurance at the address of the RMS' Insurance Broker.
- .5 You acknowledge that RMS has obtained the Principal Arranged Insurance at its own cost and that your tendered rates and prices (including any lump sum price) do not include any allowance for the cost of contract works insurance or third party liability insurance for the Contracted Work.

19.2.1. Excess

You are responsible for meeting the amount of excess payable under the Principal Arranged Insurance as set out in the Contract Schedule. You may effect your own insurance to cover the amount of that excess.

20. Security for performance

If the Contract Schedule states that security is required, you must provide security for your performance of the Contract.

You must lodge the security with RMS within 14 days of the date of the RMS' letter accepting your tender or offer for the Contracted Work.

The security must be for the amount described in the Contract Schedule and must be in cash or an unconditional undertaking in the form set out in Schedule 1. The security provider must be a bank, financial institution or insurance company which is subject to the prudential supervision of the Australian Prudential Regulation Authority.

RMS may call on the security whenever:

- .1 the Contract states that RMS may do so, or
- .2 you owe RMS money, or
- .3 RMS is entitled to recover money or damages from you, or
- .4 RMS does something at your cost under the Contract, or
- .5 RMS is entitled to deduct money from a payment and the amount of the payment is insufficient to cover the amount which RMS is entitled to deduct.

21. Related company guarantees and related body corporate**21.1 Related company guarantees**

You must provide guarantees from related companies or from your directors as security for your performance of the Contract if requested to do so by RMS. A guarantee provided under this clause must be in terms acceptable to RMS. RMS may request a guarantee under this clause even if the Contract Schedule indicates that security is not required.

21.2 Related body corporate

To enable RMS to comply with Division 5 of Part 3 of the Government Information (Public Access) Act 2009 (GIPA), you must promptly advise RMS of;

- (a) particulars of any related body corporate (within the meaning of the Corporations Act 2001 of the Commonwealth) in respect of your company, or;
 - (b) any other private sector entity in which you have an interest, that will be involved in carrying out any of your obligations under the contract, or will receive a benefit under the contract;
- not previously advised during the tender period.

Getting paid

22. Price

22.1. Your price covers everything required

You warrant that your tendered rates and prices (including any lump sum price) for the Contracted Work include the cost of everything associated with or necessary for the proper performance of the Contracted Work.

22.2. Calculation of amount payable by RMS

The amount payable by RMS for your performance of the Contracted Work is as follows:

- .1 To the extent that your tender was for a lump sum price, RMS must pay the lump sum price (as adjusted by any additions or deductions made in accordance with the Contract).
- .2 To the extent that your tender was based on a schedule of rates, RMS must pay you the amount calculated by multiplying the measured quantity of each section or item of work actually carried out under the Contract by the rate set out in your tender for that section or item (as adjusted by any additions or deductions made in accordance with the Contract).

22.3. Estimates of quantities

If the Contract includes a Schedule of Rates, the quantities stated in the Schedule were prepared by RMS purely for the purpose of comparing tenders. They are not to be regarded as indicating the quantity of work which may be required or paid for under the Contract.

If the Contract includes a Schedule of Prices, the quantities stated in the Schedule were prepared by RMS for the purpose of comparing tenders and valuing variations. They are not to be

regarded as indicating the quantity of work which may be required under the Contract.

22.4 Not Used

22.5 Price adjustments for rise and fall

The Contract rates and prices will not be adjusted for rise and fall unless the Contract Schedule states that rise and fall applies.

If cost adjustment for rise and fall applies, your rates and prices (excluding any rates or prices subject to adjustment under clause 22.6) will be adjusted annually to take account of movements in the Consumer Price Index. The adjustment will apply to all payments after the date of the adjustment and will be made by reference to the CPI (All Groups) published for Sydney.

The base date for calculation of the CPI is the last day of the quarter preceding the date of your offer or tender for the Contracted Work.

If the Contract is one where RMS accepted a lump sum price, the adjustment will be made only for that part of the lump sum price as relates to the remaining term of the Contract.

22.6 Price adjustment for the supply of bitumen

The Contract rates and prices for the supply of bitumen will not be adjusted for rise and fall unless the Contract Schedule states that rise and fall for the supply of bitumen applies.

If cost adjustment for bitumen applies the Contract Sum shall be subject to adjustments for variations in the cost of bitumen supplied by you. The adjustment shall be effected in the payment claims submitted by you in accordance with clause 23.

Any cost adjustment under this clause shall be calculated from the formula -

$$D = (C - B) \times A$$

where -

A = the quantity of bitumen derived from:

- 1) The calculation of residual bitumen at 15 degrees Centigrade where the product is sprayed bituminous surfacing or a tack coat.
- 2) The approved design binder content where the product is asphalt.

- 3) The approved residual binder content where the product is a bituminous slurry surfacing

B = the Price of Class 170 bitumen applicable on the last day of the month immediately preceding the month during which the tenders closed;

C = the Price of Class 170 bitumen on the last day of the month immediately preceding the month during which the work is performed; and

D = the applicable cost adjustment for this payment claim.

The Price of Class 170 bitumen shall be the average of the prices for the suppliers contracted to supply RMS on its panel contract for the Supply of Bitumen and Related Products.

22.7 Provisional Quantities

If, in respect of any work for which a provisional quantity is included in the Contract, the RMS Representative directs that a greater or lesser quantity than the provisional quantity shall be carried out, or that no work shall be carried out, the value of the difference between the provisional quantity and the quantity carried out pursuant to that direction, calculated at the rate for that work stated in the Contract, shall be certified by the RMS Representative and shall be taken into account in determining the final Contract Sum.

23. Payment

23.1. Your payment claims

23.1.1 Time for submission of claims

If the Contract does not contain specific payment dates and amounts, you must submit a claim for payment for each month in which you are carrying out Contracted Work.

23.1.2 Place for lodgement of claims

Payment claims must be lodged with RMS Representative either in person or by post at the address set out in the Contract Schedule as the address for service of notices on RMS Representative.

A payment claim lodged with RMS Representative in accordance with this clause is deemed to have been properly served on the RMS for the purposes of section 13(1) of the Building and Construction Industry Security of Payment Act 1999 (NSW).

23.1.3 Contents of claims

A payment claim must:

- .1 identify the Contracted Work to which the claim relates, and
- .2 indicate the amount which you consider to be due under the Contract for the Contracted Work done within the period covered by the claim, and
- .3 include any details (such as conformance records) required by the Contract or reasonably requested by the RMS Representative for the purposes of assessing your claim.

If a payment claim includes a claim for reimbursement or payment of, or contribution towards, an expense, loss or outgoing, your claim must be limited to the sum of:

- The amount of the expense, loss or outgoing net of any related input tax credits to which you are entitled, and
- If the expense, loss or outgoing is a taxable supply by you to RMS, any GST payable in respect of that supply.

23.2 Contractor Statement

All claims for payment must be accompanied by a Contractor Statement and a Supporting Statement in the form set out in Schedule 2 made by you or by a person who is in a position to know the facts attested to in the presence of a solicitor, Justice of the Peace or another person who is authorised to administer oaths in the jurisdiction where the Contractor Statement and Supporting Statement are made.

23.3 Payment Schedule

The RMS Representative will assess each payment claim and issue a payment schedule to you within 10 Business Days of receipt of the claim.

The payment schedule will:

- .1 identify the payment claim to which it relates, and
- .2 indicate the amount of the payment (if any) that RMS proposes to make, and
- .3 include reasons for any difference between the amount claimed and the amount assessed to be payable on the claim, and

- .4 if applicable, be in the form of a Recipient Created Tax Invoice.

Reasons why the assessed amount in the payment schedule is less than the amount claimed may include your failure to supply the Contractor Statement and Supporting Statement in accordance with clause 23.2, details for Principal Arranged Insurance in accordance with clause 19.2 or proof of insurances in accordance with clause 19.1.3

RMS confirms, for the purposes of section 14(1) of the Building and Construction Industry Security of Payment Act 1999 (NSW), that a payment schedule issued by the RMS Representative is made and issued with the full authority of and on behalf of RMS and is the payment schedule under the Act.

23.4 GST provisions and Recipient Created Tax Invoices

You must be registered for GST before submitting any claim for payment.

You must notify RMS if you cease to be registered for GST at any time.

RMS must notify you if it ceases to be registered for GST or if it ceases to be eligible to issue Recipient Created Tax Invoices at any time.

The following provisions apply unless RMS gives you notice that it is no longer eligible to issue Recipient Created Tax Invoices:

- RMS will be responsible for issuing Recipient Created Tax Invoices and Adjustment Notes in respect of adjustment events known to RMS and relating to the Contract.
- You must notify RMS of details of any adjustment event not otherwise known to RMS.
- All progress or payment certificates or schedules issued under the Contract will be issued in the form of Recipient Created Tax Invoices on behalf of RMS.

This clause does not apply if you have notified RMS that you are not registered for GST or if you have entered into a Voluntary Agreement with RMS for the withholding of Pay as You Go taxation.

Terms used in this clause have the meanings given to them in the GST Legislation.

23.5 Time for payment

RMS must pay you the amount due on any payment schedule within 15 days of the payment claim.

23.6 Valuation of Payment Claims

Payment claims will be valued by the RMS Representative as follows:

.1 *Where a lump sum price applies*

For Contracted Work covered by a lump sum price, the RMS Representative will assess the quality and quantity of work done within the period of the claim.

If the Contract includes a Schedule of Prices, claims will generally be valued by multiplying the measured quantity of each section or item of work actually done in accordance with the Contract by the rate set out in the Schedule of Prices for that section or item. However, once the total price for any section or item has been reached, no additional payment for that section or item will be made.

If the Contract does not include a Schedule of Prices, the RMS Representative will determine the value of the work done either on a pro-rata basis against the total lump sum price or on another basis set out in the Contract.

Nothing in this clause limits your entitlement to the whole of the lump sum price for completion of the whole of the work covered by that lump sum price.

.2 *Where Schedule of Rates applies*

For Contracted Work covered by a Schedule of Rates, the RMS Representative will multiply the measured quantity of each section or item of work actually done in accordance with the Contract by the rate set out in the Schedule of Rates for that section or item.

.3 *Where the Contract contains other specific valuation provisions*

If the Contract contains specific valuation provisions different from the above, the RMS Representative must apply those provisions to determine the value of the payment claim.

4. *Defective or non-conforming work*

If any of the work covered by a payment claim is defective or non-conforming or if conformance records are required

and have not been provided, the RMS Representative in valuing the claim may, at his/her sole discretion but without limiting any other specific provisions of the Contract:

- disregard the defective or non-conforming work or the work for which conformance records have not been provided, or
- reduce the amount of the claim by an amount equal to the estimated cost of rectifying the defective or non-conforming work.

.5 *Variations*

Progress claims for variations will be valued in accordance with the above provisions, based on the determination of the value of the variation made under clause 9.4.

6. *Set-off*

If RMS is entitled to make a deduction under clause 23.7, the RMS Representative must also include the amount of the deduction in the valuation of the claim.

7. *Withholdings*

If clauses 23.8 or 23.10.1 apply, the RMS Representative must also include the amount to be withheld in the valuation of the claim.

23.7. Set-off

RMS may deduct from an amount payable to you under the Contract any amount which is, or in the opinion of RMS is likely to become, payable by you to RMS.

23.8 Withholdings under PAYG

If you do not quote your ABN in your tender or on your payment claims or otherwise advise RMS of your ABN, RMS will withhold tax from payments in accordance with the *A New Tax System (Pay As You Go) Act 1999*.

23.9. Effect of payment

Payments by RMS are on account only and do not evidence the RMS' acceptance of the Contracted Work done by you.

23.10 Non-payment of Workers and Subcontractors

23.10.1. *RMS may withhold payment to you*

If a Contractor Statement lodged by you indicates that money due and payable to a Worker is unpaid, RMS may withhold payment to you of an amount equal to the unpaid money.

23.10.2. *RMS may make direct payments on request*

At your written request and out of money due and payable to you, RMS may pay money on your behalf to Workers or Subcontractors.

23.10.3. *RMS may pay on court order*

RMS may pay money direct to a Worker or Subcontractor and recover the amount paid from you as a debt due if RMS is presented with:

- .1 a court order in respect of money payable to the Worker or Subcontractor under an award, enterprise agreement or Subcontract for work, services, materials, plant, equipment or advice supplied for the work under the Contract, and
- .2 a statutory declaration that the money has not been paid under the court order.

23.11. Concurrence of external administrator required

If an external administrator is appointed to you within the meaning of Part 5 of the Corporations Law, RMS will not make any payment to a Worker or Subcontractor without the concurrence of the external administrator.

Completing Contracted Work

24. Your hand over obligations

At the completion of the Contracted Work or the end of the Term or on earlier termination of the Contract, promptly:

1. Deliver or hand over the Project Works (if applicable) and all materials, documentation and things produced as part of the Contracted Work, and
2. Return materials, documentation and other things provided to you by RMS for the purposes of the Contract (unless those materials or things have been used up in the process of performing the Contract), and

3. Obtain and provide to RMS releases from persons who may have been affected by the performance of the Contracted Work if requested to do so by RMS. Releases must be in the form required by RMS.

In a Term Services Contract, these obligations apply at the end of the Term.

This clause does not reduce any obligation you may have to hand over or deliver materials, documentation or things progressively.

Materials and documents to be handed over under this clause must be in electronic format if the RMS Representative so requires.

25. Time of completion

If a Date for Completion applies to the Contracted Work, the date of completion is determined by the RMS Representative issuing a certificate of completion.

26. Warranty on completion

You warrant that the Contracted Work as completed will be free from defects in workmanship and materials for the period set out in the Contract Schedule after completion of the Contracted Work.

In a Term Services Contract, your warranty applies to each item of Contracted Work done on and from the time you complete that item.

If you need to fix something during the warranty period because it does not comply with the warranty, the warranty applies again from the time when the thing is fixed – but only with respect to the thing fixed.

27. Release of security

After the end of the last warranty period, you may request that RMS release your security (or the balance remaining at that time). RMS will do so within 14 days of your request if RMS is satisfied that:

- .1 the last warranty period has expired, and
- .2 you have fulfilled all your obligations under the Contract, and
- .3 you have no outstanding claims against RMS in connection with the Contract, and
- .4 there are no outstanding claims by third parties in connection with the Contract or the Contracted Work.

Disputes and termination

28. Resolving disputes

The parties will attempt to resolve disputes speedily by negotiation in good faith.

If a dispute cannot be resolved by negotiation between our respective representatives within 2 months of commencement of negotiations, the dispute will be referred for further discussion and negotiation to an appropriate senior executive nominated by each party. If the senior executives are unable to resolve the dispute within 14 days of commencement of discussion (or such longer time as is agreed between them), either party may commence formal dispute resolution proceedings by expert determination.

The expert determination will be conducted in accordance with the RMS' Rules for the Conduct of Expert Determination and the RMS' Code of Conduct for an Expert. A copy of the Rules and Code of Conduct are available on request.

The parties must continue to perform their obligations under the Contract in spite of a dispute.

29. If you default

If you breach or default under the Contract, RMS may suspend payment to you until the breach or default is rectified to the RMS' satisfaction.

RMS may also issue you with a notice requiring you to show cause why the Contract should not be terminated. If you do not respond showing cause to the satisfaction of RMS within 14 days, RMS may terminate the Contract by written notice which takes effect immediately.

Termination under this clause is not effective to terminate a Work As Ordered Contract. If RMS wishes to terminate a Standing Offer, it must do so in accordance with the Conditions of Standing Offer.

30. If you are insolvent

RMS may terminate the Contract immediately by written notice to you if you are unable to pay your debts as and when they fall due, or if you become subject to external administration within the meaning of chapter 5 of the Corporations Law.

General

31. Joint and several liability

If you comprise 2 or more persons, each of you is jointly and severally liable for obligations and liabilities under the Contract.

32. Notices

32.1. Notices to you

A formal notice given to you under the Contract must be addressed to the address set out in the Form of Agreement or to the address last notified by you to RMS.

32.2. Notices to RMS and the RMS Representative

A notice to RMS must be addressed to the address shown in the Contract Schedule for RMS, or the address last notified by RMS to you as the RMS' address for the purposes of the Contract.

A notice to the RMS Representative must be addressed to the address shown in the Contract Schedule for the RMS Representative or the address last notified by RMS or the RMS Representative as the RMS Representative's address.

