



**PROC-9176982**  
**REQUEST FOR TENDER**  
Terms and conditions

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## PART 1 – TENDER CONDITIONS

### 1 About this document

1.1 This RFT is made up of:

- (a) The Cover Page;
- (b) Parts 1 – 3 to this RFT which set out the terms and conditions applying to this RFT process; and
- (c) The Draft Contract.

### 2 Definitions and interpretation

2.1 In this RFT, unless the contrary intention appears:

Term	Definition
<b>Closing Time</b>	means the time and date that Tenders for this RFT must be lodged as specified on the Cover Page.
<b>Commonwealth Agency</b>	means a body subject to the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth).
<b>Conditions for Participation</b>	means the mandatory conditions identified in clause 31 of this RFT and any additional conditions for participation identified on the Cover Page with which a Tenderer must comply in order to participate in this RFT process. Conditions for Participation includes reference to “eligibility criteria”.
<b>Consortium</b>	An association of two or more legal entities with the objective of responding to this RFT in accordance with clause 27. A reference to “Consortia” (plural) has the same meaning.
<b>Cover Page</b>	means the details of this RFT found on the GRDC website or attached to this RFT in relation to the Requirement.
<b>CPRs</b>	means the Commonwealth Procurement Rules from time to time issued under 105B(1) of the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth).
<b>Deadline for Submission of Tenderer Enquiries</b>	means the date specified on the Cover Page.
<b>Draft Contract</b>	means the draft contract or deed for the Requirement identified on the Cover Page and attached to this RFT.
<b>Evaluation Criteria</b>	means the evaluation criteria identified in clause 33 of this RFT including details of the Technical Evaluation Criteria identified on the Cover Page that will be used to evaluate the Tenders. Evaluation Criteria includes reference to “selection criteria”.
<b>Grains Investment Portal</b>	means the portal at <a href="https://access.grdc.com.au">https://access.grdc.com.au</a> .
<b>GRDC Contact</b>	means the Document Contact and Enquiries on the Cover Page.
<b>Industry Briefing</b>	means, if specified on the Cover Page, an industry briefing to be held in respect of the Requirement conducted in accordance with clause 10.
<b>Minimum Content and Format Requirements</b>	means the mandatory content and format requirements identified in clause 32 of this RFT and any additional forms, attachments or templates identified on the Cover Page that the Tenderer must complete and provide as part of its Tender in order to participate in this RFT process.
<b>Offer Period</b>	means the period specified in clause 20 of this RFT or the Cover Page, whichever is the longest.
<b>Requirement</b>	means the description of GRDC’s requirements detailed on the Cover Page and includes the objectives, expected outcomes and expected outputs required to meet the requirements.
<b>RFT</b>	means this document, including all schedules, attachments, or any other documents incorporated by reference, and any addenda issued by GRDC in respect of it.
<b>Tender</b>	means a response to this RFT submitted by a Tenderer via the method specified on the Cover Page.
<b>Tenderer</b>	means an entity or person which submits a Tender.

- 2.2 In this RFT, except where the contrary intention is expressed:
- (a) a reference to time is to the time in the Australian Capital Territory;
  - (b) words importing a gender include each other gender;
  - (c) words in the singular include the plural and vice versa;
  - (d) if any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
  - (e) a reference to a clause, paragraph, schedule or annexure is to a clause, paragraph, schedule or annexure to this RFT;
  - (f) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority, agency or other entity;
  - (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
  - (h) the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions.
- 2.3 To the extent of any inconsistency between any of the information in this RFT, the information will be interpreted in the following order of priority (with the first listed having the highest priority and the last listed having the least priority):
- (a) The Cover Page to this RFT;
  - (b) This RFT;
  - (c) The Draft Contract; and
  - (d) Any other attachments forming part of this RFT.

