

Conditions of Tendering

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Conditions of Tendering

THERE ARE 14 PAGES IN THIS SECTION

This section includes notices to tenderers.

The Conditions of Tendering section does not form part of the Contract. General

1.1 Summary of the Tendered Works

Cabonne Council (the Principal) is seeking tenders from appropriately qualified and experienced organisations for the:

Design and Construction of the Canomodine Bridge Replacement, including road approaches, the demolition of existing bridge and side track upon completion

Refer to the *Principal's Documents* for more detail of the Works.

1.2 Requests for information and clarifications

All communications with the Principal and all requests for information or clarification with regard to this Request for Tenders (RFT) must be made through the Principal's online forum.

Requests for information or clarification will be directed to the nominated Contact Person. The Contact Person will respond in writing and may distribute both the enquiry and the response to all tenderers.

Tenderers should not approach the Contact Person directly unless requested to do so.

Tenderers must not approach any other Council officers or elected members with regard to this RFT.

If a Tenderer considers the subject matter of an enquiry to be confidential, it must clearly indicate this in its request. The Principal, in its sole discretion, shall determine whether the matter raised is of a confidential nature. If the Principal does not consider the subject matter of the enquiry to be of a confidential nature, it shall give the Tenderer the opportunity to withdraw the enquiry.

The Principal reserves the right not to respond to enquiries made within 7 days prior to the close of tenders.

The Principal's online forum is: 'VendorPanel'

Access to VendorPanel is via: <https://login.vendorpanel.com.au>

The Contact Person is:

Name:	Wayne Harris – Upright Management
Telephone number:	0437 744 487
E-mail address:	wharris@uprightmanagement.com.au

1.3 Termination of Tender Process

Where, due to a change in circumstances, the Principal decides that it is not in the Principal's interest to proceed, it reserves the right, in its absolute discretion, to terminate the tender process for this RFT by notice to tenderers utilising the same method as was used to invite tenders. The Principal has no liability for any tendering costs incurred by tenderers.

1.4 Special Tendering Conditions

Conditions of Tendering – **Schedule of Special Tendering Conditions** applies to these Conditions of Tendering

2 Tenderer Eligibility

2.1 Acceptable Legal Entities

The Principal contracts only with recognised and acceptable legal entities. The Principal does not contract with firms under any form of external administration. Any tender submitted by an unincorporated business such as a sole trader, partnership, or business name must identify the legal entity that proposes to enter the contract.

The Principal will not award this Contract to a Tenderer that is a trustee if the Tenderer cannot demonstrate that it will be able to meet all of the requirements of the contract, including the financial assessment requirements, for the entire contract period.

2.2 Quality management

The Principal may elect to pass over a Tender from a Tenderer that does not demonstrate the capacity to systematically plan and manage the quality of its work in accordance with the *NSW Government Quality management guidelines (Construction Procurement)* (Edition 4) which are available on the buy.nsw website at <https://buy.nsw.gov.au/categories/construction>

Submit when requested the information identified in Tender Schedules - **Schedule of Quality Management Information**.

2.3 Work health and safety management

Tenderers must demonstrate their capacity to manage work, health and safety (WHS) in accordance with the *NSW Work Health & Safety management guidelines (for Construction Procurement)* (Edition 6) (*WHSM Guidelines*). These *Guidelines* are available on the buy.nsw website at: <https://buy.nsw.gov.au/categories/construction>

Submit with the Tender Form, the completed Schedule and the information required by Tender Schedules - **Schedule of WHS Management Information - PART A**.

Submit when requested, the completed Schedule and the information required by Tender Schedules - **Schedule of WHS Management Information – PART B**.

2.4 Environmental management

Tenderers must demonstrate their capacity to manage environmental matters in accordance with the *NSW Government Environmental management guidelines (Construction Procurement)* (Edition 4) (*EM Guidelines*) available on the Buy.nsw website at:

<https://buy.nsw.gov.au/categories/construction>

Submit with the Tender the information identified in Tender Schedules - **Schedule of Environmental Management Information – Part A**.