32.3. Notices generally

Notices must be in writing signed by an authorised officer of the sender.

Notices are taken to have been given or made (in the case of delivery in person or by fax, post or e-mail) when delivered, received or left in the care of a person at the specified address.

33. No assignment

You may not assign or encumber a right or interest under the Contract without the prior written consent of RMS.

34. No waiver

Just because RMS does not insist on you performing a term of the Contract, that does not mean that RMS cannot later insist on you performing that term or another term.

If RMS waives a breach of contract by you, the waiver only applies to the particular breach and RMS can continue to insist on you performing the same obligation when it falls to be performed again. A waiver by RMS is

only effective if it is stated to be a waiver and is made in writing signed by the RMS Representative.

35. Governing law

The Contract is governed by New South Wales law.

36. Definitions

Words used in the Contract have the meanings set out below, unless the context otherwise requires. Words defined in this document can be identified in this and other documents because they commence with a capital letter.

Defined term	Meaning
Business Day	Any day other than a Saturday, Sunday, public holiday in NSW, or 27, 28, 29, 30 or 31 December.
Conditions of Standing Offer	The document headed 'Conditions of Standing Offer'. Only applies to Work-as-Ordered Contracts.
Contract	(a) Either: <ul style="list-style-type: none"> (i) a Work Order issued under a Works-as-Ordered Contract; or (ii) a Project Contract; or (iii) a Term Services Contract, whichever is applicable, and (b) all of the documents making up the agreement between the parties as described in the Form of Agreement signed by the parties.
Contract Interpretation Guide	This document.
Contract Schedule	The schedule which accompanies the Terms for Contracted Work and sets out the specific requirements of RMS for the Contracted Work.
Contract Sum	If the Contract is for a lump sum, the lump sum price. If the Contract is a schedule of rates contract, the sum of the tendered rates multiplied by the quantities stated in the Schedule of Rates.

Defined term	Meaning
	If the Contract is a combined lump sum/schedule of rates contract, the lump sum price plus the sum of the tendered rates multiplied by the stated quantities.
Contracted Work	The work or services required under the Contract, including (if applicable) and Project Works.
Date of Completion	The date when you complete the Contracted Work to the satisfaction of the RMS Representative. Does not apply to Term Services Contracts.
Date for Completion	The date or time on or by which you are required to complete Contracted Work as extended by an extension of time granted under the Terms for Contracted Work. Does not apply to Term Services Contracts.
Day	A Calendar day, including all Business Days and non-Business Days.
Form of Agreement	The formal document signed by the parties and headed 'Form of Agreement'.
GST	The Goods and Services Tax introduced in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> .
GST Legislation	All laws and regulations relating to GST.
Offer Term	The period during which a Standing Offer is open. This is defined in the Contract Schedule. Only applies to Work-as-Ordered Contracts.
Panel	A generic term used to describe the group of contractors who have each entered into a Panel Contract offering to provide a particular work or service during the same Offer Term.
Panel Contract	A Work-as-Ordered Contract under which you are one of a number of contractors on a Panel.
Pricing Schedules	The schedules or other documents which set out the prices, rates or lump sums tendered by you.
Project Contract	A contract under which you are engaged to carry out Contracted Work in order to complete a particular project. Not a Term Services Contract or a Work-as-

Defined term	Meaning
	Ordered Contract.
Project Works	Works forming a part of the Contracted Work that are required to be constructed on an RMS worksite and handed over to RMS on their completion.
Provisional Quantities	The quantity of an item of work which is specified in the Contract, but the quantity of which or whether that item of work will actually be required is not known definitively at the time of award.
Recipient Created Tax Invoice	As defined in the GST Legislation.
RMS (or the 'Principal')	Roads and Maritime Services , the principal under the Contract.
RMS Representative (or the 'Superintendent')	The person described as RMS Representative in the Contract Schedule and the Terms for Contracted Work.
“RTA” or “Roads and Traffic Authority”	The Principal, and a reference to any “RTA” document (including an RTA Specification, Test Method or other document) is a reference to the equivalent document published by the Principal (or its predecessor, the RTA), regardless of whether it is titled “RTA” or “Roads and Maritime Services” or “RMS” (in this respect, the parties acknowledge that the Principal is progressively updating its documents from “RTA” to “RMS” and that this is likely to be ongoing during the currency of the Contract).”
Site Representative	A delegate of RMS Representative or a private company or person engaged by RMS to act in the capacity of Site Representative.
Specification	The document or documents described as the ‘Specification’ or as the ‘Brief’ or by any other name which sets out the RMS’ detailed requirements for the work or services under the Contract. ‘Specification’ includes any associated drawings.
Subcontract	A contract, whether written or oral, under which work, services, material, plant, equipment or advice is provided

Defined term	Meaning
Subcontractor	<p>by a Subcontractor.</p> <p>A person who supplies work, services, materials, plant, equipment or advice to you, any of your subcontractors or any of their subcontractors in connection with the Contracted Work.</p>
Targeted Project Spend	<p>An amount identified in the Contract Schedule. It represents 1.5% of:</p> <p>(a) for Project Contract, the Contract Sum (excluding GST) as at the date when RMS writes to the Tenderer accepting its tender;</p> <p>(b) for Work-as-Ordered Contract, the value of Work Order (excluding GST), as at the date of issue of relevant Work Order; and</p> <p>(c) for Term Services Contract, the value of annual notional Contract Sum (excl GST),</p> <p>less allowable exclusions, in line with the NSW Government <i>Policy on Aboriginal Participation in Construction</i> goals</p> <p>Allowable exclusions are costs incurred by the Contractor over which it has little or no control, e.g.:</p> <p>.1 specialised capital equipment (e.g. tunnel exhaust fans, tunnel boring machines, batch plants);</p> <p>.2 imported materials;</p> <p>where no suitable Australian supplier exists in the market, and</p> <p>.3 value of existing and new non-Contract/Project specific assets apportioned to the Contract/Project, where they are used in delivery of the Contract/Project;</p> <p>.4 property i.e. acquisitions, indirect leasing costs, extra land, adjustments; and</p> <p>.5 non-construction related services;</p> <p>as agreed between RMS and the Contractor.</p>

Defined term	Meaning
Tender Documents	<p>The documents on which your tender is based. The Tender Documents are usually described in the Tender Form submitted by you as your tender offer.</p> <p>The Tender Documents include the Terms for Contracted Work, the Contract Schedule issued at the time of tender, the Contract Interpretation Guide and the Specification.</p> <p>In a Work-as-Ordered Contract, the Tender Documents also include the Conditions of Standing Offer.</p> <p>The Tender Documents do not include the Conditions of Tender and Notice to Tenderers or documents provided for information only.</p>
Tender Form	<p>The form submitted by you at the time of tender setting out your tender offer.</p>
Term	<p>The period of time during which you agree to provide the Contracted Work as extended by formal agreement between the parties. If the Contract is terminated, the term ends on the date of termination regardless of anything else in the Contract. Only applies to Term Services Contracts.</p>
Term Services Contract	<p>A contract under which you agree to provide the Contracted Work on a regular basis or as specified over a certain agreed period of time.</p>
Terms for Contracted Work	<p>The conditions of contract relating to the performance of the Contracted Work.</p>
WHS Laws	<p>The <i>Work Health and Safety Act 2011</i> (NSW) and the <i>Work Health and Safety Regulations 2011</i> (NSW).</p>
Work Order	<p>An order for work or services issued under a Work-as-Ordered Contract.</p>
Work-as-Ordered Contract	<p>A contract under which you offer to provide Contracted Work for RMS at pre-agreed rates or prices whenever issued with a Work Order during an agreed Offer Term.</p>

Defined term	Meaning
	A Work-as-Ordered Contract may also be a Panel Contract.
Worker	An employee of the Contractor or a Subcontractor who does work connected with the Contract.
You (or the ‘Contractor’)	The person or entity engaged as the contractor under the Contract.

37. Rules of interpretation applying to the Contract

The rules set out below govern the interpretation of the Contract:

- .1 Headings and underlinings are for convenience only.
- .2 No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of the Contract.

Unless the context otherwise requires:

- .3 Words in the singular include the plural and vice versa.
- .4 Words which suggest a gender include any gender.
- .5 An expression which suggests a natural person includes a company, partnership, joint venture, association, corporation or other body corporate and a governmental agency.
- .6 A reference to a thing (including, without limitation, the Contract and the Contracted Work) includes a part of the thing.
- .7 A reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances, or by-laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute.
- .8 A reference to a document includes an amendment or supplement to, or replacement or novation of, that document.
- .9 A reference to a party is a reference to a party to the Contract and includes that party's successors and permitted assigns.

C41 Terms for Contracted Work

Minor Physical Works and Services

- .10 Other parts of speech and grammatical forms of a word or phrase defined in the Contract have a corresponding meaning.
 - .11 A reference to a clause, sub-clause, attachment, schedule or annexure in any of the Contract documents is a reference to a clause and a sub-clause of, and an attachment, schedule or annexure to that document.
-

SCHEDULE 1 Unconditional Undertaking

On behalf of the Contractor

Name of Financial Institution:

The Principal: Roads and Maritime Services (RMS) of 20-44 Ennis Road,
Milsons Point, North Sydney, NSW 2061

The Contractor:

ACN/ABN

Security Amount: \$

The Contract: The contract between the Principal and the Contractor

Contract Description: »

Contract Number: »

Undertaking

- .1 At the request of the Contractor and the Financial Institution, and in consideration of the Principal accepting this *Undertaking* from the Financial Institution in connection with the Contract, the Financial Institution unconditionally undertakes to pay on demand any amount or amounts demanded by the Principal to the maximum aggregate sum of the Security Amount.
- .2 The Financial Institution unconditionally agrees that, if notified in writing by the Principal (or someone authorised by the Principal) that it requires all or some of the Security Amount, the Financial Institution will pay the Principal at once, without reference to the Contractor and despite any notice from the Contractor not to pay.
- .3 The Principal must not assign this *Undertaking* without the prior written agreement of the Financial Institution, which must not be unreasonably withheld.
- .4 This *Undertaking* continues until one of the following occurs:
 - .1 the Principal notifies the Financial Institution in writing that the Security Amount is no longer required;
 - .2 this *Undertaking* is returned to the Financial Institution; or
 - .3 the Financial Institution pays the Principal the whole of the Security Amount, or as much as the Principal may require overall.
- .5 At any time, without being required to, the Financial Institution may pay the Principal the Security Amount less any amounts previously paid under this *Undertaking* (or a lesser sum specified by the Principal), and the liability of the Financial Institution will then immediately end.

Dated at

Execution by the Financial Institution:

Notes for Contractor Statement

1. A Contractor is any person or company who carries out work under a contract of any kind for any business of RMS. References to “Subcontractor” and “Principal Contractor” in the legislation mentioned below have been changed in this Statement to “Contractor” and “RMS” respectively to avoid confusion.

2. This form is prepared for the purposes of section 127 of the *Industrial Relations Act 1996* (“IRA”), section 175B of the *Workers Compensation Act 1987* (“WCA”) and Schedule 2 Part 5 of the *Payroll Tax Act 2007* (“PTA”). These provisions allow RMS to withhold payment from a Contractor without any penalty unless and until the Contractor provides to RMS a Statement declaring that:

a. All workers compensation insurance premiums payable up to and including the date(s) on the Statement have been paid, and all premiums owing during the term of the contract will be paid; and

b. all remuneration payable to relevant employees for work under the contract has been paid; and

c. all payroll tax payable relating to the work undertaken has been paid.

3. Section 127 of the IRA says that the Statement must state the period to which it relates. For sequential statements ensure that the dates provide continuous coverage.

4. The person signing this declaration must be a person who is authorised by the Contractor either to sign this Statement (or to sign statements of this kind) and must be a person who is in a position to know the truth of the statements. The Contractor’s principal accounting/financial officer may be appropriate. An individual project manager will normally not be appropriate. If the Contractor is a company then the person signing should be a director unless the company has delegated the power to sign such statements to another person (eg the principal accounting officer).

5. A Statement is not required where RMS is making payment to a receiver, liquidator or trustee in bankruptcy (see section 127(10) of the IRA, section 175B(12) of the WCA and Sch 2 Part 5 (20) of the PTA).

6. Section 127(6) of the IRA says that references to payments to workers means all types of remuneration to which they are entitled.

7. As of 30 June 2011, an employer is exempt from taking out workers compensation insurance if the employer pays less than \$7500 annually on wages, does not employ an apprentice or trainee and is not a member of a group for workers compensation purposes.

Generic Version of Statement

This form has been specially adapted for use specifically for Contractors working for RMS. Generic versions of this Statement for non-RMS use can be obtained at:

http://www.industrialrelations.nsw.gov.au/pdfs/subcontractor_statement_form.pdf; or

<http://www.osr.nsw.gov.au/lib/doc/forms/opt011.pdf>.

Record Retention

RMS will keep a copy of this Statement for 7 years. If the Contractor obtains a similar statement from its subcontractor then the Contractor must keep that statement for 7 years.

Offences for False Statement

Knowingly giving a false statement may be an offence under section 127(8) of the IRA, section 175B of the WCA and Sch 2 Part 5 clause 18(8) of the PTA.

Further Information

These notes are not intended as legal advice and Contractors should obtain their own professional advice if they have any questions about this Statement or these Notes. For more information, refer to OSR Revenue Ruling PT 59 at <http://www.osr.nsw.gov.au/lib/doc/rulings/rrpt59.pdf>, visit the WorkCover website www.workcover.nsw.gov.au, Office of State Revenue website www.osr.nsw.gov.au, or the Office of Industrial Relations, Department of Commerce website www.commerce.nsw.gov.au. Copies of the *Workers Compensation Act 1987*, the *Payroll Tax Act 2007* and the *Industrial Relations Act 1996* can be found at www.legislation.nsw.gov.au.

Supporting Statement

This statement must accompany any payment claim served on a principal to a construction contract by a head contractor.

For the purposes of this Statement the terms "principal", "head contractor", "subcontractor", and "construction contract" have the meanings given in section 4 of the Building and Construction Industry Security of Payment Act 1999.

The Contractor is a "head contractor" in terms of the Building and Construction Industry Security of Payment Act 1999, and makes relevant statements below accordingly.

This Statement must be signed by the Contractor (or by a person who is authorised, or held out as being authorised, to sign the statement by the Contractor).

Relevant legislation includes *Building and Construction Industry Security of Payment Regulation 2008 cl 4A*

Main Contract

Head contractor:

 (Business name of the head contractor)

ABN _____ ACN _____

Of _____
 (Address of Contractor)

has entered into a contract with **Roads and Maritime Services**

Contract description _____

Contract number/identifier _____

Subcontracts

The head contractor has entered into a contract with the subcontractors listed in the attachment to this Statement

Period

This Statement applies for work between: _____ and _____ inclusive,
 subject of the payment claim dated: _____

I, _____ (full name) being the head contractor, a director of the head contractor or a person authorised by the head contractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters that are contained in this supporting statement and declare that, to the best of my knowledge and belief, all amounts due and payable to subcontractors have been paid (not including any amount identified in the attachment as an amount in dispute).

Signature: _____ Date: _____

Full Name: _____ Position / Title: _____

Attachment to the Supporting Statement

Schedule of subcontractors paid all amounts due and payable				
Subcontractor	ABN	Contract number/identifier	Date of works (period)	Payment claim dated (head contractor claim)

Schedule of subcontractors for which an amount is in dispute and has not been paid				
Subcontractor	ABN	Contract number/identifier	Date of works (period)	Payment claim dated (head contractor claim)

Notes for Supporting Statement**Offences for False Statement**

In terms of s 13(8) of the Building and Construction Security of Payment Act 1999 a head contractor who serves a payment claim accompanied by a supporting statement knowing that the statement is false or misleading in a material particular in the particular circumstances is guilty of an offence.

Further Information

These notes are not intended as legal advice and Contractors should obtain their own professional advice if they have any questions about this Statement or these Notes. Copies of relevant legislation can be found at www.legislation.nsw.gov.au.