### **3 Invitation to treat**

- 3.1 This RFT is an invitation to treat, and to the extent permitted by law, no binding contract (including process contract) or other understanding on any basis whatsoever will exist between GRDC and a Tenderer unless and until a contract is signed by GRDC and any successful Tenderer.
- 3.2 To the extent permitted by law, GRDC has no liability to a Tenderer for any compensation on any basis whatsoever in connection with that Tenderer's participation in this RFT.
- 3.3 Clause 3.1 does not apply to any confidentiality deed or undertaking executed by a Tenderer in respect of its participation in this RFT.
- 3.4 GRDC will not be responsible for any costs or expenses incurred by any Tenderer in preparation or lodgement of a Tender or taking part in this RFT (including the Tenderer complying with any subsequent requests for information from GRDC or negotiations with GRDC).

### **4 Approach to market**

- 4.1 GRDC uses AusTender, the online tendering system for Australian Government agencies, to publish notifications of any approach to market that it may issue in relation to an open tender process, including details about accessing RFT documents.

### **5 RFT download on GRDC website**

- 5.1 All RFT documents are made available, and can be accessed for download, in the "Current Tenders" section on the GRDC website. The "Current Tenders" section can be accessed at the following address:

<https://grdc.com.au/Apply/Current-Tenders>

### **6 Enquiries about this RFT**

- 6.1 All enquiries in relation to this RFT must be:
- (a) in writing to the GRDC Contact; and

(b) submitted no later than the Deadline for Submission of Tenderer Enquiries.

6.2 GRDC may in its sole and absolute discretion answer, or decline to answer, any communication received from a Tenderer.

## **7 Errors, addenda and notices by GRDC**

7.1 In the event that GRDC varies or supplements this RFT, it will notify potential Tenderers via the GRDC website by posting an addendum notice on the "Current Tenders" section on the GRDC website.

7.2 GRDC will accept no responsibility if a Tenderer is unaware of any addendum notice which would have been apparent from a visit to the "Current Tenders" section on the GRDC website.

7.3 Each addendum forms part of this RFT upon issue.

7.4 If a Tenderer finds or reasonably believes it has found any discrepancy, error, ambiguity, inconsistency, omission or misleading statement (**error**) in this RFT, or in any other information given or made available by GRDC, the Tenderer must promptly notify the GRDC Contact in writing setting out the error in sufficient detail. Any consequential amendment of this RFT or information provided by GRDC will be made available to all Tenderers in accordance with this clause 7.

## **8 GRDC's rights**

8.1 Without limiting its other rights under this RFT, at law or otherwise GRDC may, in its absolute discretion:

- (a) vary the terms of this RFT, or the structure, requirements or process referred to in this RFT;
- (b) vary the timing referred to in this RFT;
- (c) determine, at any stage after the Closing Time, a shortlist of Tenders on any basis that GRDC considers appropriate;
- (d) suspend, defer or terminate this RFT process for any reason including where GRDC determines that:
  - (i) it is in the public interest to do so;
  - (ii) GRDC is required by law to do so;
  - (iii) no Tenderer represents value for money;
  - (iv) no Tenderer meets the Conditions of Participation; or
  - (v) no Tenderer is fully capable of undertaking the Requirement, and GRDC will notify Tenderers to this effect,
- (e) provide additional information to all Tenderers at any time (and if the information is provided after the Closing Time, allow the submission of revised Tenders);
- (f) cancel or amend the information or requirements set out in this RFT;
- (g) seek additional information or clarification from any Tenderer (including its subcontractors or agents);
- (h) seek and/or contact any contacts or referees other than those proposed by Tenderers;
- (i) conduct other stages such as offer definition and improvement activities or requests for best and final offers;
- (j) select and negotiate with more than one Tenderer;
- (k) enter into a contract on terms different to those in the Draft Contract; and
- (l) exclude a Tenderer from further participation in this RFT process:
  - (i) if the Tender is incomplete or clearly non-competitive; or
  - (ii) a representation or warranty given by the Tenderer in its Tender is false or misleading.

## **9 Disclaimer**

- 9.1 GRDC will not be liable to a Tenderer on the basis of any promissory estoppel, quantum meruit or other contractual, quasi contractual or restitutionary grounds whatsoever or in negligence as a consequence of any matter relating or incidental to the Tenderer's participation in this RFT process including instances where:
- (a) the Tenderer is not invited to participate in any subsequent process following completion of this RFT process;
  - (b) GRDC varies or terminates this RFT process;
  - (c) GRDC decides not to contract for all or any of the requirements; or
  - (d) GRDC exercises or fails to exercise any of its rights under or in relation to this RFT.