A tender will only be accepted from a tenderer that have submitted a site-specific environmental management plan acceptable to the Principal in accordance with the *EM guidelines 4th Edition*.

Submit when requested, the Schedule and the information required by Tender Schedules - **Schedule of Environmental Management Information – PART B**.

2.5 Financial assessment

By submitting a tender for this RFT, the Tenderer agrees that the Principal may engage private sector consultants to financially assess tenderers. Financial details of tenderers may be obtained by an external Financial Assessor for assessment. Financial Assessors have an obligation to safeguard the financial details obtained.

The main criteria considered in financial assessment of tenderers are:

- Net Tangible Assets (total assets, excluding any assets of company directors, less total liabilities less intangible assets);
- Current Ratio (ratio of current assets to current liabilities); and
- Working Capital (current assets less current liabilities).

The Principal considers a Tenderer meeting the following financial indicators, with no other significant detrimental financial characteristics, to be financially satisfactory in respect of its Tender:

- Net Worth exceeds 5% of the initial Contract Price;
- Current Ratio exceeds 1; and
- Working Capital exceeds 10% of the initial Contract Price.

Deviations from the above indicators will not necessarily prevent the Principal from considering any tender.

The Principal may elect to pass over a Tender from a Tenderer if any of the above financial assessment indicators are below a threshold acceptable to the Principal. The Principal may, at its discretion, also consider other actions where defects in the financial assessment may be able to be rectified.

Submit, when requested by the Financial Assessor or Principal, the Financial Assessment information shown in Tender Schedules - **Schedule of Financial Assessment Information**.

3 Contract details

3.1 Site

The Principal may provide geotechnical or other information concerning the Site. Site information may not form part of the Contract. Refer to General Conditions of Contract clause 36 - **Site Information**. Also refer to Preliminaries clause – **Site - Existing Services** for *Site* related contract requirements.

The Tenderer may apply to the Principal in accordance with clause - **Requests for information and clarifications** to request further investigations. The Principal will only consider such a request in exceptional circumstances.

Reports And Site information

Reports and other Site Information are available as follows:

- Nil, all provided within RFT package

Investigations Carried Out

- Geotechnical Investigations

Other Site Activities

Refer to Preliminaries clause 5.2 for other site activities which may affect this site.

Other Contracts

Refer to Preliminaries clause 5.2 for other contracts which may affect this site.

3.2 General Conditions of Contract

The RFT documents include a copy of the GC21 Edition 2 General Conditions of Contract.

3.3 Provisional Sums

If the Contract includes work subject to payment as a Provisional Sum. See General Conditions of Contract clause 55 - **The Contract Price** (Provisional Sums) and the list of Provisional Sums in Tender Schedules – **Schedule of Provisional Sums**.

3.4 Cost adjustment

The work is not subject to Cost Adjustment for labour and materials.

3.5 Insurance

Works Insurance

The Contractor must arrange insurance for Works Insurance and pay all premiums in accordance with General Conditions of Contract clause 27 - **Insurance**.

Public Liability Insurance

The Contractor must arrange insurance for public liability and pay all premiums in accordance with General Conditions of Contract clause 27 - **Insurance**.

Asbestos liability insurance

The Contractor must arrange any asbestos related insurance required by law. Any other asbestos related insurance is at the discretion of the Contractor. The Contractor will not be entitled to any additional payments for asbestos related insurance. The Principal does not require the Contractor to hold any particular Asbestos Liability Insurance under General Conditions of Contract clause 27 – **Insurance**.

Other Insurance

Unless otherwise advised by the Principal, the Contractor must arrange and pay all premiums for all other insurance required under General Conditions of Contract clause 27 – **Insurance**.

For professional indemnity insurance, a Certificate of Currency or evidence of the ability to obtain the required insurance, such as a letter from a broker or insurer, may be required as a condition of acceptance of tender.