SCHEDULE 3 – INSURANCES

**Clause 19
 INSURANCE SCHEDULE**

Principal Arranged Insurance - Insurance Schedule 2011-2012

	TYPES OF INSURANCES	MINIMUM SUM INSURED	PERIOD OF INSURANCE	INSURANCE COVER IS TO INCLUDE THE FOLLOWING
Principal Arranged Insurance (RMS)				
The details of the policies below are provided in the Aon certificate of currency. A copy of these policies may be inspected by appointment at the offices of the RMS' insurance broker				
1	Contract Works	Contract Works – as per Declared Value	Duration of the Works – covering RMS, Construction Manager and subcontractors and other parties as specified in the works contract	RMS has arranged standard policies of insurance for contract works insurance (reinstatement cost) insurance under its principal arranged insurance program.
Excess for Contract Works	<p>The Contractor is responsible for meeting the amount of any excess payable under the principal-arranged insurance. The excess amounts current at the date of the Contract are:</p> <ul style="list-style-type: none"> Contract Works Value (up to \$5m) - excess is \$15,000 per Event/Occurrence (4.7(a)) Contract Works Value (between \$5m & \$20m) – excess is \$50,000 per Event/Occurrence (4.7(a)) Contract Works Value (between \$20m & \$50m) – excess is \$100,000 per Event/Occurrence (4.7(a)) <p>Other than:</p> <ul style="list-style-type: none"> Contracts Works (between \$50m and \$100m) - Water Damage - excess is \$250,000 per Event/Occurrence (4.7(a)) Any other claim – excess is \$100,000 per Event/Occurrence (4.7(a)) Tunnelling Contracts – excess is \$250,000 per Event/Occurrence (4.7(a)) (where applicable) <p>The Contractor may effect insurance to cover the amount of that excess.</p>			
2	Public and Products Liability	Public and Products Liability \$200m	Duration of the Works – covering RMS, Construction Manager and subcontractors and other parties as specified in the works contract	RMS has arranged standard policies of insurance for contract works insurance (reinstatement cost) and third party liability insurance under its principal arranged insurance program.
Excess for Public and Product Liability	<p>The Contractor is responsible for meeting the amount of any excess payable under the principal-arranged insurance. The excess amounts current at the date of the Contract are:</p> <ul style="list-style-type: none"> Injury to Contractors – excess is \$50,000 per Event/Occurrence (4.2) Products Liability – excess is \$50,000 per Event/Occurrence (4.2) Underground Services – excess is \$50,000 per Event/Occurrence (4.2) Any other claim – excess is \$10,000 per Event/Occurrence (4.2) <p>The Contractor may effect insurance to cover the amount of that excess.</p>			

	TYPES OF INSURANCES	MINIMUM SUM INSURED	PERIOD OF INSURANCE	INSURANCE COVER IS TO INCLUDE THE FOLLOWING
3	Professional Indemnity	RMS has affected a Principal Professional Indemnity policy for its own benefit.		
Contractor Arranged Insurances				
4	Motor Vehicle Comprehensive or Third Party Property Damage effected with an approved insurer as defined in Definitions and Notes clause 1 below	\$20 million for any single occurrence	Annual	(a) Motor Vehicles owned or used by the Contractor or subcontractors directly or indirectly engaged in performance of the Services. (b) Is governed by the law of New South Wales and subject to Australian jurisdiction as defined in Definitions and Notes clause 2 below. (c) If applicable to the contract – all plant and equipment owned or used by the Contractor or subcontractors directly or indirectly in the performance of the Services.
5	Workers Compensation effected with an approved insurer as defined in Definitions and Notes clause 1 below	As per the relevant Workers Compensation legislation	Annual	As per State Workers Compensation legislation.
6	Professional Indemnity	RMS will not set any requirements for the minimum sum insured for professional indemnity in the Contract. The contractor / consultant / supplier should make their own independent decision regarding their own Professional Indemnity requirements.		

Definitions and Notes:

1. Approved insurer means:
 - (a) An Australian registered insurance company which is approved by the Australian Prudential Regulatory Authority (APRA) to conduct general insurance business in Australia; or
 - (b) Lloyds Underwriters; or
 - (c) A Treasury Managed Fund insurance scheme with the NSW State Government; or
 - (d) The Comcover insurance scheme for the Australian Federal Government.

Note that where the insurance risk is insured by an insurer not listed in Note 1(a) or 1(b) then a ‘fronting’ placement is acceptable from an insurer list in Note 1(a) or 1(b).

2. Insurances policies must be subject to the laws of Australian (or an Australian State or Territory) and their courts.

SCHEDULE 4 – PA INSURANCES EXTRACT

Links to the Policy documents

Copies of the Policy documents are available on the Road and Maritime website under **Business & Industry > Partners & Suppliers > Specifications > Model Legal Documents** at the following links

<http://www.rta.nsw.gov.au/cgi-bin/doingbusinesswithus/specifications/index.cgi?pai-primary-ppl.pdf>

<http://www.rta.nsw.gov.au/cgi-bin/doingbusinesswithus/specifications/index.cgi?pai-primary-cw.pdf>

SCHEDULE 5 - ABORIGINAL PARTICIPATION IN CONSTRUCTION - QUARTERLY REPORT

PROJECT DETAILS	
Contract No and Description	
Contractor:	
Contract Award Value (or Project Value, where relevant) (excl GST)	
Project APiC Category:	
Targeted Project Spend (TPS) \$(excl GST)	
Date of APiC report:	

PROJECT PARTICIPATION	
Total number of people (all) employed on the project:	
Total number of hours worked by all employees on this project:	
Total number of sub-contractors on the project:	
Total number of people employed by sub-contractors on project:	

ABORIGINAL PARTICIPATION	
Total number of Aboriginal people employed on the project:	
Total number of hours worked by Aboriginal people employed on this project:	
Total number of Aboriginal people employed by sub-contractors on project:	

ABORIGINAL PARTICIPATION – DIRECT EXPENDITURE		
Type of expenditure	Recipients (if known)	Actual Amount
a) Direct employment (employees, apprentices)		
b) Other employment (contractors, group training)		
c) Goods/services bought from Aboriginal businesses		
d) Education expenses <ul style="list-style-type: none"> • Apprentices • Trainees • Cadets • Other 	•	•
e) Payments to Aboriginal business/community organisations		
f) Other type of expenditure approved by RMS		
Total Direct Expenditure Amount (\$)		
Proposed expenditure in participation plan (\$)		

ABORIGINAL PARTICIPATION – INDIRECT EXPENDITURE			
Proposed expenditure amount (\$) in participation plan		Actual expenditure amount (\$)	
<i>Description of activities (include participating business/community group details) and outcomes</i>			

ABORIGINAL PARTICIPATION – ACTUAL SPEND			
Actual spend on APiC in reporting Quarter: \$ (excl GST)	\$	Total Actual spend on APiC (Cumulative): \$ (excl GST)	\$
Actual spend on APiC in reporting Quarter: as % of TPS	%	Total Actual spend on APiC (Cumulative): as % of TPS	%

Number of Aboriginal businesses invited to tender/supply who were unsuccessful and reasons for rejection (e.g. price, inability to meet required timeframe, did not respond)		
Tender details	No.	Reason

Comments:

Approved by (Name and Position in the Organisation):

Minor Physical Works and Services Work-as-Ordered Contract

Conditions of Standing Offer



RMS Minor Physical Works and Services Work-as-Ordered Contract Conditions of Standing Offer

1. Terms of your standing offer

1.1. Your offer

You offer to carry out work or services in accordance with Work Orders issued to you during the Offer Term.

The type of work you may be asked to do under a Work Order is set out in the Specification.

1.2. Your warranty

You warrant that you have the resources, qualifications, competence and experience to comply with any Work Order issued to you during the Offer Term.

1.3. Your acknowledgment

You acknowledge that:

1. RMS may not issue any Work Orders to you (or, if there is a Panel, to any member of the Panel).
2. RMS may not need any work or services of the type described in the Specification.
3. RMS may use other contractors to carry out work or services of the type described in the Specification (this includes, if there is a Panel, going to contractors outside the Panel).
4. RMS may ask you to quote separately for particular work or services even though you have made this standing offer.
5. RMS does not have to act fairly in allocating work between members of a Panel.

2. Work Orders

2.1. Form of Work Orders

Work Orders will be substantially in the form set out in the Schedule to this document.

Work Orders may be issued by letter, facsimile or email.

2.2. Work Orders are binding

Work Orders once issued are binding on you.

2.3. Terms of Work Order

Work Orders incorporate the *Terms for Contracted Work*.

2.4. No payment without an Work Order

You will not be paid for work or services unless a Work Order for that work or those services has been issued to you.

3. Termination of Work-as-Ordered Contract

3.1. RMS' right to terminate if not satisfied

RMS may terminate the Work-as-Ordered Contract if it is not satisfied with your performance under any Work Order or if it believes that you may not be able to comply with the Work-as-Ordered Contract for any reason.

Before doing so, RMS will give you notice of its intention and will allow you at least 14 days to respond.

Termination under this clause does not affect your obligations or entitlements under any Work Order previously issued (but RMS may also terminate the specific contract arising under the Work Order if it is entitled to do so under the *Terms for Contracted Work*).

3.2. Termination for insolvency

RMS may terminate the Contract and all current Work Orders immediately by written notice if:

1. you commit an act of bankruptcy, or
2. a resolution is passed or an application is made for your winding up or for the appointment of a liquidator or provisional liquidator, or
3. an external administrator is appointed to you, or
4. a secured creditor or its agent takes possession of a material part of your assets or undertaking, or
5. you enter into an arrangement with your creditors, or
6. your business is sold, or
7. you are convicted of a criminal offence.

On termination under this clause, you will be paid for work or services properly carried out under a Work Order before termination. However, the amount payable to you will be adjusted to take into

account loss or damage suffered or reasonably likely to be suffered by RMS as a consequence of your insolvency or default. RMS may recover any short-fall from you as a debt due and payable.

Schedule - Form of Work Order

This Work Order may be in the form of a letter or issued as a stand-alone document.

This document is a Work Order issued under your Work-as-Ordered Contract with RMS dated _____ for _____

[insert description of type of work or services to which the standing offer relates e.g. guardrail maintenance]

Under this Work Order, you are requested to carry out the work or services described below ('Contracted Work') on the terms of your Work-as-Ordered Contract and this Work Order.

Contracted Work

[set out the brief for the required Contracted Work or refer to annexed brief]

Other information

[e.g. materials/information to be provided by RMS]

Work Order Specific Requirements

[insert details in the table below as relevant for each Work Order]

Contract Clause/Contract Document reference and description	Work Order specific requirements
Clause 1 - Summary Date for Completion:	<i>[insert completion date or dates required for completion of milestone parts of the Contracted Work. Where dates are critical, make this clear]</i>
Clause 5.4.3 – Liquidated damages for delay Amount of liquidated damages for delay in completing by the Date for Completion:	Amount: \$ _____ Not applicable. <i>[delete whichever is inapplicable]</i>
Clause 7.16 – Building Code 2013	Applies / Doesn't apply ("Doesn't apply" applies if not filled in) <i>[delete whichever is inapplicable; see ECM 5.2.6 for guidance]</i>
Clause 7.18 – Aboriginal Participation	
The NSW Government <i>Policy on Aboriginal Participation in Construction</i> applies:	Yes / No <i>[delete whichever is inapplicable, see ECM 5.2.6 for guidance]</i>
The Aboriginal Participation Project Category is:	Category <i>[insert number]</i> / Not applicable. <i>[delete whichever is inapplicable, see ECM 5.2.6 for guidance]</i>
The Contractor is required to submit an Aboriginal Participation Plan and Aboriginal Participation Reports	Yes, at times specified in the Contract/No <i>[delete whichever is inapplicable]</i>
The Targeted Project Spend (TPS) at the date of this Work Order is:	\$ <i>[insert amount]</i> (excl GST) / Not Applicable. <i>[delete whichever is inapplicable]</i>
Clause 10.2 & Clause 22.3 of G2 - Chain of Responsibility	

Contract Clause/Contract Document reference and description	Work Order specific requirements
<p>(CoR) Management Plan</p> <p>A supplement to the Contractor's CoR Management Plan, to address the chain of responsibilities risks and issues specific to the work or services to be carried out under this Work Order is:.</p>	<p>Required/Not Required</p> <p><i>[delete whichever is inapplicable]</i></p>

Issued by Roads and Maritime Services
by:

Signature of issuing officer

Name and position of issuing officer

Date of issue: _____

RMS QA Specifications

Roadworks

IC-QA-R311

Maintenance Of Over-Speed Detection Systems

NB: This document is not available in MSWord format
Below is the link to the pdf version of the document.

<http://home.rta.nsw.gov.au/dts/cserv/os/original/specroad/r311.pdf>

Minor Physical Works and Services Work-as-Ordered Contract

Contract for Panel for Maintenance at Heavy Vehicle Enforcement Sites



Roads and Maritime Services (RMS) Minor Physical Works and Services Work-as-Ordered Contract Form of Agreement

Date					
Parties	Roads and Maritime services (RMS) of 20-44 Ennis Road, Milsons Point, New South Wales 2061 Your name: <div style="text-align: right; margin-right: 100px;">ACN :.....</div>				
Project RMS file					
Deed of Agreement:	<ol style="list-style-type: none"> 1. You agree to carry out Contracted Work whenever a Work Order is issued to you during the Offer Term. 2. RMS agrees to pay you for performing Work Orders as set out in the Contract. 3. Both parties agree to perform their obligations under the Contract. 4. The Contract incorporates the Tender Documents and the following post-tender documents: <ul style="list-style-type: none"> The Tender Form signed and lodged by you with your tender The Pricing Schedules signed and lodged by you with your tender The RMS letter accepting your tender and the documents listed in that letter as forming part of the Contract 5. You acknowledge that RMS might not issue any Work Orders to you. 6. Capitalised terms used in this Form of Agreement, unless otherwise defined or indicated in this Form of Agreement, have the meaning given to those terms in the Minor Physical Works and Services Terms for Contracted Work 				
Execution as a deed	<p>RMS: Signed sealed and delivered by Roads and Maritime Services by its delegate in the presence of:</p> <table style="width: 100%; margin-top: 20px;"> <tr> <td style="width: 50%; border-top: 1px solid black; text-align: center;">Witness</td> <td style="width: 50%; border-top: 1px solid black; text-align: center;">RMS delegate</td> </tr> <tr> <td style="border-top: 1px solid black; text-align: center;">Name of witness</td> <td style="border-top: 1px solid black; text-align: center;">Name of RMS delegate</td> </tr> </table>	Witness	RMS delegate	Name of witness	Name of RMS delegate
Witness	RMS delegate				
Name of witness	Name of RMS delegate				

You:SIGNED by YOU in accordance with section 127 of the Corporations Act 2001 (Cth)

Secretary/Director

Director*

Name printed

Name printed

(*I am the sole Director and Company Secretary of the Contractor and I occupy both offices - Strike out if not applicable)

Minor Physical Works and Services Work-as-Ordered Contract

Contract Schedule



© Roads and Maritime Services

ROADS AND MARITIME SERVICES (RMS)

Minor Physical Works and Services

Work-as-Ordered Contract

Contract Schedule

Item	Clause reference and description	Contract-specific requirements
1	<p>Clause 1 – Summary</p> <p>This Contract is a Work-as Ordered Contract.</p>	The Date for Completion of any Contracted Work is as set out in the Work Order requiring the Contracted Work.
2	<p>Offer Term</p> <p>The Offer Term is:</p>	Three (3) years, with an option for Roads and Maritime to extend the Term for up to two (2) additional years
3	<p>Clause 3 - Starting Work</p> <p>Security is:</p>	<p>Required. The amount of security is \$2,500</p> <p>Not required</p>
4	<p>Clause 3.1 – Insurance Broker</p> <p>RMS' Insurance Broker is:</p>	<p>Corporate Risk Services Aon Risk Services Australia Limited ABN 17 000 434 720 Level 33, Aon Tower 201 Kent Street SYDNEY NSW 2000 Telephone: 61 2 9253 7000 (General); 61 2 9253 7615 (Direct) Facsimile 61 2 9253 7002</p>
5	<p>Clause 4 – Quality</p> <p>A quality system is specified:</p>	Yes/No
6	<p>Clause 5.2 – Program</p> <p>A program is:</p>	Required/Not required
7	<p>Clause 5.4.3 – Liquidated damages for delay</p> <p>Liquidated damages for delay in completing the Contracted Work by the Date for Completion:</p>	<p>May apply. The amount for any Contracted Work will be set out in the Work Order for that Contracted Work.</p> <p>Do not apply.</p>
8	<p>Clause 7.1 The Principal Contractor for the purposes of WHS Laws is</p>	Contractor