## **10 Industry Briefing**

- 10.1 If specified on the Cover Page, an Industry Briefing may be conducted in relation to the Requirement and in accordance with this clause 10.
- 10.2 Unless otherwise specified on the Cover Page, representatives of prospective Tenderers at any Industry Briefing will be limited to two personnel. In relation to a proposed Consortium Tender, the number of representatives will be limited two personnel of the lead Tenderer.
- 10.3 Nominations to attend the Industry Briefing are to be forwarded in writing to the Document Contact and Enquiries by the date specified in the Cover Page or as notified by GRDC. The following details are required:
- (a) Tenderer's name and location; and
  - (b) full name of each of the Tenderer's representatives.
- 10.4 Industry Briefings are conducted for the purpose of providing background information only. Tenderers should note the effect of clauses 7, 13 and 23. Tenderers should not rely on a statement made at any Industry Briefing as amending or adding to this RFT unless that amendment or addition is confirmed by GRDC in writing.

## **11 Application of laws and Commonwealth policies**

- 11.1 Each Tenderer should familiarise itself with all relevant Commonwealth legislation relating to the provision of the Requirement including:
- (a) the *Public Governance, Performance and Accountability Act 2013* and associated delegated legislation;
  - (b) the *Primary Industries Research and Development Act 1989*;
  - (c) the *Crimes Act 1914*;
  - (d) the *Criminal Code*, in particular Chapter 7 which provides:
    - (i) for offences that attract substantial penalties (these offences include theft of Commonwealth property and other property offences, obtaining property or financial advantage by deception, offences involving fraudulent conduct, bribery, forgery and falsification of documents); and
    - (ii) that giving false or misleading information is a serious offence;
  - (e) the *Archives Act 1983*;
  - (f) the *Ombudsman Act 1976*;
  - (g) the *Modern Slavery Act 2018*;
  - (h) work health and safety laws;
  - (i) the Protective Security Policy Framework published by the Attorney-General's Department; and
  - (j) any other Commonwealth legislation, policies and guidelines applicable to the provision of the Requirement.

- 11.2 Tenderers must comply with any obligations applicable to them contained in the legislation arising from the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth).
- 11.3 Tenderers' attention is drawn to the obligations under Part 4 of the *Charter of United Nations Act 1945* (Cth) and the *Charter of United Nations (Terrorism and Dealing with Assets) Regulations 2002*. These laws require any person who holds assets or funds belonging to a person or organisation on the list of persons and entities designated as terrorists to immediately freeze those assets. It is an offence to make any funds or assets available to a person or organisation on the list. The list and more information are available at: [http://dfat.gov.au/international relations/security/sanctions/pages/consolidated-list.aspx](http://dfat.gov.au/international_relations/security/sanctions/pages/consolidated-list.aspx)
- 11.4 Tenderers should be aware that, in accordance with the CPRs, GRDC will not enter into a contract with a Tenderer that has had a judicial decision against it (not including decisions under appeal) relating to employee entitlements and who have not paid the claim.
- 11.5 The Australian National Audit Office
- (a) The attention of Tenderers is drawn to the *Auditor-General Act 1997* (Cth) (the **Auditor-General Act**), which gives the Auditor-General or an authorised person a right to have, at all reasonable times, access to information, documents and records (including information provided by Tenderers to GRDC in its Tender or through a Tenderer's participation in this RFT).
  - (b) In addition to the Auditor-General's powers under the Auditor-General Act, the Draft Contract contains a right of access by the Auditor-General, or an authorised person, to information, documents, records and GRDC's assets, including those on the Tenderer's (and any subcontractor) premises at reasonable times on reasonable notice for the purpose of carrying out the Auditor-General's functions. The right of access is restricted to information and assets which are in the custody or control of the Tenderer or its employees, agents or subcontractors, and which are related to the contract. Such access applies for the term of the contract and for seven (7) years after its expiry or termination.
  - (c) Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the Auditor-General Act on its participation in this RFT process and any subsequent contract.
- 11.6 Privacy Legislation
- (a) The *Privacy Act 1988* (Cth) (**Privacy Act**) establishes a national scheme providing for the appropriate collection, holding, use, correction, disclosure and transfer of personal information by public and private sector organisations.
  - (b) The Draft Contract requires the compliance with the Privacy Act.
  - (c) Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the Privacy Act on their participation in this RFT process and any subsequent contract.
- 11.7 Disclosure of Information
- (a) The *Freedom of Information Act 1982* (Cth) (**FOI Act**) gives members of the public rights of access to documents in the possession of the Australian Government and its agencies. The FOI Act extends as far as possible the right of the Australian community to access information (generally documents) in the possession of the Australian Government, limited only by exceptions and exemptions necessary for the protection of essential public interests and of the private and business affairs of persons in respect of whom information is collected and held by departments and public authorities.