3.6 Proposed Subcontractors and Consultants

Information on proposed Subcontractors and Consultants will be taken into account in assessing the tenders. The identification of Subcontractors and Consultants before the award of the Contract will be taken as an indication of the team approach to be used by the Contractor and a demonstration that the Contractor will not trade off different subcontractors' prices to obtain a lower price.

Submit when requested the completed Tender Schedules -- **Schedule of Proposed Subcontractors and Consultants**.

4 Current policies

4.1 Disclosure of Tender and Contract information

Details of this tender process and any contract awarded as a result of the tender process may be disclosed in accordance with the *Government Information (Public Access) Act 2009* (NSW).

4.2 Exchange of information by the Principal

By submitting a Tender, the Tenderer authorises the Principal to gather, monitor, assess, and communicate to other State and Commonwealth Government agencies or Local Government Authorities information about the Tenderer's financial position and its performance in respect of any contract awarded as a result of the tender process. Such information may be used by those agencies or authorities in considering whether to offer the Tenderer future opportunities for work.

4.3 Security and Ownership of Documents

Security of provided Tender Documentation

All RFT documents and information made available by the Principal remain the property of the Principal and are provided on condition that they are treated as confidential by the Tenderer and are used only for the purpose of preparing a Tender.

All RFT documents marked as "restricted" are classified maximum security documents. No copies are to be made by tenderers, their agents or anyone else other than for tendering purposes. All such documents and copies are to be returned to the Principal on completion of the tendering process.

Ownership of submitted Tender Documentation

All documents, materials and information submitted as part of or in support of a tender will become the property of the Principal.

Unless otherwise provided by the Contract, the Tenderer will be entitled to retain copyright and other intellectual property rights in the documents, materials and information submitted as part of its tender.

4.4 Compliance with Principal's Policies

Statement of Business Ethics

The Principal is committed to the highest standards of honesty, fairness and integrity in all its business dealings. The Principal has adopted Strategic Policies for Councillors, contractors and staff.

Refer to Schedule of Special Tendering Conditions **Strategic Policy – Procurement, Fraud and Corruption** for details of the Principal's policies applying to this tender process and contract.

4.5 Dealing with Modern Slavery

Tenderers must demonstrate that they understand Modern Slavery and will implement processes and procedures to identify and manage the risks of Modern Slavery.

Submit with the Tender the completed:

- Tender Schedules - **Schedule of dealing with Modern Slavery; and**
- Tender Schedules - **Schedule of Mandatory Participation Criteria Information - MPC - 3: Responding to Modern Slavery.**

A Tender will not be accepted from a Tenderer that does not provide the completed Schedule which includes a declaration by the Contractor.

4.6 Unconditional undertakings - approved institutions

For the purpose of giving unconditional undertakings, banks, building societies, credit unions and insurance companies listed by the Australian Prudential Regulation Authority (APRA) as being regulated by the APRA are acceptable. Lists appear at the APRA website at

<https://www.apra.gov.au/list-of-registered-financial-corporations>

5 Further information

5.1 Addenda to RFT Documents

If, as a result of:

- a request for clarification from a Tenderer;
- the need for a correction or the resolution of a *Fault* (i.e. ambiguity, inconsistency or discrepancy);
- a change in the Principal's requirements;
- a change in a date or deadline related to the tender process; or
- for any other reason,

the Principal issues an instruction amending the RFT documents or tender process, the instruction will be issued in writing to all tenderers in the form of an Addendum, which becomes part of the RFT documents. Written Addenda issued by the Principal are the only recognised explanations of, or amendments to, the RFT documents.

5.2 Pre-Tender meeting

A pre-tender meeting will not be held on site. Tenderers are expected to inspect the site.