Item	Clause reference and description	Contract-specific requirements
9	Clause 7.10 – Working times Restrictions on working times:	Apply. The permitted working times are: as set out in the Work Order requiring the Contracted Work Do not apply.
10	Clause 7.16 – Building Code 2013	As set out in the Work Order requiring the Contracted Work
11	Clause 7.18 – Aboriginal Participation	
11A	The NSW Government <i>Policy on Aboriginal Participation in Construction</i> applies	As set out in the Work Order requiring the Contracted Work
11B	The Aboriginal Participation Project Category is:	As set out in the Work Order requiring the Contracted Work
11C	The Contractor is required to submit an Aboriginal Participation Plan and Aboriginal Participation Reports	As set out in the Work Order requiring the Contracted Work
11D	The Targeted Project Spend (TPS) at the date of this Agreement is:	As set out in the Work Order requiring the Contracted Work
12	Clause 16.2 – RMS representative The RMS representative is:	Mr Alexandre Dubois
13	Clause 19.1 – Insurances you must have	
13A	Workers compensation insurance. To cover all persons directly or indirectly engaged in the performance of the Contracted Work	Required. As specified in Item 5 of Schedule 3 to C41 Terms for Contracted Works
13B	Motor vehicle/mobile plant insurance comprehensive or 3rd party property damage covering all plant and equipment and motor vehicles owned or used by	Required. As specified in Item 4 of Schedule 3 to C41 Terms for Contracted Works

Item	Clause reference and description	Contract-specific requirements
	you or your subcontractors (whether or not owned by you) in the performance of the Contracted Work. This insurance is in addition to the compulsory third party personal injury (CTP) insurance required by law.	
13C	Other insurances	Not required.
		Required: Type _____ Amount: \$ _____
14	Clause 19.2 Principal Arranged Insurance	
14A	Contract Works Insurance	Amount: As specified in Item 1 of Schedule 3 to C41 Terms for Contracted Works
14B	Third Party Liability Insurance	Amount: As specified in Item 2 of Schedule 3 to C41 Terms for Contracted Works
14C	Professional indemnity insurance	For the RMS' benefit only
15	Clause 19.2 - Principal Arranged Insurance Excess	
15A	Contract Works Excess <ul style="list-style-type: none"> • Contracts up to and including \$5M 	<u>Excess:</u> As specified in Item 1 of Schedule 3 to C41 Terms for Contracted Works
15B	Third Party Liability Insurance <ul style="list-style-type: none"> • Products Liability • Worker to Worker • Underground Services • All Other Claims 	<u>Excess:</u> As specified in Item 2 of Schedule 3 to C41 Terms for Contracted Works

Item	Clause reference and description	Contract-specific requirements
16	Clause 22.5 – Cost adjustment for rise and fall	Applies/Doesn't apply <i>[delete whichever is inapplicable]</i>
17	Clause 22.6 – Cost adjustment for supply of bitumen	Applies/Doesn't apply <i>[delete whichever is inapplicable]</i>
18	Clause 26 - Warranty on completion The Warranty Period is:	6 months or as set out in the Work Order requiring the Contracted Work
19	Clause 32.2 – RMS' address for notices	<i>Roads and Maritime Services 110 George Street Parramatta NSW 2150</i>
20	Clause 32.2 – RMS representative's address for notices	<i>Roads and Maritime Services 110 George Street Parramatta NSW 2150</i>

Minor Physical Works and Services

Request for Tenders



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ROADS AND MARITIME SERVICES (RMS)

Minor Physical Works and Services

Request for Tenders

1. Notice to Tenderers

1.1 Description of tender

Roads and Maritime Services (RMS) seeks tenders for the Contracted Work described in the Tender Documents.

1.2 NSW Government Code of Practice for Procurement and Implementation Guidelines

Terminology

- .1 The New South Wales Government's Code of Practice for Procurement (NSW Code) and the New South Wales Government's Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction (NSW Guidelines) apply to the project the subject of this procurement process.
- .2 Terms used in this section 1 of this procurement process (under the heading NSW Code and Implementation Guidelines) have the same meaning as is attributed to them in the NSW Guidelines (as published by the NSW Treasury in July 2013).

Primary obligation

- .3 By submitting a response to this procurement process, the tenderer acknowledges and agrees that it:
 - is aware that the NSW Code and NSW Guidelines apply to the project;
 - is taken to have read and understood the NSW Code and NSW Guidelines and the obligations they impose;
 - will comply with the NSW Code and NSW Guidelines on this project, which includes, but is not limited to giving access to authorised personnel to inspect any work, material, or machinery, inspect and copy any record relevant to the project, and interview any person;
 - will agree, if successful in this procurement process, to contractual terms that give effect to the NSW Code and NSW Guidelines and mechanisms to ensure their compliance and enforcement; and
 - will comply with, and ensure all of its related entities (as defined in the NSW Guidelines) comply with, the NSW Code and NSW Guidelines in respect of any of their building and construction work (including any subsequent

privately funded work), on and from the date of submitting a response to this procurement process.

Cost, efficiency, productivity and workplace safety

- .4 The tenderer agrees that it must include in its response:
- for projects where the NSW Government or public sector body contribution is \$10million or more or is at least \$5million and represents at least 50 percent of the total construction project value, a Workplace Relations Management Plan and any other documents and information necessary to meet the requirements of section 6.1 of the NSW Guidelines;
 - a Work Health Safety Management Plan or Site Specific Safety Management Plan and any other documents and information necessary to meet the requirements of section 9 of the NSW Guidelines; and
 - the Schedule of Compliance that is attached as Annexure CT5 to this Request for Tenders, properly executed by or on behalf of the tenderer.
- .5 The tenderer acknowledges that by submitting this response it agrees to RMS and the Construction Compliance Unit (CCU) taking any steps to investigate claims, statements and assertions made by the tenderer in any of the documents referred to above in paragraph .4 of this clause before any contract is awarded. The tenderer acknowledges and agrees to cooperate with RMS and the CCU in respect of the investigation of compliance with the NSW Guidelines and further agrees that that compliance is a mandatory requirement of the procurement process. The tenderer will allow authorised personnel to:
- access premises and sites controlled by the tenderer or its related entities;
 - inspect and copy relevant records and documents;
 - inspect any work, material, machinery, appliance article or facility; and
 - interview any person;
- as is necessary to investigate the claims, statements and assertions made by the tenderer in the response or to demonstrate the tenderer's current or, where relevant, past compliance with the NSW Code and NSW Guidelines during the procurement process.

Disclosure of information

- .6 Notwithstanding any other provision of the procurement process, the tenderer agrees and consents to the disclosure of information concerning the tenderer's, and the tenderer's related entities', compliance with the NSW Code and NSW

Guidelines, including the disclosure of details of past and present compliance to the NSW Code and NSW Guidelines, as varied from time to time, including whether or not sanctions have been imposed on a tenderer or any of its related entities by the Commonwealth or any State or any government agency. This consent is given to the State of New South Wales, including its agencies (including RMS), Ministers and the CCU (and its authorised personnel) for purposes including monitoring and investigating compliance and ensuring, facilitating and promoting compliance with the NSW Code and NSW Guidelines.

Subcontractors etc

- .7 Where the tenderer proposes to subcontract the works, the tenderer agrees that it will ensure, through contract, that each subcontractor or consultant agrees to:
- the contractual promises in clauses paragraph .3 of this clause (Primary obligation) and paragraph .6 of this clause (Disclosure of information) in respect of the relevant subcontractor or consultant;
 - comply with the applicable plans and policies on the project referred to in clause paragraph .4 of this clause (Cost, efficiency, productivity and workplace safety); and
 - where a subcontractor or consultant is nominated in procurement process documents, that the nominated party cooperates with authorised personnel during the procurement process for the purposes outlined in paragraph .5 of this clause.

1.3 Other details

.1 Description of Work

Roads and Maritime Services aims to improve road safety for the heavy vehicle industry and the wider community through effective regulatory programs, and high quality compliance, enforcement and adjudication programs and systems.

The Heavy Vehicles Branch of Roads and Maritime carries out enforcement, inspections and checks on heavy vehicles at sites throughout New South Wales.

The Heavy Vehicles Branch is seeking tenders from experienced and capable contractors for maintenance of their assets. These assets include Heavy Vehicle Safety Stations, Safe-T-Cam Sites, Point-to-Point Speed Camera Sites and Over Height Detection Sites.

The locations of some of these sites can be found on the Roads and Maritime website using the following links:

Heavy Vehicle Safety Stations – click [here](#)

Safe-T-Cam Sites – click [here](#)

Point-to-Point Sites – click [here](#)

The work at these sites will fall into one of the two following categories:

CATEGORY A

- *Civil work, such as traffic management, earthworks, concreting, asphaltting, installation or repair of safety barriers, installation or repair of signage, and line marking*
- *Fabrication and installation of steel roadside infrastructure used for enforcement, such as ASC (also known as point-to-point) cameras and Safe-T-Cams*
- *Electrical work, including installation and maintenance of electrical supply and distribution, communications, lighting, portable power supplies used at Safe-T-Cam sites, and maintenance of ITS equipment used at Heavy Vehicle Safety Stations*
- *Signage installation, comprising advisory and regulatory signs used for heavy vehicle programs*

CATEGORY B

- *Weigh-in-Motion systems maintenance*
- *Maintenance of PAT brand and HAENNI brand portable weighing scales used by heavy vehicle inspectors, including calibration and annual certification*
- *Maintenance of weighbridges, including calibration and annual certification*
- *Maintenance of MAHA brand and Nepean Transport brand brake testing equipment, including calibration and annual certification*

All work shall be carried out in accordance with the Roads and Maritime specifications as published on the website <http://www.rms.nsw.gov.au/business-industry/partners-suppliers/document-types/specifications/qa/index.html> Current examples of some relevant specifications are included in the tender documents.

.2 Nature of Contract

The Contract is a Minor Works and Physical Services Work As Ordered Contract. This tender is a non-price tender.

.3 Documents

The following documents are relevant to this tender:

Request for Tenders

The Tender Documents

- (A) Tender Form***
- (B) Terms for Contracted Work***
- (C) Instrument of Agreement***
- (D) Contract Schedule***
- (E) The Specifications as listed below:***
 - ***G2-C41***
 - ***G10***
 - ***G22***
 - ***G36***
 - ***G38***
 - ***Q2 / Q4***
 - ***R53***
 - ***R71***
 - ***R101***
 - ***R116***
 - ***R132***
 - ***R142***
 - ***R143***
 - ***R173***
 - ***R201***
 - ***R300***
 - ***R302***
 - ***R304***
 - ***R311***
 - ***R312***
 - ***R319***
 - ***R320***
 - ***R321***

.4 Enquiries

General enquiries may be directed to Mr. Alex Dubois on 0437 216 298.

.5 Tender Lodgement Requirements

Tenders are to be enclosed in a sealed envelope, endorsed with "Tender for Contract No. 17.0000302935.1100" and the closing date.

Tenders are to be either:

placed in the Tender Box at the main entrance to the Roads and Maritime office at 99 Phillip Street, Parramatta NSW 2150;

or

Mailed to: - Tender Box

" Tender for Contract No. 17.0000302935.1100"

**c/o Attention: Alex Dubois
Roads and Maritime Services
99 Phillip Street
PARRAMATTA NSW 2150**

so as to be received before: 2:30pm Wednesday 13 September, 2017.

Tenders submitted by facsimile or email will not be accepted. Tenders received after the closing time will be considered to be late, regardless of the time and date of posting. Attention is drawn to Section 5.2 of the NSW Government Code of Practice for Procurement in relation to receipt of tenders. RMS will consider late tenders in accordance with this section of the NSW Code.

.6 Contractor Performance Reporting

During the course of the Contract, the contractor's performance will be monitored. Substantiated reports of unsatisfactory performance may result in future opportunities for NSW Government work being curtailed.

1.4 GST information

Information and requirements relating to the GST are set out in clause 7.2.

Please note in particular that special requirements apply to tenderers who are not registered for GST or who wish to enter into a Voluntary Agreement for withholding Pay As You Go taxation (refer clauses 7.2 and 8.4).

1.5 RMS statement of business ethics

You must comply with the RMS Statement of Business Ethics. Copies of the statement are available from the RMS' website.
<http://www.rms.nsw.gov.au/about/what-we-do/ethics/statement-business-ethics.html>

2. Summary of requirements for tender**2.1 Eligibility to tender**

To be eligible to tender, you must:

- .1 Have an accredited WHS Management System if applicable (see clause 3.1), and**
- .2 Attend the Pre-Tender Meeting (if any) (see clause 3.2), and**
- .3 Attend the Site Inspection (if any) (see clause 3.2).**
- .4 For Category A work, demonstrate that you have carried out similar work for the Heavy Vehicle Enforcement Branch of Roads and Maritime in the last twelve (12) months**

.5 For Category B work, demonstrate that you have carried out similar work for the Heavy Vehicle Enforcement Branch of Roads and Maritime in the last twenty-four (24) months; or demonstrate that you have carried out similar work for another State Government Agency in the last twenty-four (24) months

2.2 Lodging a conforming tender

To lodge a conforming tender, you must do all the things set out in the Conforming Tender Checklist attached to this document (please note tenders submitted by facsimile to RMS will not be considered).

2.3 Lodging an alternative tender

If you wish to lodge an alternative tender, you must also lodge a conforming tender and provide the details set out in clause 5.

2.4 Post-tender supporting information

To ensure that your tender remains conforming, you must provide supporting information within 5 working days of a request (*see clause 6*).

3. Eligibility to tender

3.1 WHS accreditation

You must have a Work, Health and Safety System in place if required by the Tender Documents. The System must comply with the NSW Government WHS Management Systems Guidelines and must be accredited for RMS contracts.

3.2 Pre-tender meeting and site inspection

You or your representative must attend any pre-tender meeting and/or site inspection held by RMS in relation to the Tender.

3.3 Aboriginal Participation in Construction

To the extent required by the Contract you must demonstrate your commitment and capacity to plan and facilitate Aboriginal participation in employment, training and development of Aboriginal enterprises in accordance with the NSW Government Policy on Aboriginal Participation in Construction (1 May 2015 or later update).

3.4 Building Code 2013 & Australian Government Building and Construction WHS Accreditation Scheme

To the extent required by the contract you must demonstrate your commitment and capacity to comply with the Building Code 2013 (Building Code) and Supporting Guidelines.

To the extent required by the contract you must demonstrate your commitment and capacity to comply with all conditions of the Australian Government Building and Construction WHS Accreditation Scheme.

3.5 RMS Customer Charter

Your attention is drawn to the RMS Customer Charter which is available from <http://www.rms.nsw.gov.au/customercharter/index.html>.

You should follow this charter in dealing with RMS customers under the contract.

4. Lodging a conforming tender

4.1 Tender Form

The Tender Form must be properly completed and signed and initialled by you or by someone on your behalf as a binding legal document.

4.2 Schedule of Rates

The Schedule of Rates (if applicable) must be completed with all items listed being priced and with no new items added.

4.3 Schedule of Prices

The Schedule of Prices (if applicable) must be prepared so as to meet the following requirements. The Schedule of Prices must:

- .1 include all items for which RMS has suggested a provisional quantity, and
- .2 use the provisional quantities (if any) suggested by RMS, and
- .3 only include items which form part of the Contracted Work described in the Tender Documents, and
- .4 be fully priced, and
- .5 when all the prices and items are extended, equal the lump sum component of the tender price.

If your Schedule of Prices includes an item which is not acceptable to RMS or is not part of the Contracted Work described in the Tender Documents, RMS may insist on the item being deleted. If that occurs, the Schedule of Prices will be adjusted by agreement between RMS and yourself to ensure that the total of the prices as extended of all remaining items continues to equal the lump sum component of the tender price.

4.4 Statutory declaration

The statutory declaration must be:

- .1 in the form set out in Annexure CT1, and
- .2 made by you or by a person who is in a position to know the facts attested to in the statutory declaration, and

- .3 signed by the declarant in the presence of a Justice of the Peace or a solicitor of the Supreme Court or another person authorised to administer an oath under the Oaths Act 1900 (NSW).