- (b) Each Tenderer should obtain, and will be deemed to have obtained, its own advice on the impact of the FOI Act and all other relevant legislation on its participation in this RFT process and any subsequent contract. All sensitive and business information or other confidential data which a Tenderer provides in its Tender and considers should be exempt from disclosure under the FOI Act, should be clearly indicated in the Tenderer's Tender.
- (c) Tenderers should be aware that, in order to enhance transparency, GRDC will make available on request the names of any subcontractor engaged by a successful Tenderer to provide any part of the Requirement. Consequently, Tenderers agree to:
  - (i) the public disclosure of the names of any subcontractors engaged under any resultant contract in respect of the Requirement; and
  - (ii) inform relevant subcontractors that the names of subcontractors engaged under any resultant contract in respect of the Requirement may be publicly disclosed.
- (a) GRDC is obliged to report, through various mechanisms, information about the contract. This includes, for instance, GRDC's obligations with respect to:
  - (i) contracts above the reporting threshold for corporate Commonwealth entities in line with the requirements set out in the CPRs; and
  - (ii) its other reporting and disclosure obligations (including annual reporting requirements, disclosure to Parliament and its Committees and so on).

11.8 Workplace Gender Equality

- (a) Where the Tenderer is currently named as not complying with the *Workplace Gender Equality Act 2012* (Cth), GRDC will exclude its Tender from further consideration.

**12 Applicable law**

- 12.1 The laws of the Australian Capital Territory apply to this RFT process.



## **PART 2 – PREPARATION AND LODGEMENT OF TENDERS**

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### **13 Tenderer to inform itself**

- 13.1 The Tenderer acknowledges that it is deemed to have:
- (a) examined this RFT, any documents referred to in it, and any other information made available in writing by GRDC to Tenderers for the purpose of lodging a Tender;
  - (b) examined all further information which is obtainable by the making of reasonable enquiries relevant to the risks, contingencies and other circumstances having an effect on its Tender;
  - (c) satisfied itself as to the correctness and sufficiency of its Tender, including its fees, rates or prices;
  - (d) obtained independent advice on the effect of all relevant legislation in relation to the Tenderer's participation in this RFT; and
  - (e) satisfied itself as to the terms and conditions of the Draft Contract and its ability to comply with those terms and conditions.
- 13.2 The Tenderer must:
- (a) not rely on any representation, letter, document or arrangement, whether oral or in writing, or other conduct as adding to or amending this RFT other than addenda in accordance with clause 7;
  - (b) not rely upon any warranty or representation made by or on behalf of GRDC, except as expressly provided for in this RFT; and
  - (c) rely entirely upon its own inquiries and inspection in respect of the subject of its Tender.

### **14 Electronic lodgement**

- 14.1 Tenders must be lodged and completed electronically in accordance with the method stipulated on the Cover Page before the Closing Time and in accordance with the Tender lodgement procedures set out in this RFT.
- 14.2 Tenders lodged through the Grains Investment Portal will be deemed to be authorised by the Tenderer named on that Tender.
- 14.3 Unless specified otherwise in the Cover Page, a Tender submitted by any other means including by email, hand or fax, will not be accepted by GRDC.