6 Preparation of Tenders

6.1 Price Criteria Information

Complete all Schedules requiring prices or rates. In particular, ensure that:

- all prices and rates include GST unless expressly stated otherwise;
- all prices and rates include appropriate allowances for overheads and profit; and
- the 'Total (Lump Sum tendered including GST)' in the Tender Schedules - **Schedule of Prices – Lump Sum** is correct and is the same amount as the 'Contract Price' shown in the Tender Form.

Refer to the Schedule of Special Tendering Conditions with regard to the application of other price criteria, if any.

6.2 Non-Price Criteria Information

Mandatory Participation Criteria

Mandatory Participation Criteria must be met by the Tenderer. Failure to satisfy the Mandatory Participation Criteria may result in the relevant Tender being excluded from further consideration.

Complete and submit with the tender the information shown in Tender Schedules - **Schedule of Mandatory Participation Criteria Information.**

Weighted Non-Price Criteria

Refer to Conditions of Tendering - **Evaluation of Tenders** for information on the evaluation of weighted non-price criteria.

Complete and submit with the tender the information shown in Tender Schedules - **Schedule of Weighted Non-Price Criteria Information.**

Other Non-Price Criteria

The Principal requires information about the Tenderer. Complete and submit with the tender the information shown in Tender Schedules - **Schedule of Non-Price Criteria Information.**

6.3 Optional Additional Work

Complete and submit with the Tender Form, Tender Schedules - **Schedule of Optional Additional Work.** Do not include the price for any optional additional work in the price stated on the Tender Form.

The Principal may elect not to proceed with any optional additional work.

6.4 Qualifications and Departures

Qualifications and departures include any condition, offer, interpretation, assumption or proposal of any nature appearing on any documents submitted with or within the Tender which constitute any variation of, omission from, or addition to this RFT.

Where the Tenderer considers a qualification or departure to its Tender is appropriate, or wishes to clarify an assumption with respect to the RFT document, it may discuss its concern using the on-line forum and/ or utilise the option, if available, to submit an alternative tender.

Refer to Conditions of Tendering - **Evaluation of Tenders** for information on the evaluation of qualifications and departures.

Complete and submit with the tender the information shown in Tender Schedules - **Schedule of Qualifications and Departures Information.**

6.5 Information for “Payment Claim Worksheet”

Submit when requested the details shown in Tender Schedules - **Schedule of Information for General Conditions of Contract - Schedule 3 (Payment Claim Worksheet).**

6.6 Contract Information

Submit when requested the details shown in Tender Schedules - **Schedule of Contract Information.**

6.7 Technical data

Submit the details shown in Tender Schedules - **Schedule of Technical Data.**

6.8 Program

Submit a program in the form of a bar chart or network diagram, showing how Scheduled Progress will be achieved and including allowance for likely holiday periods; restraints imposed by the Principal’s Documents; any Milestones; and any external dependencies including provision of access and work by others. Refer to Tender Schedules - **Schedule of Program Information** for additional requirements.

This program may form part of the Contract under General Conditions of Contract clause 22 - **Time management**.

7 Submission of Tenders

7.1 Documents to be submitted

Submit the documents listed in parts A and B below, in accordance with the respective instructions.

Do not change the text on the Tender Form or Tender Schedules, other than to insert the required information.

Do not include with tenders any brochures, advertising, product or company information or marketing brochures or presentations other than information expressly requested in the Tender Schedules.

Failure to meet the requirements of this clause may result in the Tender being passed over.

Part A: Documents to be Lodged at close of Tenders

Complete and lodge, by the date, time and method stated in the tender advertisement, invitation and/ or the Timetable in the Tender Document title page, as applicable, the following documents and information:

- **Tender Form**
- **Schedule of Prices – Lump Sum**
- **Schedule of Optional Additional Work**
- **Schedule of Local Procurement**
- **Schedule of Qualifications and Departures Information**
- **Schedule of Mandatory Participation Criteria Information**
- **Schedule of Weighted Non-Price Criteria Information**
- **Schedule of Non-Price Criteria Information**
- **Schedule of Proposed Subcontractors and Consultants**
- **Schedule of Program Information**
- **Schedule of Quality Management Information**
- **Schedule of WHS Management Information: Part A**
- **Schedule of Environmental Management Information: Part A**

Any tender that is not received in full (for Part A documents) at close of tenders may be passed over.