4.5 Compliance with Building Code 2013 & Australian Government Building and Construction WHS Accreditation Scheme

Where Building Code 2013 applies as stated in the Contract Schedule:

- .1 the Tenderer's attention is drawn to the Building Code dated 25 January 2013 (**Code**) and the Supporting Guidelines dated 6 May 2016 (**Guidelines**). Copies of the Code and Guidelines are available at www.employment.gov.au/building-code.
- .2 By submitting an expression of interest or tender to undertake the work/services, the Tenderer:
 - a) will be deemed to have read; and
 - b) agree that you must comply with, the Code and Guidelines.
- .3 Notwithstanding any other provisions of the Tender Documents, Tenderers hereby consent to the disclosure of information concerning compliance with the Code and Guidelines, including details of whether or not a sanction (see Section 8.2 of the Guidelines) has been imposed. This consent extends to disclosure by the Commonwealth, its agencies and ministers, and disclosure to others for the purposes of facilitating compliance with the Code and Guidelines and the exercise of their statutory and portfolio responsibilities. Tenderers must ensure that their proposed subcontractors and consultants are also aware of, and agree to comply with, these rights of use and disclosure.
- .4 Tenderers should be aware that the Code and Guidelines apply to:
 - a) the project which is the subject of these Tender Documents; and
 - b) all construction building work undertaken by the Tenderer and its related entities thereafter as defined in the Guidelines, including work on all new privately funded construction projects in Australia.
- .5 It is a condition of tender that Tenderers comply with the Code and Guidelines. As part of their tender response, Tenderers must submit:
 - a) a signed "Declaration of Compliance" in accordance with the Declaration of Compliance which is attached as Annexure CT4 to this Request for Tender; and
 - b) a letter of compliance from the Fair Work Building and Construction (FWBC), if they are covered by enterprise agreements made on or after 18 May 2016.
- .6 Each Tenderer must indicate in its Tender response:

- a) whether the Tenderer or a related entity of the Tender has ever been subject to a sanction imposed under the Code and Guidelines;
- b) whether the Tenderer has had a judicial decision against them (not including decisions under appeal) relating to employee entitlements and has not paid the claim;
- c) whether the Tenderer has had any adverse court, tribunal, industrial relations commission or Fair Work Australia finding, order or penalty awarded against them in the last two years (and if so provide details);
- d) how the Tenderer and its related entities have complied with the Code and Guidelines in the past (if the Tenderer has undertaken Australian Government funded construction work in the past);
- e) how the Tenderer intends to comply with the Code and Guidelines in performing the Contract, should it be the successful Tenderer; and
- f) where the Tenderer proposes to subcontract an element of the project, either:
 - (i) the information detailed in the above subclauses (a) and (b) in relation to each subcontractor, or
 - (ii) how the Tenderer intends to ensure each subcontractor complies with the Code and Guidelines.

.7 While acknowledging that value for money is the core principle underpinning decisions on Government procurement, tenderers should note that when assessing tenders, preference may be given to Tenders that demonstrate a commitment to:

- a) adding and/or retaining trainees and apprentices;
- b) increasing the participation of women in all aspects of the industry; or
- c) promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.

Where the Australian Government Building and Construction WHS Accreditation Scheme applies as stated in the Contract Schedule:

- .1 The successful Tenderer must be accredited under the Australian Government Building and Construction WHS Accreditation Scheme (the Scheme) established by the Fair Work (Building Industry) Act 2012 (FWBI Act) when entering into contracts for building work as defined under section 5 of the FWBI Act and maintain accreditation under that Scheme while the building work is being carried out; and
- .2 The successful Tenderer must comply with all conditions of Scheme accreditation.

5. Lodging an alternative tender

5.1 You must also lodge conforming tender

You may lodge an alternative tender as long as you also lodge a conforming Tender.

A separate tender form must be submitted for each alternative tender with accompanying Pricing Schedule(s).

5.2 Details required for alternative tender

If you submit an alternative tender, you must:

- .1 show how it differs from the Tender Documents, and
- .2 show that the alternative tender satisfies the design and performance criteria on which the Tender Documents rely, and
- .3 detail and quantify the advantages which the alternative tender offers to RMS, and
- .4 identify the effects of the alternative tender on the tender price and timing of the Contracted Work, and
- .5 propose milestones for the submission of further drawings and specifications.

5.3 Consideration of alternative tender

RMS may consider your alternative tender even though your conforming Tender is not the lowest in price.

5.4 Conditions applicable to alternative tenders

RMS may impose conditions on the acceptance of an alternative tender in addition to the conditions set out in the Tender Documents. This does not limit the RMS' right to accept any tender conditionally.

6. Post-tender supporting information

6.1 Supporting information to be supplied on request

You must submit the following supporting information within 5 working days of a request by RMS:

- .1 Contract Disclosure and Related Body Corporate (*see clause 6.2*).
- .2 Chain of Responsibility details (*see clause 6.3*)
- .3 Aboriginal Participation in Construction details (*see clause 6.4*)
- .4 Other Information (*see clause 6.5*).

6.2 Contract disclosure and related body corporate

RMS will disclose the contract information required by as per Division 5, Part 3 of the Government Information (Public Access) Act 2009. To allow RMS to comply you must submit particulars of any related body corporate (within the meaning of the Corporations Act 2001 of the Commonwealth) in respect of your company, or any other private sector entity in which you have an interest, that will be involved in carrying out any of your obligations under the contract or will receive a benefit under the contract.

6.3 Heavy Vehicle National Law - Chain of Responsibility

The Tenderer's attention is drawn to the chain of responsibility provisions of the Heavy Vehicle National Law. Under the Heavy Vehicle National Law, the successful Tenderer may be a party to the chain of responsibility.

The chain of responsibility provisions are directed at ensuring that road transport operations involving heavy vehicles are conducted safely for all road users, and without causing damage to assets or infrastructure or having significant adverse effects on the environment or community amenity.

Where required in Annexure CT2, the chain of responsibility (CoR) details must include a CoR Management Plan.

6.4 Aboriginal Participation in Construction

The Tenderer's attention is drawn to the requirements of the NSW Government *Policy on Aboriginal Participation in Construction*.

The Policy is available at:

<https://www.procurepoint.nsw.gov.au/policy-and-reform/nsw-procurement-reform/construction/policy-framework-construction>.

Where the Policy applies as stated in the Contract Schedule, the Contractor will be required to comply with relevant Category requirements of the Policy. The Targeted Project Spend (TPS) on Aboriginal participation is as stated in the Contract Schedule.

RMS will determine the TPS before the Contract is executed and the TPS will be included in the executed Contract (or in issued Work Order, where relevant). The TPS will remain fixed for the Contract or Work Order period as relevant, except where RMS and the Contractor agree to re-set it (e.g. where legitimate exclusions were overlooked at tender time).

Where stated in the Contract Schedule, the Contractor will be required to provide the Aboriginal Participation Plan and the Aboriginal Participation Reports, at the times specified in the Contract and in the format prescribed by the NSW Procurement Board. Templates are available at:

<https://www.procurepoint.nsw.gov.au/aboriginal-participation-construction-information-contractors>.

Aboriginal Participation in Construction details submitted by the Tenderer must include:

- (a) an undertaking that, in the event that it becomes the Contractor, it is prepared to provide an Aboriginal Participation Plan and the Aboriginal Participation Reports, which must comply with the Policy;
- (b) evidence of its ability to meet the obligations under the Policy on the Contract;
- (c) details of its Aboriginal participation in construction performance outcomes on other RMS or NSW Government contracts;

and where required in Annexure CT2:

- (d) proposed exclusions for determining the TPS.

6.5 Other information

You must submit other information as listed in Annexure CT2.

7. Tender pricing considerations

7.1 Commercial products nominated by RMS

If a commercial product is referred to by catalogue number or brand name in the Tender Documents, you must base your Tender on the named product even if the Tender Documents allow the successful tenderer to nominate an equivalent or approved equivalent product.

If you wish to nominate alternative products at the time of tender, the nomination must be done as part of an alternative tender.

7.2 Goods and services tax

Your individual tendered rates and prices must exclude Goods and Services Tax (GST) but a separate item for GST is to be included, if it is payable. Any GST Free or Input Taxed Supplies to be made under the Contract must be clearly and separately identified.

If you state your ABN in your tender, RMS will treat you as being registered for GST, unless you advise otherwise. If you will not be registered for GST when the Contract is entered into, you must say so in your tender.

If you wish to enter into a Voluntary Agreement for withholding Pay as You Go taxation ('Voluntary Agreement'), you must say so in your tender and provide the information required for the approved form of a Voluntary Agreement as required by the A New Tax System (Pay As You Go) Act 1999.

7.3 Customs duty

Customs duty is payable on all material, plant and equipment imported into Australia unless exemption from payment of the duty is granted.

If applicable, you must submit with the Tender Form a statement setting out the amount of customs duty included in the tender price in respect of material which will form part of the Contracted Work.

8 Assessment of tenders

8.1 Late tenders

RMS will not consider your tender if it is late unless you establish to the RMS' satisfaction that:

- .1 the cause of the lateness was beyond your control, and
- .2 consideration of the late tender could not possibly compromise the integrity of the tendering process.

8.2 Application of GST adjustment for non-GST taxpayers

If you are not registered for GST or you wish to enter into a Voluntary Agreement, your tender price will be increased by 10% for the purposes of tender assessment.

8.3 Best value for money assessment

Tenders will be assessed on the basis of best value for money. This includes consideration of the following criteria:

- .1 The tender price and the integrity of its structure (after application of applicable Government Purchasing Policies).
- .2 Individual rates and prices and the integrity of their structure.
- .3 Your current financial position and commitments on other contracts.
- .4 Your Quality System documentation and experience and performance in the carrying out of Quality Assurance contracts. (QA contracts only).
- .5 Suitability of proposed personnel, plant, equipment and subcontractors.
- .6 Proposals (where requested in the Tender Documents) and previous performance concerning management of safety, chain of responsibility provisions of the HVNL, workplace relations, environmental protection and community relations.
- .7 Claims history.

- .8 Record of compliance or otherwise with NSW Government Code of Practice for Procurement and Implementation Guidelines.
- .9 Records of performance, claims and compliance with Codes provided by other NSW Government agencies or departments.
- .10 Other criteria listed in Annexure CT3.

9 General

9.1 Tender validity period

Tenders are valid for 60 days after the closing date for Tenders.

9.2 Acceptance of tender

RMS is not bound to accept the lowest or any tender.

A Tender is accepted only when notice in writing of acceptance is issued to you by RMS.

9.3 Information provided for convenience only

Information provided by RMS which does not form part of the Tender Documents is provided only for the convenience of Tenderers. That information will not form part of a contract awarded as a result of this tender process.

9.4 Information not exhaustive

Information provided by RMS which does not form part of the Tender Documents and which describes the site or conditions which may be encountered during the course of carrying out the Contracted Work is not to be taken as an exhaustive statement of conditions which may be encountered during the course of carrying out the Contracted Work.

9.5 Estimated quantities

The quantities shown in any Schedule of Estimated Quantities issued by RMS are estimated quantities only and are not guaranteed to be the actual or correct quantities of work to be carried out.

9.6 Subcontractors not approved

Acceptance of a Tender by RMS does not constitute an approval of a proposed subcontractor or subcontracted work under clause 6.4 of the Terms for Contracted Work.

Annexure CT1

Statutory declaration

I [insert name] of [insert address] do solemnly and sincerely declare and affirm, in respect of the tender for ('Tender') or any contract arising from the Tender, that:

1. I hold the position of and am duly authorised by ('Tenderer') to make this declaration on its behalf.
2. * To the best of my knowledge, neither the Tenderer nor any of its employees or agents have entered into a contract, arrangement or understanding to pay moneys to a trade association, apart from the normal amount (annual subscription, turnover or contract fee) imposed by that trade association.
- * The Tenderer has agreed to pay a special fee to a trade association of \$..... if it is successful in the Tender.
3. To the best of my knowledge, neither the Tenderer nor any of its employees or agents had knowledge of the price of another tenderer prior to submitting the Tender.
4. To the best of my knowledge, neither the Tenderer nor any of its employees or agents has disclosed the Tenderer's tender price to a rival tenderer.
5. The Tenderer submitted the Tender in good faith and has not deliberately set its tender price above the level of rival tenderers.
6. As at the date of this declaration, the Tenderer intends to do the work the subject of the Tender.
7. To the best of my knowledge, neither the Tenderer nor any of its employees or agents has entered into a contract, arrangement or understanding having the result that the Tenderer or another person will pay money to an unsuccessful tenderer if the Tenderer is successful in the Tender (other than for work or services done or materials supplied under a bona fide contract).
8. The Tenderer has allowed in its Tender for all workers who may be at any time employed on the work under the Contract to be paid, and promises to pay to all such workers in the event that the Tender is accepted, no less than the wages, allowances and other money payable to them pursuant to all relevant legislation, awards, determinations, judgments and agreements in respect of their employment on the work under the Contract.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1900.

Subscribed and declared at [city or town] on [date] before me:

Justice of the Peace/Solicitor

Declarant

**Delete whichever is inapplicable*

Authorised Witness' Certificate
Section 34 (1) (c) of the Oaths Act 1900

I, _____
 [being a Justice of the Peace* / Solicitor* / Notary Public* / Commissioner of Oaths*],

Insert name of authorised witness

certify the following matters concerning the making of this statutory declaration by the person who made it:

1. I saw the face of the person * **OR** I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering. *
2. I have known the person for at least 12 months * **OR** I have not known the person for at least 12 months, but I have confirmed the person's identity using an identification document and the document I relied on was: *

Describe identification document relied on

 Signature of authorised witness

 Date

* delete as applicable

NOTE the following identification is acceptable

- a current driver photo licence
- a current NSW Photo Card or similar photo identification issued by another Australian jurisdiction
- a passport (in English or with an English translation) that has not expired more than 2 years ago
- a current national identity photo card in English or with an English translation
- a current Medicare card, pensioner concession card, Department of Veterans' Affairs entitlement card,
- a current credit card
- a statement of account from a bank, building society or credit union that is not more than 1 year old,
- an electoral enrolment card or other evidence of enrolment as an elector that is not more than 2 years old,
- a student identity card, or a certificate or statement of enrolment, from an educational institution that is not more than 2 years old.

Annexure CT2

Other information to be submitted

You must submit the following additional supporting information within 5 working days of a request by RMS:

Section 6.3 Heavy Vehicle National Law – Chain of Responsibility

6.3.1) For Project Contract:

A Preliminary CoR Management Plan addressing:

- CoR issues of the Tender Documents
- Initial project CoR risk assessment identifying project specific risks, relevant company policies and procedures relevant to identified risks and, where relevant, how the design process and project delivery approach will address chain of responsibility risks during construction.

~~Required / Not required /~~
Not applicable

6.3.2) For Work-as-Ordered Contract or Term Services Contract:

A CoR Management Plan addressing the requirements (a), (b), (c), (e) and (f) specified in Annexure G2-C41/G1

~~Required / Not required /~~
Not applicable

Section 6.4 Aboriginal Participation in Construction

6.4d) Aboriginal Participation

Proposed exclusions for determining the TPS

~~Required / Not required /~~
Not applicable

Section 6.5 Other Information

~~Required / Not required~~

Annexure CT3

Other assessment criteria

The following additional criteria will be considered in the assessment of Tenders:

- *Experience in carrying out maintenance work*
- *Responsiveness in carrying out maintenance work*
- *Cooperation in carrying out maintenance work*

You must submit supporting information for these assessment criteria by completing either Form A for Category A works or Form B for Category B Works.

Annexure CT4

Declaration of Compliance with the Building Code 2013 (Code) and Australian Government Building and Construction WHS Accreditation Scheme

This Schedule must be completed by the Tenderer and lodged with its Tender. Any Tender in which this Schedule is not completed may be regarded as non-conforming.

(Insert full name of Tenderer in block letters, ABN and ACN)

1. The Tenderer undertakes to comply with all conditions of the Australian Government Building and Construction WHS Accreditation Scheme (**the Scheme**) in performing the Contract, should it be the successful Tenderer.
 - a. Insert details of accreditation status under the Australian Government Building and Construction WHS Accreditation Scheme, including the expiry date of accreditation or provide evidence that accreditation is being sought under the Scheme.

Regulation 24(h) of the Fair Work (Building Industry - Accreditation Scheme) Regulations 2005 outlines provisions applying to joint venture/alliance arrangements that include accredited and unaccredited members.