### **15 Preparing to lodge a Tender**

- 15.1 The Tenderer warrants that, when it lodges its Tender through the method stipulated in the Cover Page, it has taken reasonable steps to ensure that any electronic files that form part of the Tender are free of viruses, malicious code or other disabling features which may affect GRDC's ICT environment. Any Tender found to contain viruses, malicious code or other disabling features will not be considered by GRDC.
- 15.2 Tenders must not contain macros, script or executable code of any kind unless that specific material has previously been approved in writing by GRDC.
- 15.3 Tenders must be completely self-contained. No hyperlinked or other material may be incorporated by reference.

### **16 Proof of lodgement**

- 16.1 Where Tenders are submitted via the Grains Investment Portal, Tenderers will receive an on-screen message that their Tender lodgement has been successful, as well as an Application ID number.
- 16.2 Failure to receive the on-screen message referred to in clause 16.1 means that Tender lodgement has not been successful.

## **17 Tenderer's acknowledgement**

17.1 Tenderers acknowledge that:

- (a) lodgement of their Tender on time and in accordance with this RFT is entirely their responsibility;
- (b) by lodging a Tender, the terms and conditions in this RFT apply to their Tender; and
- (c) GRDC will not be liable for any loss, damage, costs or expenses incurred by Tenderers or any other person if, for any reason, a Tender or any other material or communication relevant to this RFT, is not received on time, is corrupted or altered or otherwise is not received as sent, cannot be read or decrypted, or has its security or integrity compromised.

## **18 Late Tender policy**

18.1 Any Tender lodged after the Closing Time or received after the Closing Time will be deemed to be a late Tender. GRDC will not accept a late Tender, unless the Tender is late solely because of GRDC's own mishandling.

18.2 Notwithstanding clause 18.1, Tenderers are responsible for ensuring their infrastructure, including operating system and browser revision levels, is sufficient to enable it to lodge a Tender before the Closing Time. GRDC does not take any responsibility for any problems arising from the Tenderer's infrastructure and/or internet connectivity.

18.3 Late Tenders and incomplete Tenders, including those with electronic files that cannot be read or decrypted, will not be considered.

## **19 Corrections by a Tenderer after lodgement**

19.1 If, after lodgement of a Tender but before the Closing Time, a Tenderer becomes aware of any discrepancy, error or omission in its Tender and wishes to lodge a correction or additional information, it must resubmit its whole Tender in accordance with this RFT, clearly stating that the Tender is a replacement Tender. If more than one Tender has been submitted by a Tenderer, GRDC will evaluate the Tender lodged at the latest date and time.

19.2 No correcting of Tenders or additional information will be accepted after the Closing Time, unless specifically requested by GRDC in accordance with this RFT.

## **20 Offer Period and acceptance of offers**

20.1 Lodging a Tender will constitute an offer in accordance with this RFT by the Tenderer for a period of not less than 12 months after the Closing Time (**Offer Period**).

20.2 Any such offer is not taken to have been accepted unless a formal contract has been executed by the Tenderer and GRDC on the basis of the Draft Contract (or on different terms as determined by GRDC).

20.3 Any notice by GRDC to the Tenderer that it is, or is not, a preferred or successful Tenderer does not constitute an acceptance or rejection of the Tenderer's offer.

## **21 Request by GRDC for clarification**

21.1 If GRDC requires clarification of information contained in a Tender, it will request clarification from the Tenderer in writing. GRDC may elect not to accept information provided in response to a request for clarification if that information alters the original Tender in any material respect. If the Tenderer fails to supply clarification to the satisfaction of GRDC, GRDC may exclude the Tender from further consideration.

21.2 Tenderers should:

- (a) respond to any request for clarification within the time period and in the format specified by GRDC;

- (b) ensure that clarifying information provides answers to GRDC's enquiry and is fully consistent with the Tender submitted by the Tenderer; and
- (c) not seek to materially alter any aspect of their Tender by providing additional information to GRDC.