Acknowledge on the Tender Form, by listing the Addendum numbers, that the tender allows for all Addenda issued.

If more than one tender is lodged, mark each tender clearly as to whether it is a copy, an alternative tender, or a tender superseding another submission.

Part B: Documents to be Submitted When Requested:

Complete and submit, by the date, time and method stipulated in any request, the following Tender Schedules, marked '**Submit When Requested**', and any other documents and information requested by the Principal to allow further consideration of the Tender:

- **Schedule of Information for General Conditions of Contract Schedule 3 (Payment Claim Worksheet)**
- **Schedule of Contract Information**
- **Schedule of Financial Assessment Information**
- **Schedule of WHS Management Information: Part B**
- **Schedule of Environmental Management Information: Part B**
- **Schedule of Dealing with Modern Slavery**

7.2 Electronic Submission of Tenders

Legal status

Tenders must be submitted electronically using the Principal's nominated electronic tendering system the Tenderlink website.

Tenderers must comply with conditions with regards to acceptable file types and file sizes. Tenderers should review the terms and conditions with regards to the Tenderlink system prior to uploading their tender.

Electronic lodgement must be "fully complete" by the nominated close of tenders as the electronic link will terminate at this time.

Tenderers must not change existing text in electronic tender forms other than to insert required information.

It is the Tenderer's responsibility to submit a tender that is complete and in an uncorrupted format. The Principal may decline to consider for acceptance, tenders that cannot be effectively evaluated because they are incomplete or corrupt. Files must be checked by a reputable virus scanning application prior to submission and be found to be free from virus malicious code or other properties (including executable code) that may compromise the Principal's IT environment.

Lodgement of a tender electronically is evidence of a Tenderer's acceptance of any conditions shown on the nominated electronic tendering system website.

Tenderers who experience technical difficulties in lodging their tenders should utilize the support provided by the electronic tendering system website.

Tenders received via electronic transmission other than through the nominated electronic Tendering system site will not be considered. Tenders by email will not be considered.

Electronic Format for Submissions

Tenders submitted electronically must be in a file format that can be read, formatted, displayed and printed by Microsoft Word 2021, or any format required by the RFT.

File Compression

Tenderers may compress electronic tenders in any format that can be decompressed by WinZip. Tenderers must not submit self-extracting (*.exe) zip files.

Tenders must be submitted using the same system that was used to publish/ call tenders for this RFT. Refer to Schedule of Special Tendering Conditions – **Electronic Submission of Tenders** for details.

7.3 Late Tenders

In accordance with the *Local Government (General) Regulation 2021*, a late tender will not be considered unless the Tenderer satisfies the Principal that the Tender was lodged in sufficient time for the Tender to have been received by the closing date and time.

8 Procedures after closing of Tenders

8.1 Evaluation of Tenders

The names of the tenderers who submitted tenders by the due closing date and time will be published on the Principal's website.

Tenders will be evaluated in accordance with the *Local Government (General) Regulation 2021*. Tenders will be evaluated on the criteria listed or referenced in these Conditions of Tendering.

In evaluating tenders, the Principal may take into consideration relevant factors including, but not limited to: whole of life costs; innovation; delivery time; quality offered; previous performance; experience; capability; work health and safety performance; environmental management performance; quality management capability; community relations; value adding including economic, social and environmental initiatives; and conformity.

Weighted Evaluation Criteria

Tenders will be assessed using a weighted scoring process based on information provided with the Tender. The ratio of price to non-price criteria will be: 50 : 50

The non-price criteria (in priority order with most important listed first) will be:

Weighted Non-Price Criteria

- Time for completion – program and work methodology.
- Previous experience and capability, including completion of similar projects in regional NSW.
- Understanding Project Risks.
- WHS, Environmental and Quality systems.