2. The Tenderer confirms that it has complied with the *Building Code 2013* (**the Code**), in preparing this Tender.
3. The Tenderer undertakes that it complies with Code, and has complied with the Code from the time of lodgement of this tender, and that it has required compliance by its related entities (see section 8 of the Code).
4. The Tenderer undertakes to ensure compliance from all subcontractors and consultants engaged for the Project, should it be the successful Tenderer. All contracts must expressly require compliance with the Code.
5. The Tenderer agrees that it and its subcontractors and its related entities will provide the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:
 - (a) inspect any work, material, machinery, appliance, article or facility;

- (b) inspect and copy any record relevant to the Project and Works the subject of this Contract;
 - (c) interview any person; and
 - (d) any document requested under this contract. The document must be provided within the period specified either in person, by fax or by post, as is necessary to demonstrate its compliance with the Code and Guidelines.
6. The Tenderer acknowledges that it is aware the Commonwealth or Minister for Employment may impose a sanction on a Tenderer or Contractor that does not comply with the Code.

The sanction imposed may include but is not limited to:

- (a) the reporting of the breach to an appropriate statutory body or law enforcement agency (if there is evidence that the breach may also be a breach of a Commonwealth or State law), or industry association;
 - (b) issuing of a formal warning that future breaches may lead to more significant sanctions;
 - (c) preclusion from Tendering for any Commonwealth work for a specified period;
 - (d) communication of sanction details to all Commonwealth agencies to ensure a 'whole-of-Government' approach;
 - (e) publication of details of the breach and identification of the party committing the breach; and
 - (f) a reduction in the number of tendering opportunities that are given.
7. The Tenderer is to select which of the following clauses in italics is appropriate and delete the remaining clause:

- a) *The Tenderer hereby gives its consent, and confirms that its related entities give their consent, to disclosure by the Commonwealth, its agencies and ministers, of information concerning the Tenderer's and its related entities' compliance with the Code and whether or not a sanction has been imposed on the Tenderer and/or related entity of the Tenderer, for the exercise of their statutory and portfolio responsibilities (the Purposes).*

OR

- b) *The Tenderer has previously given its consent, and confirms that its related entities have previously given their consent, to disclosure by the Commonwealth, its agencies and ministers, of information concerning the Tenderer's and its related entities' compliance with the Code and whether or not a sanction has been imposed on the Tenderer and/or a related entity of the Tenderer for the exercise of their statutory and portfolio responsibilities (the Purposes), and confirms that the Tenderer and its related entities have not revoked that consent.*

8. The Tenderer has obtained or will obtain the consent of each subcontractor and consultant proposed in its Tender to disclosure by the Commonwealth, its agencies and ministers, of information concerning the proposed subcontractors, compliance with the Code and whether or not a sanction has been imposed on any proposed subcontractor, for the Purposes.
9. The Tenderer acknowledges that the consents provided in clause 6 are not limited to this Tender process as the Tenderer is expected to comply with the Code in future projects.
10. The Tenderer will:
 - (a) Describe how the Tenderer has complied with the Code in the past (if the Tenderer has undertaken Australian Government funded construction work in the past) and how it will comply if successful. For example, the tenderer will:
 - (i) comply with the Code;
 - (ii) require compliance with the Code from all subcontractors before doing business with them;
 - (iii) apply the Code to privately funded projects that commence after they first lodge an expression of interest or tender for Australian Government projects;
 - (iv) ensure that contractual documents allow for a person occupying a position in the Fair Work Building Industry Inspectorate to access sites, documents and personnel to monitor compliance with the Code, including privately funded construction sites;
 - (v) ensure project managers or head contractors establish appropriate processes to ensure freedom of association;
 - (vi) ensure there is an Work Health and Safety (WHS) plan for the Project;
 - (vii) respond to requests for information concerning Code-related matters made on behalf of Code Monitoring Group (CMG);
 - (viii) where practicable, ensure contractors or subcontractors initiate voluntary remedial action aimed at rectifying non-compliant behaviour when it is drawn to their attention;
 - (ix) ensure that CMG secretariat is notified of any alleged breaches, voluntary remedial action taken or other Code-related matters within 21 days of the party becoming aware of the alleged breach; and
 - (x) be aware that and ensure that sanctions applied under the Code are enforced including the exclusion of identified parties from work opportunities in accordance with decisions advised by CMG.
 - (b) Where the Tenderer proposes to subcontract an element of the work, the Tenderer is either to:
 - (i) provide the information detailed at (a) in relation to each subcontractor; or

- (ii) detail how the Tenderer intends to ensure compliance with the Code by each subcontractor.
 - (c) Ensure that where threatened or actual industrial action occurs on a project, contractors, subcontractors, consultants or project managers report such action to the Funding Agency.
11. Where the Tenderer has a Fair Work Act 2009 enterprise agreement that was approved on or after 1 February 2013 that enterprise agreement includes a genuine dispute resolution procedure that includes the following:
- (a) the ability for employees to appoint a representative in relation to the dispute;
 - (b) in the first instance procedures to resolve the dispute at the workplace level;
 - (c) if a dispute is not resolved at the workplace level, the capacity for a party to the dispute to refer the matter to an independent third party for mediation or conciliation; and
 - (d) if the dispute is still not resolved, the capacity for an independent third party to settle the dispute via a decision binding on the parties.

Privately Funded Projects:

12. The Tenderer declares that, in respect to privately funded projects:
- (a) The Tenderer and its related entities will comply with the Code on all the Tenderer's and its related entities' future privately funded projects.
 - (b) The Tenderer must maintain adequate records of compliance with the Code by the Tenderer, its subcontractors and related entities.
 - (c) The Tenderer agrees that it and any of its related entities will provide the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:
 - (i) inspect any work, material, machinery, appliance, article or facility;
 - (ii) inspect and copy any record relevant to the Project and Works the subject of this Contract; and
 - (iii) interview any person,
 as is necessary to allow validation of its compliance with the Code.
 - (d) The Tenderer agrees that the Tenderer and its related entities will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax or by post.
 - (e) The Tenderer will ensure that the Tenderer and its related entities permit the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, to have access to records and to the related entities' and subcontractors' premises (to inspect and copy records), as is

necessary to ensure that the subcontractors and related entities are complying with the Code.

Signed for the Tenderer by:

Date:.....

Name (in block letters):
(Authorised Officer)

In the Office Bearer capacity of:
.....

Annexure CT5

Schedule of Compliance with NSW Government's Implementation Guidelines to the NSW Government Code of Practice for Procurement

(SUBMIT WITH TENDER FORM)

Refer to request for Tenders clause 1.2 – NSW Government Code of Practice for Procurement and Implementation Guidelines.

Primary acknowledgments and undertakings

1. By completing this Compliance Schedule and submitting an expression of interest or tender response, the tenderer:
 - (a) acknowledges that the NSW Government's Code of Practice for Procurement (**NSW Code**) and the NSW Government's Implementation Guidelines to the NSW Code of Practice for Procurement: Building and Construction (**NSW Guidelines**) apply to the project the subject of this tender;
 - (b) undertakes that it, and its related entities, comply with the NSW Code and NSW Guidelines on:
 - (i) the project the subject of this tender;
 - (ii) any privately and publicly funded building and construction work to which the NSW Guidelines apply, on and from the date of submitting this expression of interest or response (if not already required to comply on such privately and publicly funded projects);
 - (c) confirms that it and its related entities have complied with:
 - (i) the NSW Code and NSW Guidelines on all its other projects to which the NSW Guidelines apply or have applied; and
 - (ii) all applicable legislation, court and tribunal orders, directions and decisions, and industrial instruments; and
 - (d) confirms that neither it, nor any of its related entities, are subject to a sanction or other circumstance that would preclude the tenderer from submitting an expression of interest or tender response, or, if successful, being awarded a contract.

Sanctions for non-compliance

2. The NSW Treasury, through the Construction Compliance Unit (CCU), has responsibility for enforcing, and ensuring compliance with, the NSW Code and NSW Guidelines.
3. The tenderer acknowledges that where it, or a related entity, fails to comply with the NSW Code or NSW Guidelines, a sanction may be imposed on the tenderer or its related entity or both. The sanctions that can be imposed include, but are not limited to, one or more of the following:
 - (a) a formal warning that a further breach will lead to severe sanctions;

- (b) referral of a complaint to the relevant industry organisation for assessment against its own professional code of conduct and appropriate action;
- (c) reduction in tendering opportunities at either agency or government-wide level, for example, by exclusion of the breaching party from tendering for government work above a certain value, or for a specified period;
- (d) reporting the breach to an appropriate statutory body; and
- (e) publicising the breach and identity of the party.

Disclosure of information

4. The tenderer agrees and gives its consent (or reaffirms its consent), and confirms that its related entities agree and give their consent (or reaffirm their consent), to the disclosure of information concerning the tenderer's, and the tenderer's related entities', compliance with the NSW Code and the NSW Guidelines, including disclosure of details of past conduct relating to the NSW Code and NSW Guidelines and whether or not sanctions have been imposed on a tenderer or its related entities.
5. The tenderer confirms that it has obtained, or will obtain, the consent of each subcontractor or consultant it proposes to use on the project, or that it will use if successful in the tender, to the disclosure of information concerning the subcontractor's and consultant's compliance with the NSW Code and the NSW Guidelines, including disclosure of details of past conduct relating to the NSW Code and NSW Guidelines and whether or not sanctions have been imposed on the subcontractor or consultant or its related entities.
6. The consent (or reaffirmation of consent) by the tenderer, its related entities and any proposed or subsequent subcontractors, is given to the State of New South Wales, its agencies (including RMS), Ministers and the CCU (and its authorised personnel) for purposes including:
 - (a) the exercise of their statutory or portfolio responsibilities;
 - (b) investigating and checking, claims and assertions made by the tenderer in any documents provided as part of its expression of interest or tender response (including, but not limited to, any Workplace Relations Management Plans or Health and Safety Management Plans);
 - (c) monitoring, investigating and enforcing the NSW Code and NSW Guidelines; and
 - (d) ensuring, facilitating and promoting compliance with the NSW Code and NSW Guidelines.
7. The tenderer acknowledges that this consent is not limited to this tender, or this project, as parties are expected to comply with the NSW Code and NSW Guidelines on future projects to which they apply.

Positive obligations

8. Without limiting the obligations and requirements in the NSW Guidelines, the tenderer acknowledges and undertakes to comply with its positive obligations under the NSW Code and NSW Guidelines, including to:
 - (a) comply with any Workplace Relations Management Plan and Health and Safety Management Plan;

(b) allow NSW Government authorised personnel to:

- (i) access the project site and other premises;
- (ii) monitor and investigate compliance with the NSW Code and NSW Guidelines;
- (iii) inspect any work, material, machinery, appliance, article, or facility;
- (iv) inspect and copy any record relevant to the project; and
- (v) interview any person;

as is necessary to demonstrate compliance with the NSW Code and NSW Guidelines;

- (c) notify the CCU (or nominee) and the Client Agency of any alleged breaches of the NSW Code and NSW Guidelines and of voluntary remedial action taken, within 24 hours of becoming aware of the alleged breach;
 - (d) (for principal contractors only) report any grievance or dispute relating to workplace relations or work, health and safety matters that may impact on project costs, related contracts or timelines to the CCU (or nominee) and RMS within 24 hours of becoming aware of the grievance or dispute and to provide regular updates on the grievance or dispute;
 - (e) report any threatened or actual industrial action that may impact the project, project costs, related contracts or timelines to the CCU (or nominee) and RMS within 24 hours and provide regular updates about the steps being taken to resolve the threatened or actual industrial action;
 - (f) take all steps reasonably available to prevent, or resolve, industrial action which adversely affects, or has the potential to adversely affect, the delivery of the project or other related contracts on time and within budget; and
 - (g) take all reasonably available steps to prevent, or bring to an end, unprotected industrial action occurring on, or affecting the project, including by pursuing legal action where possible. Any such legal action must be conducted (and where appropriate, concluded) in a manner consistent with the guiding principles and objectives of the NSW Guidelines, namely supporting outcomes of compliance with the law, productivity in delivering the project on time and within budget, maintaining a high standard of safety and protecting freedom of association.
9. Without limiting the obligations and requirements of the NSW Code and NSW Guidelines, the tenderer acknowledges its obligation to ensure, through contract, that subcontractors and consultants similarly do, or allow for, each of these applicable positive obligations.

Privately funded work

10. The tenderer acknowledges and agrees that in respect of its privately funded building and construction work (to which the NSW Guidelines apply) it, and its related entities, will:

- (a) comply with the NSW Code and NSW Guidelines;

- (b) maintain adequate records of compliance with the NSW Code and NSW Guidelines (including by contractors);
- (c) allow NSW Government authorised personnel to:
 - (i) access the sites and premises;
 - (ii) monitor and investigate compliance with the NSW Code and NSW Guidelines;
 - (iii) inspect any work, material, machinery, appliance, article, or facility;
 - (iv) inspect and copy any record relevant to the project; and
 - (v) interview any person;

as is necessary to demonstrate compliance with the NSW Code and NSW Guidelines; and

- (d) ensure contractors and consultants similarly do, or allow, for each of these obligations.

Declaration by tenderer and authorised representative

11. By signing this declaration on behalf of the tenderer, the authorised representative declares that they have full authority to execute it and have obtained any necessary consents and approvals to do so.

Signed for the Tenderer by:

Date:.....

Name (in block letters):
(Authorised Officer)

In the Office Bearer capacity of:
.....

Annexure CT6

Conforming tender checklist

To ensure your Tender is conforming, you must:

- Complete the Schedule to the Tender Form (Tender Form Schedule).
- Attach the Tender Form Schedule to the Tender Form.
- Sign the Tender Form Schedule in the place provided (or make sure it is signed by a person with authority to sign on your behalf).
- Initial all pages of the Tender Form.
- Complete Form A for Category A works***
- Complete Form B for Category B works***
- ~~Complete all Pricing Schedules.~~
- ~~Initial all pages of the Pricing Schedule(s).~~
- prepare and sign a hard copy of the Schedule of Compliance with the NSW Government's Code of Practice for Procurement and Implementation Guidelines (*see clause 1.2*)
- Prepare and make the Statutory Declaration (*see clause 4.4*)
- prepare and sign a hard copy of the Declaration of Compliance with the Building Code 2013 and the Australian Government Building and Construction WHS Accreditation Scheme; enclose a compliance letter from the FWBC, if applicable (*see clause 4.5*)
- Include advice as to your GST-status if you are not registered for GST or you wish to enter into a Voluntary Agreement for withholding Pay As You Go Taxation (*see clause 7.2*)
- ~~Prepare Customs Duty statement if applicable (*see clause 7.3*)~~
- Lodge all the documents described above in the Tender Box* by the closing date and time (tenders submitted by facsimile to RMS will not be considered)

~~* If Clause 1.3 specifies that the tenders are to be lodged in Tender Box located at RMS' Head Office (at 20-44 Ennis Road Milsons Point NSW 2061), the following additional conditions apply for tender lodgement:~~

~~(a) your Tender must be enclosed in a sealed package not larger than 400mm x 270mm x 190mm; and~~

~~(i) endorsed [*insert Contract Title and Contract Number*] you're your name and address clearly displayed;~~

~~(ii) marked "**Tender Box/Strictly Private and Confidential**";~~

~~and either:~~

~~(b) placed in the Tender Box at the office of the RMS, Ground Level, 20-44 Ennis Road, Milsons Point NSW 2061,~~

~~or~~

~~(c) mailed to the Tender Box, Ground Level, 20-44 Ennis Road, Milsons Point NSW 2061,~~

~~so as to be received by no earlier than one business day before the closing date and time.~~

~~In the event that your Tender does not fit into one sealed package of the dimensions specified in clause (a) above, you can submit multiple packages each not exceeding the specified dimensions. Each package must be additionally labelled with "Volume 1", "Volume 2", etc., as relevant.~~

Minor Physical Works and Services

Tender Form



Work: Panel for Maintenance of Heavy Vehicle Enforcement Programs

Contract no: 17.0000302935.1100

Commented [CN1]: RMS to supply

To: Roads and Maritime Services ('RMS')

1. Our Offer

We offer to carry out the Contracted Work in accordance with the Tender Documents ~~for the price and/or rates and prices set out in the Pricing Schedule(s) as adjusted from time to time in accordance with the Contract.~~

2. Tender Documents

The Tender Documents are:

- .1 This Tender Form.
- ~~.2 The Pricing Schedule(s) completed and submitted by us.~~
- .3 The Interpretation Guide.
- .4 The Conditions of Standing Offer (if the Contract is a Work-as-Ordered Contract).
- .5 The Terms for Contracted Work.
- .6 The Contract Schedule issued by RMS for this Tender.
- .7 The Specification(s) issued by RMS for this Tender.
- .8 Drawings (*if applicable*)
- .9 Addenda issued by RMS during the tender period.