## **22 Unintentional errors of form**

- 22.1 If GRDC considers that there are unintentional errors of form in a Tender, including a Tenderer's failure to comply with the Minimum Content and Format Requirements or to explicitly address the Conditions for Participation, GRDC may, in its absolute discretion and without having any obligation to do so, allow the Tenderer to correct or clarify the error or provide additional information.
- 22.2 A Tenderer must not seek to materially alter, change or amend its Tender response as a result of any clarification or additional information requested by GRDC under this clause 22.
- 22.3 GRDC may also, in its absolute discretion, decline to accept any correction or additional information if it considers that to accept it would create unfairness in this RFT process.
- 22.4 If GRDC gives a Tenderer an opportunity to correct an unintentional error of form it will provide the same opportunity to all Tenderers to the extent that it is applicable to all Tenderers.
- 22.5 An unintentional error of form is an error that GRDC is satisfied:
  - (a) represents incomplete information not consistent with the Tenderer's intentions and, if relevant, capabilities at the time the Tender was lodged; and
  - (b) does not materially affect the competitiveness of the Tenderer's bid.

## **23 Confidentiality**

- 23.1 For the purposes of this clause 23, **Confidential Information** means:
  - (c) information that is by its nature confidential; and
  - (d) is designated by a party as confidential; or
  - (e) a party knows or ought to know is confidential,  
but does not include:
    - (f) information which is or becomes public knowledge other than by breach of this RFT or any other confidentiality obligation.
- 23.2 Each Tenderer will:
  - (a) ensure that all of its employees, agents or sub-contractors involved in meeting GRDC's requirements do not either directly or indirectly record, divulge or communicate to any person any Confidential Information concerning the affairs of GRDC, the Commonwealth or a third party acquired or obtained in the course of preparing a Tender, or any documents, data or information provided by GRDC and which GRDC indicates to the Tenderer is confidential or which the Tenderer knows or ought reasonably to know is confidential;
  - (b) keep confidential, and not disclose, any information (other than information that is in the public domain or where disclosure is to another Tenderer that is a member of a Consortium which is preparing a Tender in accordance with clause 26), that GRDC provides during this RFT process; and
  - (c) if requested by GRDC, provide confidentiality undertakings in a form specified by GRDC and arrange for its applicable employees, agents or sub-contractors to also provide such undertakings.

- 23.3 GRDC will keep confidential any Confidential Information provided to GRDC by Tenderers prior to the award of any contract and, in respect of unsuccessful Tenderers, after the contract is awarded.
- 23.4 The obligation of confidentiality in clause 23.3 does not apply if the Confidential Information:
- (a) is disclosed by GRDC to its advisers, officers, employees or subcontractors solely in order to conduct this RFT process or manage any resulting contract;
  - (b) is disclosed to GRDC's internal management personnel, solely to enable effective management or auditing of this RFT process or any resulting contract;
  - (c) is disclosed by GRDC to the responsible Minister;
  - (d) is disclosed by GRDC in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
  - (e) is shared by GRDC within the Commonwealth, or with a Commonwealth Agency, where this serves the Commonwealth's legitimate interests including for audit purposes;
  - (f) is authorised or required by law to be disclosed;
  - (g) is in the public domain otherwise than due to a breach of the relevant obligations of confidentiality; or
  - (h) is disclosed with the written consent of the Tenderer.
- 23.5 GRDC operates within a governance and public accountability framework established under legislation which requires GRDC to minimise the amount of information that is subject to confidentiality requirements. GRDC may agree to keep confidential any specific information provided under, or in connection with, the contract where GRDC considers it appropriate to do so.
- 23.6 To enable GRDC to consider whether it agrees to keep specific information confidential, Tenderers should include in their Tenders any request that information is to be treated as confidential following the awarding of a contract to it, specifying the information and giving reasons why it is necessary to keep the information confidential. In making a request under this clause 23.6, Tenderers should have regard to the Australian Government's 'Confidentiality Test' relevant to confidentiality throughout the procurement cycle that can be found on the Department of Finance website.
- 23.7 GRDC will consider any request made under clause 23.6 and will inform the Tenderer whether or not GRDC, in its absolute discretion, agrees to the request and the terms under which it agrees.
- 23.8 The terms of any agreement under clause 23.7 will form part of any resultant contract to be awarded at the completion of this RFT process.