The Principal may elect to pass over a Tender from a Tenderer with an assessed score on any of the above non-price criteria that is below a threshold acceptable to the Principal.

Local Procurement Criteria

Refer to Schedule of Special Tendering Conditions – **Local Procurement** for details.

The Principal may assess the value of any qualification in any Tender, without reference to the Tenderer, and compare tenders on the basis of the Principal's assessed valuation.

The Principal may treat any detail required by the RFT documents which is omitted, illegible or unintelligible as failing to fulfil the relevant requirement.

Communications with Tenderers

The Principal may seek clarification from a Tenderer regarding information contained in its Tender and may do so without notification to any other Tenderer.

A Tenderer may be invited to a one-on-one evaluation conference in order to review and clarify its Tender and to enable the Principal to interview key personnel identified in the Tender.

8.2 Variation of Tender

Before the Principal accepts any tender, a Tenderer may vary its tender by:

- providing the Principal with further information by way of explanation or clarification; or
- correcting a mistake or anomaly.

Such a variation may be made either at the request of:

- the Principal, or
- the Tenderer but only if, in the circumstances, it appears reasonable to the Principal to allow the Tenderer to provide the further information or correction.

The Principal will not consider a variation of a Tender if the variation would substantially alter the original Tender.

If a Tender is varied in accordance with this clause, the Principal will notify in writing all other tenderers that have the same or similar characteristics as the varied Tender, and provide them with the opportunity of varying their tenders in a similar way.

8.3 Acceptance of Tender

The Principal will:

- accept a tender by written notification;
- publish the name of the successful tenderer and amount of the accepted tender on the Principal's website; and
- notify tenderers whose tenders were not accepted that their tenders were unsuccessful; or
- if none of the tender submissions were accepted, a notice to that effect.

The Principal may accept tenders that do not conform strictly with all requirements of the RFT documents.

The Principal is not bound to accept the lowest or any tender. Tenders which do not comply with:

- a requirement of the tender document; or
- which contain conditions or qualifications not required or allowed by the tender document,

may be passed over.

No Tender, or qualification or departure from a contract condition or specification, is accepted unless the Principal gives an acceptance or formal agreement in writing.

8.4 Protection of privacy

The Tenderer warrants, in respect of any personal information provided in this Tender or any contract arising from this Tender, that the information is accurate, up to date and complete, and that nominated individuals authorise its collection and are aware:

- that the information is being collected for the purpose of evaluating tenders and administering any contracts arising from those tenders and may be made available to other NSW government agencies or local government authorities for those purposes;
- whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided; and
- of the existence of any right of access to, and correction of, the information.

REFER TO ATTACHED SCHEDULE OF SPECIAL TENDERING CONDITIONS

9 Schedule of Special Tendering Conditions

9.1 Strategic Policy – Procurement, Fraud and Corruption

The Principal's Strategic Policies set out the standards of behaviour that Council expects from its private sector partners. These standards of behaviour relate to fair, ethical and honest dealings with the Principal and ensuring that the best level of service is provided to the community.

Refer to the obligations of tenderers as set out in the Strategic Policies at:

<https://cabonne.pulsesoftware.com/Pulse/Public.aspx?page=publicpolicies>

In particular, the obligations require the Tenderer (with regard to this RFT) to:

- respect the conditions of the RFT and procurement obligations of the Principal;
- abstain from collusive practices;
- prevent unauthorised release of privileged and confidential information; and
- avoid unsolicited contact with Councilors, Staff and/ or delegates of the Principal.

Breaches of the Tenderer's obligations under the Strategic Policies may result in the Tenderer being ineligible to submit a Tender or obtain future work with the Principal.