3. Acknowledgement of Addenda

We acknowledge that we have received the addenda listed in the schedule to this document and that we have taken them into account in preparing this Offer.

4. Compliance with Code of Practice for Procurement and Implementation Guidelines

We agree to comply with the NSW Government's Code of Practice for Procurement (NSW Code) and the New South Wales Government's Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction (NSW Guidelines).

5. Sharing of information between Government Agencies

We authorise RMS to make information about our performance, claims record (both past, present and future) and financial affairs available to other NSW Government agencies, Local Government authorities and members of Austroads Incorporated.

We release RMS and all other agents of the Crown in right of New South Wales from claims and actions which we or a person claiming on our behalf may otherwise be entitled to make in connection with the sharing of information.

6. Collusive arrangements

6.1. Our warranties

We warrant that:

- .1 We are not aware of any other tenderer's tender price.
- .2 We have not directly or indirectly communicated our tender price to another tenderer.
- .3 Except as disclosed in a statutory declaration lodged with the tender, we have not entered into a contract, arrangement or understanding with anyone in connection with this Tender to the effect that a successful tenderer will pay money to or confer a benefit upon an unsuccessful tenderer or a trade or industry association (above the published standard fee).
- .4 We have not entered into a contract, arrangement or understanding which may have or is likely to have an anti-competitive effect or an adverse effect on the probity of the tender process in connection with this Tender.
- .5 Our Tender Price does not include an allowance on account of any such contract, arrangement or understanding.

6.2. Obligations regarding money or benefits received

We agree that money or the monetary value of a benefit received by us from another tenderer in connection with this Tender belongs in equity to RMS and is immediately payable to RMS.

6.3. Obligation to notify

We must immediately notify RMS if we receive or are offered money or another benefit from another tenderer in connection with this Tender.

7. Offer open for acceptance for 60 days

Our offer is firm and binding and may be accepted by RMS at any time within 60 days after the closing date for Tenders.

8. Consideration for this offer

The offer and warranties made in this Tender Form are made in consideration of the RMS' promise to consider the offer in accordance with the Request for Tender and the administrative time and expense to RMS in so doing.

9. ~~Aboriginal Participation in Construction~~

~~We agree to comply with the NSW Government *Policy on Aboriginal Participation in Construction* and will provide:~~

- ~~on request:~~
 - ~~an undertaking that, in the event that it becomes the Contractor, it is prepared to provide an Aboriginal Participation Plan and the Aboriginal Participation Reports, which must comply with the Policy;~~
 - ~~evidence of its ability to meet the obligations under the Policy on the Contract;~~
 - ~~details of its Aboriginal participation in construction performance outcomes on other RMS or NSW Government contracts; and~~
 - ~~proposed exclusions for determining the targeted project spend (TPS), and~~
- ~~if successful and where required by the Contract, a project Aboriginal Participation Plan and the Aboriginal Participation Reports, at times specified in the Contract.~~

Schedule to Tender Form

(This schedule may be produced electronically by the Tenderer for ease of completion)

Tenderer's name

[Must include ACN or ABN if applicable]

.....

Address of Tenderer for service of notices

[If a post box address is given, a street address must also be given]

.....

.....

.....

~~Lump sum price (if Tender Price is lump sum or includes a lump sum)~~

..... dollars

and cents (\$.....),

~~which is the total amount shown in the Schedule of Prices~~

(Lump sum must always equal the total amount shown in the Schedule of Prices)

Addenda received and taken into account

[Tenderer to insert number and date of each Addendum]

Addendum no.

Date

Tenderer's signature

Signed for and on behalf of the Tenderer by its authorised signatory
in the presence of:

.....
Witness

.....
Authorised signatory

.....
Name (print)

.....
Name (print)

.....
Position title (print)

Date:

FORM A – CATEGORY A WORK

Contractor's Name:			
Contractor Experience (select Yes or No in relevant boxes below)			
Traffic management	Y/N	Earthworks	Y/N
Concreting	Y/N	Asphalting	Y/N
Installation or repair of safety barriers	Y/N	Installation or repair of signage	Y/N
Line marking	Y/N		
Details of Recent Experience			
<p>In the spaces below, provide examples where you recently performed Category A work. Your examples must include:</p> <ul style="list-style-type: none"> — A brief project description and when the work was carried out — A summary of the type of work you carried out — Photos or other documentation showing the final quality of the work you carried out — Evidence of the process you followed to carry out the work — Evidence of how much time elapsed between when the work instruction was given and when the work was completed — Evidence of where you demonstrated adaptability in carrying out necessary work to meet Client requirements <p>Examples are limited to one (1) A4 page each</p>			

Example 1

Type here

Example 2

Type here

Example 3

Type here

FORM B – CATEGORY A WORK

Contractor's Name:			
Contractor Experience (select Yes or No in relevant boxes below)			
Weigh-in-motion systems	Y/N	Portable weighing scales	Y/N
Weighbridges	Y/N	Brake testing equipment	Y/N
Details of Recent Experience			
<p>In the spaces below, provide examples where you recently performed Category A work. Your examples must include:</p> <ul style="list-style-type: none"> — A brief project description and when the work was carried out — A summary of the type of work you carried out — Photos or other documentation showing the final quality of the work you carried out — Evidence of the process you followed to carry out the work — Evidence of how much time elapsed between when the work instruction was given and when the work was completed — Evidence of where you demonstrated adaptability in carrying out necessary work to meet Client requirements <p>If you carried out this work for another State Government Agency apart from NSW Roads and Maritime, provide names, telephone numbers and email addresses for two (2) referees for each example.</p> <p>Examples are limited to one (1) A4 page each</p>			

Example 1

Type here

Example 2

Type here

Example 3

Type here

Review Panel docs

Where: Level 6
When: Mon Sep 04 09:30:00 2017 (Australia/Sydney)
Until: Mon Sep 04 11:30:00 2017 (Australia/Sydney)
Organiser: DUBOIS Alexandre </o=rtta/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=alexandu">
Required Attendee: STEYN Craig G <craig.steyn@rms.nsw.gov.au>

No Subject-1995.EML

From: Sam Sol <ducktape69@gmail.com>
To: SOLIMAN Samer <samer.soliman@rms.nsw.gov.au>
Date: Mon, 04 Sep 2017 09:45:49 +1000

Send final HVP unit plan email to paul and Roger including that i audited agreed HVP agenda contracts and found key efficiencies can be gained by implementing 2 new panel contracts to carry out the majority of work HVP perform including infrastructure building/ maintenance, ITS maintenance(where maintenance is not sole vendor licensed to a specific vendor such as camera vendors),

R&D(Potential ITS and software solutions that have potential for compliance resource/tech cost savings) that is outside of IM&IT scope).....

le/ work that has increased in nature over 12 months to ensure rms receives:

- 1) the best competitive pricing;
- 2) converting reactive work into proactively managed programs with measurable outcomes such as our innovation/cost savings program.....

I expect cost efficiencies by: 1)increasing competitiveness in these niche market industries;
2) reducing reactive work(which is generally higher cost than proactive work of the same nature due to economies of scale)

RE: Declined: PSC contract for HV program

From: SOLIMAN Samer <samer.soliman@rms.nsw.gov.au>
To: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
Cc: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>, STEYN Craig G <craig.steyn@rms.nsw.gov.au>
Date: Wed, 06 Sep 2017 09:49:04 +1000

Did you gents lock in a time/date?
 We don't have long to get BOTH panels up and running.

Samer Soliman
 Manager Heavy Vehicle Programs

From: Chehoud, Nathan [mailto:Nathan.Chehoud@wsp.com]
Sent: Monday, 4 September 2017 1:41 PM
To: SOLIMAN Samer
Cc: DUBOIS Alexandre; STEYN Craig G
Subject: RE: Declined: PSC contract for HV program

Hi Samer,

Sure – I'm going to give Alex a call this afternoon to tee up a time.

Speak soon.

Kind regards,

Nathan Chehoud
 Principal Civil Engineer



D: +61 2 92725214
 M: +61 [REDACTED] 9497
Nathan.Chehoud@wsp.com

WSP Australia Pty Limited
 Level 27, 680 George Street
 Sydney NSW
 2000 Australia

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From: SOLIMAN Samer [mailto:Samer.SOLIMAN@rms.nsw.gov.au]
Sent: Monday, 4 September 2017 12:38 PM
To: Chehoud, Nathan <Nathan.Chehoud@wsp.com>
Cc: DUBOIS Alexandre <Alex.p.Dubois@rms.nsw.gov.au>; STEYN Craig G <Craig.STEYN@rms.nsw.gov.au>
Subject: RE: Declined: PSC contract for HV program

Hi mate,

Please let me know what day you are free to come in to discuss the PSC panel.
 Alex/Craig also need you to finalise the C71 panel so we can meet on the same day.

Samer Soliman
 Manager Heavy Vehicle Programs

-----Original Appointment-----

From: Chehoud, Nathan [mailto:Nathan.Chehoud@wsp.com]
Sent: Wednesday, 30 August 2017 9:42 PM
To: SOLIMAN Samer
Subject: Declined: PSC contract for HV program
When: Monday, 4 September 2017 11:30 AM-12:30 PM (UTC+10:00) Canberra, Melbourne, Sydney.
Where: Level 6G. 110 George st Parramatta

Hi Samer, unfortunately I'm not available at this time. I will contact you when I get back to the office on Monday to arrange a time. Thanks,
 Nathan

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panel contract review

Where: octagon
When: Wed Sep 06 11:00:00 2017 (Australia/Sydney)
Until: Wed Sep 06 14:00:00 2017 (Australia/Sydney)
Organiser: DUBOIS Alexandre <"o=rta/ou=exchange administrative group
(fydibohf23spdl)/cn=recipients/cn=alexandu">
Required Attendees: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
STEYN Craig G <craig.steyn@rms.nsw.gov.au>
"Chehoud, Nathan" <nathan.chehoud@wsp.com>

RE: E-tender registration?

From: STEYN Craig G </o=rta/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=steync">
To: SOLIMAN Samer <samer.soliman@rms.nsw.gov.au>, DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
Date: Tue, 12 Sep 2017 11:17:44 +1000

Well I guess it can be You; Jai; Alex & Nathan?

Thanks

Craig Steyn
Heavy Vehicle Maintenance & Average Speed Camera Program Manager
Compliance Monitoring | Compliance Branch | Compliance & Regulatory Services
T 02 8837 0613 M [REDACTED] 5 724
www.rms.nsw.gov.au
Every journey matters

Roads and Maritime Services
Level 6 Pod G 110 George Street Parramatta NSW 2150

-----Original Message-----

From: SOLIMAN Samer
Sent: Tuesday, 12 September 2017 9:59 AM
To: DUBOIS Alexandre; STEYN Craig G
Subject: E-tender registration?

Fellas,

Who has the process or person to contact to register for e-tender website so we can upload tenders? Alex you said you have access now. The 3 of us and jai will need access.

Also, let me know who is on the assessment panel of your tender which closes 6th October. I need at least 1 of you, jai(for portable scales scope) and myself. This can't be done in isolation so pls keep me closely involved to make sure all the teams requirements are met on this panel. Excellent work so far by the way fellas. Very good initiative shown.

Cheers,
Samer

Maintenance Panel - final procurement docs

From: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
To: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
Cc: "Hafez, Linda" <linda.hafez@wsp.com>
Date: Thu, 14 Sep 2017 14:44:52 +1000

Hi Alex,

A quick update for you: I'm planning to have the procurement docs for the maintenance panel wrapped up and sent to you by Monday next week.

Have you any more advice on whether or not we include Category B works?

Thanks,

Nathan Chehoud
Principal Civil Engineer



D: +61 2 92725214
M: +61 [REDACTED] 9497
Nathan.Chehoud@wsp.com

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Final Maintenance Panel Docs

From: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
To: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
Date: Mon, 18 Sep 2017 12:15:54 +1000
Attachments: Final Maintenance Panel Docs.zip (10.54 MB)

Hi Alex,

Hope you had a good weekend!

Please find attached the final maintenance panel docs, incorporating your and Craig's comments.

Let me know if you need any further help this week.

Kind regards,

Nathan Chehoud
Principal Civil Engineer



T: +61 2 92725214
M: +61 [REDACTED] 9497
Nathan.Chehoud@wsp.com

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Sydney, NSW
2000 Australia

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[No Subject]

From: DUBOIS Alexandre <"/o=rta/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=alexandu">
To: SOLIMAN Samer <samer.soliman@rms.nsw.gov.au>
Date: Fri, 22 Sep 2017 09:30:33 +1000
Attachments: RFT ID.docx (15.83 kB); HVMP Documents.zip (10.48 MB)

Hi Samer,

This is what is attached to the 509

Alex Dubois
Project Manager
Compliance Systems | Compliance Operations Branch | Compliance and Regulatory Services
T 02 88370636 | M [REDACTED] 6 298
www.rms.nsw.gov.au

Roads and Maritime Services
99 Phillip st Parramatta NSW 2150

RFT ID

RMS 10011861

Title

Heavy vehicle enforcement programs maintenance

Short Description

Roads and Maritime Services aims to improve road safety for the heavy vehicle industry and the wider community through effective regulatory programs, and high quality compliance, enforcement and adjudication programs and systems.

The Heavy Vehicles Programs Branch of Roads and Maritime carries out enforcement, inspections and checks on heavy vehicles at sites throughout New South Wales.

This tender pertains to the on-going works required for the maintenance activities that relate to heavy vehicle enforcement.

Long Description

The Heavy Vehicles Branch is seeking tenders from experienced and capable contractors for maintenance of their assets. These assets include Heavy Vehicle Safety Stations and on-road HV enforcement sites, Safe-T-Cam programs, Average Speed Camera programs and Over Height Detection programs.

There are two categories which form part of this tender, Category A refers to specific maintenance activities carried out for the heavy vehicle enforcement program. Category B refers to specific mechanical aids utilised for enforcement of Heavy Vehicles.

All tenderers must comply with the NSW Government Code of Practice for Procurement.

The project is funded by the NSW State government

There is no pre-tender meeting for this tender.

RE: Final Maintenance Panel Docs

From: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
To: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
Date: Fri, 22 Sep 2017 10:42:41 +1000
Attachments: 05 Request for Tenders.doc (345.09 kB); 06 Tender Form.doc (60.93 kB); 01 Terms for Contracted Work - C41.doc (683.01 kB); 02 Conditions of Standing Offer.doc (70.66 kB); 03 Instrument of Agreement.doc (57.86 kB); 04 Contract Schedule.doc (81.41 kB)

Hi Alex,

Attached as requested.

Kind regards,
Nathan

From: DUBOIS Alexandre [mailto:Alex.p.Dubois@rms.nsw.gov.au]
Sent: Thursday, 21 September 2017 3:59 PM
To: Chehoud, Nathan <Nathan.Chehoud@wsp.com>
Subject: RE: Final Maintenance Panel Docs

Hi Nathan,

Can you please send me these documents in word

Also, I noticed that the contract term in the contract schedule is three years, shouldn't it be three with the option of one plus one

Thank you

From: Chehoud, Nathan [mailto:Nathan.Chehoud@wsp.com]
Sent: Monday, 18 September 2017 12:16 PM
To: DUBOIS Alexandre
Subject: Final Maintenance Panel Docs

Hi Alex,

Hope you had a good weekend!

Please find attached the final maintenance panel docs, incorporating your and Craig's comments.

Let me know if you need any further help this week.

Kind regards,

Nathan Chehoud
Principal Civil Engineer



T: +61 2 92725214
M: +61 [redacted] 9497
Nathan.Chehoud@wsp.com

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Fwd: e-tender RFT lodgement approval

From: SOLIMAN Samer <samer.soliman@rms.nsw.gov.au>
To: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
Date: Fri, 22 Sep 2017 12:09:13 +1000

Sent from my iPhone

Begin forwarded message:

From: HAYES Paul P <Paul.HAYES@rms.nsw.gov.au>
Date: 22 September 2017 at 12:04:35 PM AEST
To: SOLIMAN Samer <Samer.SOLIMAN@rms.nsw.gov.au>
Subject: RE: e-tender RFT lodgement approval

Approved in the system

From: SOLIMAN Samer
Sent: Friday, 22 September 2017 9:52 AM
To: DUBOIS Alexandre; HAYES Paul P
Subject: e-tender RFT lodgement approval

Alex,
I've reviewed RFT document and I've approved the workflow. Good work on this!
Its now onto Paul for approval.