## **24 Conflict of interest**

- 24.1 Each Tenderer agrees to immediately notify GRDC in writing if the Tenderer becomes aware of an actual, potential or perceived conflict of interest at any time before the completion of this RFT process, which is not fully disclosed in its Tender.
- 24.2 In the event of an actual, potential or perceived conflict of interest, GRDC may in its absolute discretion, do any or all of the following:
- (a) enter into discussions with the Tenderer to seek to resolve and / or manage the conflict of interest;
  - (b) exclude the Tender from further consideration (including terminating any contract negotiations); or
  - (c) take any other action which it considers appropriate.

## **25 Use of Tenders**

- 25.1 All Tenders lodged in response to this RFT will become the property of GRDC.
- 25.2 Intellectual property owned by the Tenderer or third parties in material contained in the Tender will not pass to GRDC. However, GRDC may use, reproduce and circulate on a royalty free, perpetual and irrevocable basis any material contained in the Tender, or provided by the Tenderer in response to this RFT, to the extent necessary to conduct this RFT process and in the preparation of any contract if the Tenderer is successful.

## **26 Ethical dealing**

- 26.1 GRDC's policy is to engage in the highest standards of ethical behaviour and fair dealing throughout this RFT process. GRDC requires the same standards from those with whom it deals.
- 26.2 Tenders must be compiled without improper assistance of employees or former employees of GRDC and without the use of information improperly obtained or in breach of an obligation of confidentiality.
- 26.3 The Tenderer must not:
- (a) lodge a Tender that contains false or misleading claims or statements or engage in misleading or deceptive conduct in relation to this RFT process;
  - (b) engage in collusive tendering, anti-competitive conduct or any other similar conduct with any other Tenderer or any other person in connection with this RFT process; or
  - (c) attempt to influence improperly any officer, employee or agent of GRDC, or violate any applicable laws or GRDC or Commonwealth policies regarding the offering of inducements in connection with this RFT process.
- 26.4 GRDC may exclude from consideration any Tender lodged by a Tenderer that, in GRDC's reasonable opinion, has engaged in any behaviour contrary to this clause 26 in relation to this RFT process.

## **27 Consortia**

- 27.1 GRDC will not consider a joint or consortium response other than a response submitted in accordance with this clause 27.
- 27.2 Unless otherwise provided in the Cover Page, GRDC will not consider Consortia responses.
- 27.3 Without limiting GRDC's rights, GRDC's preference is to enter into a contract with a single legal entity that will take full responsibility for the performance of the Requirement on behalf of any proposed Consortium.
- 27.4 If a Tenderer intends to submit a Consortium response for the Requirement, the Consortium Tender is to:
- (a) include the details for each member of the proposed Consortium;
  - (b) describe in detail the relationship between each member of the Consortium and the structure proposed for management of the Consortium, including nominating a single point of contact for all communications in relation to this RFT;
  - (c) provide that each member of the Consortium will be jointly and severally liable for the performance of all members of the Consortium under any resultant contract or that one member of the Consortium will be fully liable for the performance of all members of the Consortium; and
  - (d) include such other information that GRDC requires to undertake a risk assessment of the proposed Consortium Tender.

27.5 A reference to Tenderer in this RFT is a reference to each member of any proposed Consortium, unless the Tender clearly states that the Consortium is a single legal entity established for this RFT.

## **28 Alternative solutions**

28.1 Alternative solutions will only be considered where the Tenderer also provides in its Tender a response that conforms to the requirements of this RFT.

28.2 Where an alternative solution is proposed, the Tenderer should:

- (a) separately identify, in detail, the proposed alternative approach or solution;
- (b) justify the proposed alternative approach or solution with explicit reasons;
- (c) demonstrate that the alternative approach is more beneficial than the approach specified in this RFT; and
- (d) explain the financial impact (specifically including the impact on cost) and any other consequences of the proposed alternative approach or solution relative to the conforming approach.

## **29 Complaints**

29.1 In the event Tenderers wish to lodge a complaint regarding this RFT, the complaint is to be submitted [via https://grdc.com.au/about/contact-us](https://grdc.com.au/about/contact-us). Tenderers should refer to the GRDC Complaints Handling Procedure: <https://grdc.com.au/about/who-we-are/corporate-governance/accountability>. On the request of GRDC, Tenderers are to cooperate with GRDC in the resolution of any complaint regarding this RFT.