Conflicts of Interest

Tenderers must identify if they have any actual or perceived Conflict of Interest in responding to this RFT. The Principal will seek to resolve any notified Conflict of Interest.

Submit with the Tender the completed Tender Schedules - **Schedule of Statement of Conflicts of Interest and Fair Dealings**.

9.2 Local Procurement

The Principal is committed to buying from local businesses where such purchases may be justified on value for money grounds. Local business means a supplier that:

- is beneficially owned and operated by persons who are residents or ratepayers in the Principal's Local Government Area (LGA);
- has its principal place of business within the Principal's LGA; or
- otherwise has a place of business within the local area that solely or primarily employs or subcontracts persons who are residents or ratepayers in the Principal's LGA.

Local Suppliers and Local Content receive a 5% discount on price in the evaluation of Tenders. For further information search for the Principal's '**Procurement Policy**' at:

<https://cabonne.pulsesoftware.com/Pulse/Public.aspx?page=publicpolicies>

Submit with the Tender the completed Tender Schedules - **Schedule of Local Procurement**.

9.3 Canvassing of Council Officials

Any tenderer who solicits or attempts to solicit support for their Tender response or otherwise seeks to influence the outcome of the tender process by:

- Offering any inducement, fee or reward to any member or officer of the Principal, or any person acting as an adviser for the Principal; or
- Canvassing any persons referred to in this document; or
- Contacting any member or officer of the Principal about the tender or any process relating thereto, except as authorised by this Request including (but without limitation) for the purposes of discussing the possible employment transfer of the Tenderer's member or officer,

Will be disqualified from the involvement in the Tendering process (without prejudice to any other civil remedies available to the Principal and without to any prejudice to any criminal liability which such conduct by a tenderer may attract), at the Principal's discretion.

9.4 Non Collusion

Any Tenderer who:

- fixes or adjusts the amount of their Tender Response by or in accordance with any agreement or arrangement with any other Tenderer; or
- enters into any agreement or arrangement with any other Tenderer that it shall refrain from Responding or as to the amount of any Tender Response to be submitted; or
- causes or induces any person to enter such agreement or to inform the Tenderer of the amount or approximate amount of any rival Tender Response for the Contract; or
- canvasses any of the persons previously discussed in connection with the Tender or the outcome of the Tender process; or
- offers, agrees, or does; pay any sum of money, inducement or valuable consideration. This being directly or indirectly to any person for doing, having done, causing, or caused to be done in relation to any other Tender Response or proposed Tender Response any act or omission; or
- communicates to any person other than the Principal the amount or approximate amount of its proposed Tender Response (except where such disclosure made in confidence in order to obtain quotations necessary for the preparation of the Tender Response, for insurance or contract guarantee bonds and/or performance bonds or professional advice required for the preparation of a Tender Response),

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

9.5 Probity considerations

Council may conduct or procure independent research regarding the Tenderer, Tenderer's Associates and/or the Tenderer's joint ventures, partners, guarantors or shareholders and the information contained in the RFx. Council reserves the right to take into account any matters revealed as a result of its probity investigations in evaluating RFx Responses.

The Tenderer consents to such probity investigations being conducted.

Council will be under no obligation to provide Tenderers with details of the results of its probity investigations. Council reserves the right to reject a RFx Response or take such other action as it considers appropriate in light of any information that it receives as a result of conducting its probity investigations.

Should any Tenderer consider that it is not being accorded fairness in the evaluation process, immediate notice of its complaint must be given in writing through the Principal's online forum or the Probity Advisor, if nominated in the RFT documents.

The notification must set out the alleged failure, the impact upon the Tenderer's interests, any relevant background information and the outcome desired.

In lodging its tender, the Tenderer agrees that any delay in notification of an alleged probity breach, or notification after the announcement of the preferred/ recommended Tenderer or the Contractor will operate as a waiver of any such breach, and will preclude a Tenderer from relying upon or taking action based upon such breach.

END OF SECTION – CONDITION OF TENDERING