Paul,
You should receive an email requesting your approval for the e-tender RFT lodgement(RFT attached). I briefed you and roger on this previously. We are setting up a new panel to service the HV programs(civil, electrical, WIM's, break tester, scales maintenance). This tightens up contract management and enables us to increase competition as we're going to open tender, hence lower costs to RMS.

From: DUBOIS Alexandre
Sent: Friday, 22 September 2017 9:31 AM
To: SOLIMAN Samer
Subject:

Hi Samer,

This is what is attached to the 509

Alex Dubois
Project Manager
Compliance Systems | Compliance Operations Branch | Compliance and Regulatory Services
T 02 88370636 | M [REDACTED] 5 298
www.rms.nsw.gov.au

Roads and Maritime Services
99 Phillip st Parramatta NSW 2150



eTendering

Scam alert: Suppliers are being targeted by an email scam with requests for quotes and purchase orders. The scam email uses realistic looking NSW Government email addresses and websites. Read [more](#) about the scam and what to do if you receive a suspicious email.

The NSW eTendering website will be unavailable from 6:00pm until midnight on the 27th of November 2019 for scheduled maintenance. We appreciate your patience and apologise for any inconvenience this interruption may cause.

Home / Tenders & Schemes / Archived Tender List
/ Archived Tender Detail View - RMS-10011861

Roads and Maritime Services / HVP Maintenance - RMS-10011861

RFT ID RMS-10011861

RFT Type Open Tenders

Published 25-Sep-2017

Closes 6-Oct-2017 2:30pm

Category (based on UNSPSC)

46000000 - Defense and Law Enforcement and Security and Safety Equipment and Supplies

Agency Roads and Maritime Services



Contact Person

alex dubois

Phone: 88370636

alex.p.dubois@rms.nsw.gov.au

Tender Details

The Heavy Vehicles Branch is seeking tenders from experienced and capable contractors for maintenance of their assets. These assets include Heavy Vehicle Safety Stations and on-road HV enforcement sites, Safe-T-Cam programs, Average Speed Camera programs and Over Height Detection programs.

There are two categories which form part of this tender, Category A refers to specific maintenance activities and works carried out for HVEP . Category B refers to specific mechanical aids utilised for enforcement of Heavy Vehicles.

Eligibility requirements to tender for Category A work requires you demonstrate that you have carried out similar work for HVEP for Roads and Maritime in the last twelve (12) months

For Category B work you must demonstrate that you have carried out similar work for Heavy Vehicle Enforcement programs for Roads and Maritime in the last twenty-four (24) months; or demonstrate that you have carried out similar work for another State Government Agency in the last twenty-four (24) months

Location

NSW Regions: Far North Coast, Mid North Coast, New England, Central Coast, Hunter, Cumberland/Prospect, Nepean, Northern Sydney, Inner West, South East Sydney, South West Sydney, Central West, Orana/Far West, Riverina/Murray, Illawarra, Southern Highlands

RFT Type

Open Tenders - An invitation to tender by public advertisement with no restriction placed on who may tender. Tenderers will normally be required to demonstrate in their tender that they have the necessary skills, resources, experience, financial capacity, and in some cases licences, accreditations, etc., to fulfil the tender requirements.

Address for Lodgement

Tender Box at the main entrance to the Roads and Maritime office at 99 Phillip Street, Parramatta NSW 2150

Conditions for Participation

There are two categories which form part of this tender, Category A refers to specific maintenance activities carried out for HVEP . Category B refers to specific mechanical aids utilised for enforcement of Heavy Vehicles.

Eligibility requirements to tender for Category A work requires you demonstrate that you have carried out similar work for HVEP for Roads and Maritime in the last twelve (12) months

For Category B work you must demonstrate that you have carried out similar work for Heavy Vehicle Enforcement programs for Roads and Maritime in the last twenty-four (24) months; or demonstrate that you have carried out similar work for another State Government Agency in the last twenty-four (24) months

Multi Agency Access

No

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NSW Government | I work for NSW

RE: Requesting additional information from LANCOMM

From: STEYN Craig G </o=rta/ou=exchange administrative group (fydibohf23spdlt)/cn=recipients/cn=steync">
To: "Chehoud, Nathan" <nathan.chehoud@wsp.com>, DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
Date: Tue, 10 Oct 2017 09:40:35 +1100

Gents

It would be beneficial to have them as part of the panel; HOWEVER, I would prefer not to invite any unnecessary Probity concerns or insinuations to the process so if it cannot be done in a manner which is clear transparent and pass any test the I am likely to urrr on the side of caution!

In addition have we established how do we manage CIC & SA Masters as they did not make the 50%?

By the way it would seem we have received a tender from Nepean which in reality has missed the cut off, so we need to understand how best we manage that?

Thanks

Craig Steyn
 Heavy Vehicle Maintenance & Average Speed Camera Program Manager
 Compliance Monitoring | Compliance Branch | Compliance & Regulatory Services
 T 02 8837 0613 M [REDACTED] 5 724
www.rms.nsw.gov.au
Every journey matters

Roads and Maritime Services
 Level 6 Pod G 110 George Street Parramatta NSW 2150

From: Chehoud, Nathan [mailto:Nathan.Chehoud@wsp.com]
Sent: Tuesday, 10 October 2017 9:16 AM
To: DUBOIS Alexandre; STEYN Craig G
Subject: Requesting additional information from LANCOMM

Hi Alex and Craig,

I've just re-read the RFT and I can't see in that document a provision to give LANCOMM more time to submit their Form A.

I think we have two options:

1. We determine how well they meet the assessment criteria using only the information they've provided; OR,
2. We determine that they haven't provided enough information to demonstrate they qualify – so they are unsuccessful

What are your thoughts?

Kind regards,

Nathan Chehoud
 Principal Civil Engineer



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Maintenance Panel - Tender Evaluation Memo

From: "Chehoud, Nathan" <nathan.chehoud@wsp.com>
To: DUBOIS Alexandre <alex.p.dubois@rms.nsw.gov.au>
Cc: SINGH Jai <jai.singh@rms.nsw.gov.au>, STEYN Craig G <craig.steyn@rms.nsw.gov.au>
Date: Thu, 12 Oct 2017 16:07:18 +1100
Attachments: 2113294A-CIV-MEM-029 RevA.docx (211.49 kB)

Hi Alex,

Please find attached our draft Tender Evaluation Memo.

The areas highlighted in yellow are for you (or others) to complete.

Have a read and let me know if you have any comments or amendments. I'll be back on line on Monday.

Have a good weekend,

Nathan Chehoud
Principal Civil Engineer



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MEMO

TO: Samer Soliman
FROM: Tender Evaluation Committee
SUBJECT: **Tender Evaluation of Contract No. 17.0000302935.1100.
 17.0000302935.1100 – Panel for Maintenance of Heavy Vehicle
 Enforcement Programs**
DATE: 12 October 2017

1. PURPOSE

The purpose of this memo is to report on the tender evaluation for Contract No. 17.0000302935.1100 – Panel for Maintenance of Heavy Vehicle Enforcement Programs.

2. BACKGROUND

This is a Standing Offer Contract based on non-price criteria. The works in this contract involves maintenance of Heavy Vehicles Branch assets. These assets include Heavy Vehicle Safety Stations and on-road HV enforcement sites, Safe-T-Cam Sites, Average Speed Camera Sites and Over Height Detection Sites. The work was divided into two categories, as follows:

Category A

- Civil works
- Electrical work
- Steel fabrication and installation
- Signage installation

Category B

- Weigh-in-Motion systems
- Portable weighing scales
- Weighbridges
- Brake testing equipment

The Contract is for an initial period of 3 years, with the option to extend for an additional 2 years.

3. ESTIMATE OF COST

[Alex and Craig: please insert your estimate of how much work in \$\$ this panel will send to the market over the next three years].

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4. OPEN TENDERING

The advertisement was posted on the RMS eTender site on ??/9/2017.

5. PRE-TENDER MEETING

No pre-tender meeting was held.

6. TENDERS RECEIVED AND EXAMINED

The tender closed at 2:30pm on Friday, October 6, 2017. Tenders were opened on the morning of October 9, 2017 by Alex Dubois of Heavy Vehicles Branch, and Nathan Chehoud of WSP.

Thirteen tenders were received. These were checked for conformity with the Request for Tenders.

7. TENDER EVALUATION COMMITTEE AND ASSESSMENT CRITERIA

7.1 TENDER EVALUATION COMMITTEE

The tender evaluation committee was formed to examine and evaluate the tenders received based on the criteria stated below. The committee comprised of the following persons:

- Alexandre Dubois (RMS – insert title)
- Craig Steyn (RMS – insert title)
- Jai Singh (RMS – insert title)
- Nathan Chehoud (WSP – Principal Civil Engineer)

7.2 TENDER ASSESSMENT CRITERIA

Since this was a non-price tender, the criteria and weightings used for the tender assessment were:

CRITERIA	WEIGHTING
Demonstrated experience in carrying out the specified work	45%
Responsiveness in carrying out the specified work	30%
Adaptability and flexibility to meet customers' objectives in carrying the specified work.	25%

8. ASSESSMENT OF TENDERS

8.1 GENERAL

The tender assessment has been carried out in accordance with the guidelines in ECM 3.6- Assessing Tenders.

8.2 CONFORMITY OF TENDERS

Tenders were examined for conformance by the tender evaluation committee on Monday 9 October 2017 using the Conforming Tender Checklist as shown in Appendix C.



It was noted that because the nature of their work does not typically involve building, Tenderers for Category B work could not provide evidence of compliance with the Building Code. The tender evaluation committee did not consider this non-conformity to be a disqualifying factor.

8.3 PERFORMANCE AGAINST ASSESSMENT CRITERIA

All thirteen tenderers have the capacity to complete works within the contract period based on similar works successfully completed for the RMS.

Notwithstanding, the quality of tender responses differed, and this was noted by the tender evaluation committee.

The tender evaluation committee's scoring of the tenders against the assessment criteria is tabulated in Appendix B.

9. FUNDING

Funding is available under the current **XXX** budget.

10. COMPANY AND ABN SEARCH

A Company and ABN search has been undertaken as part of the tender assessment process. A search of the ASIC site has confirmed that the:

1. Entity name as tendered is correct;
2. Company is registered;
3. Company is not under administration.

A search of the business.gov.au ABN register site, has confirmed that:

1. ABN number is correct;
2. ABN status is active;
3. Entity name as tendered is correct;
4. The trading name as tendered is listed on the site;
5. The trading name as listed is current;
6. GST status is active.

Copies of the search results are contained in Appendix D. **[JAI: please provide results for inclusion in Appendix D]**

11. CONFLICT OF INTEREST

We individually declare that there was no actual or potential conflict or incompatibility between our personal or corporate interests and the impartial fulfilment of our duties in carrying out this tender assessment.

12. ADHERENCE TO TENDER PROCEDURES

We certify that all aspects of the tender process have been conducted in accordance with tender assessment procedures and there are no deviations from the procedures.



13. RECOMMENDATION

It is recommended by the tender evaluation ncommittee that approval be given in accordance with the RMS Delegation Manual (Delegation No.xx*) to include all thirteen tenderers on the Panel for Maintenance of Heavy Vehicle Enforcement Programs.

Insert signature

Insert signature

Alexandre Dubois

Craig Steyn

Title

Title

Date

Date

Insert signature

Jai Singh

Nathan Chehoud

Title

Title

Date

Date



APPENDIX A SCHEDULE OF TENDERS RECEIVED

[Alex: please insert a scanned copy of the Schedule of Tenders Received here]



APPENDIX B TENDER ANALYSIS

B.1 CATEGORY A TENDERER SCORES AGAINST ASSESSMENT CRITERIA

Criteria	Weighting	LANCOMM	CBF Projects	Seina Group	Efficient Project Management	Ozcorp Civil P/L	EURO Civil & Maintenance	AA Steel Piping P/L	CIC Engineering	SA Masters
Demonstrated experience in carrying out the specified work	45%	0	8	8	8	7	8	8	6.75	6.5
Responsiveness in carrying out the specified work	30%	0	8	7.5	8.5	8	8	7.5	0	0
Adaptability and flexibility to meet customers' objectives in carrying the specified work.	25%	0	8	7.5	8	8	8	8	0	0
Civil works		N	Y	Y	Y	Y	Y	Y	Y	Y
Electrical works		N	Y	Y	Y	Y	Y	Y	Y	Y
Steel fabrication & installation		N	Y	Y	Y	Y	Y	Y	Y	N
Signage		N	Y	Y	Y	Y	Y	Y	Y	Y
Demonstrated experience in carrying out the specified work	Weighted Score	0	36	36	36	31.5	36	36	30.375	29.25
Responsiveness in carrying out the specified work	Weighted Score	0	24	22.5	25.5	24	24	22.5	0	0
Adaptability and flexibility to meet customers' objectives in carrying the specified work.	Weighted Score	0	20	18.75	20	20	20	20	0	0
TOTAL		0	80	77.25	81.5	75.5	80	78.5	30.375	29.25

B.2 CATEGORY B TENDERER SCORES AGAINST ASSESSMENT CRITERIA

Criteria	Weighting	Novation Engineering P/L	Accuweigh	Weighpack & Electrical P/L	CIC Engineering	Nepean
Demonstrated experience in carrying out the specified work	45%	6	9	7	5	6
Responsiveness in carrying out the specified work	30%	0	8.5	7	0	0
Adaptability and flexibility to meet customers' objectives in carrying the specified work.	25%	6	8.5	6	0	0
Weigh in Motion		N	N	N	Y	Y
Weighbridges		N	Y	Y	N	Y
PAT and HAENNI portable scales *Novation is only authorised supplier - not maintainer		Y	Y	Y	N	Y
MAHA and NEPEAN brake testing		N	N	N	N	Y
Weighted Score		27	40.5	31.5	22.5	27
Responsiveness in carrying out the specified work		0	25.5	21	0	0
Adaptability and flexibility to meet customers' objectives in carrying the specified work.		15	21.25	15	0	0
TOTAL		42	87.25	67.5	22.5	27





APPENDIX C CONFORMING TENDER CHECKLIST



Table (STYLEREF 8 is): (SEQ TableAppendix 1 ARABIC is 8) Conforming Tender Checklist

	Novation Engineering P/L	Accuweigh	LANCOMM	CBF Projects	Seina Group	Weightpack & Electrical P/L	Efficient Project Management	Ozcorp Civil P/L	EURO Civil & Maintenance	AA Steel Piping P/L	CIC Engineering	SA Masters	Nepean
Complete the Schedule to the Tender Form (Tender Form Schedule).	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Attach the Tender Form Schedule to the Tender Form.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Sign the Tender Form Schedule in the place provided (or make sure it is signed by a person with authority to sign on your behalf).	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Initial all pages of the Tender Form.	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N
Complete Form A For Category A works	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N
Complete Form B For Category B works	Y	Y	N	N	N	Y	N	N	N	N	Y	N	Y
Prepare and sign a hard copy of the Schedule of Compliance with the NSW Government's Code of Practice for Procurement and Implementation Guidelines (CT5)	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Prepare and make the Statutory Declaration (CT1)	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Prepare and sign a hard copy of the Declaration of Compliance with the Building Code, if applicable (CT4A)	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Where Declaration of Compliance with the Building Code is required, prepare and include the further information outlined in Attachment A to the Declaration of Compliance	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Prepare and sign a Statement as to whether on or after 2 December 2016, the Tenderer or a Related Entity of the Tenderer submitted a response to an expression of interest or tender (howsoever described) for Commonwealth funded Building Work (regardless of whether or not that project was procured by RMS or whether or not the Tenderer or the Tenderer's Related Entity were successful)	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	N
Prepare and sign Confirmation of Accreditation Status under the Australian Government WHS Accreditation Scheme, if applicable (CT4B)	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Include advice as to your GST-status if you are not registered for GST or you wish to enter into a Voluntary Agreement for withholding Pay As You Go Taxation	N	Y	Y	Y	Y	N	Y	Y	Y	N	Y	Y	N





APPENDIX D RESULTS OF ABN AND ASIC WEBSITES