## **PART 3 – THE EVALUATION PROCESS**

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### **30 Evaluation and process**

- 30.1 Tenders will be evaluated on the basis of best value for money consistent with the CPRs, utilising the Evaluation Criteria and any other information available to GRDC.
- 30.2 GRDC may at any time during this RFT process:
- (a) request presentations to be provided by Tenderers in respect of their Tenders;
  - (b) obtain additional information (whether that information is obtained through this RFT process or by any other means) relevant to the Tenderer's Tender;
  - (c) use material tendered in response to one evaluation criterion in the evaluation of other criteria;
  - (d) seek clarification or additional information from, and enter into discussions with, any or all of the Tenderers in relation to their Tenders;
  - (e) shortlist one or more Tenderers; or
  - (f) conduct offer definition and improvement activities or seek best and final offers.

### **31 Conditions for Participation**

- 31.1 The Conditions for Participation for this RFT are as follows:
- (a) The Tenderer must be a single legal entity or recognised firm of partners;
  - (b) The Tenderer and any proposed subcontractor must be compliant with the *Workplace Gender Equality Act 2012* (Cth);
  - (c) The Tenderer and any subcontractor must not have a judicial decision against it (not including decisions under appeal) relating to employee entitlements and who have not paid the claim;
  - (d) The Tenderer and any subcontractor must not be named on the Consolidated List, being the list of persons and entities who are subject to targeted financial sanctions or travel bans under Australian sanction laws, as maintained by the Department of Foreign Affairs and Trade;
  - (e) If indicated on the Cover Page and in accordance with the Black Economy Procurement Connected Policy, a Tenderer must also include as part of its Tender a satisfactory and valid Statement of Tax Records (**STR**) and, if the total value of all work under any proposed subcontract is expected to exceed \$4 million (inclusive of GST), a satisfactory and valid STR of that proposed subcontractor; and
  - (f) If indicated on the Cover Page, any other Conditions for Participation relating to this RFT.
- 31.2 Subject to clause 22, GRDC will exclude a Tender from further consideration if GRDC considers that the Tenderer does not comply with the Conditions for Participation.

### **32 Minimum Form and Content Requirements**

- 32.1 The Minimum Form and Content Requirements for this RFT are as follows:
- (a) Tenders must be submitted using the method specified on the Cover Page;
  - (b) Tenders must be written in English and any measurements must be expressed in Australian legal units of measurement; and
  - (c) If indicated on the Cover Page, Tenderers must ensure that their Tenders include any other forms and templates to be completed by the Tenderer as part of its Tender (e.g. pricing spreadsheets or confidentiality deeds etc.).

32.2 Subject to clause 22, GRDC will exclude a Tender from further consideration if GRDC considers that the Tender does not comply with any of the Minimum Content and Format Requirements.

**33 Evaluation Criteria**

33.1 The Evaluation Criteria to be applied for the purposes of evaluation of Tenders are as follows:

No.	Evaluation Criteria
1	Technical – The extent to which the Tender meets the technical requirements <i>Note: Details of the sub-criteria relating to the Technical Evaluation Criterion are specified on the Cover Page to this RFT.</i>
2	Price – The tendered price
3	Risk – Any risks inherent in the Tender including the degree of compliance with the Draft Contract and any actual or perceived conflict of interest
4	The following Evaluation Criterion applies if this RFT is valued above \$4 million (GST inclusive):  <b>Australian economy</b> - the economic benefit of the procurement to the Australian economy (unweighted)

33.2 Evaluation Criteria 2, 3 and, where applicable, 4 are unweighted.

**34 Draft Contract**

34.1 If a Tenderer does not intend to fully comply with any clause of the Draft Contract, it is to state its non-compliances in the Statement of Compliance in the form provided in the Grains Investment Portal or as otherwise specified on the Cover Page. Tenderers are to include details of:

- (a) the extent, justification and impact of compliance; and
- (b) details of any proposed drafting amendments.

34.2 A Tenderer will be deemed to be fully compliant with any clause not listed in the Statement of Compliance.

**35 Shortlisting**

35.1 GRDC may shortlist Tenderers based on the assessment of value for money. If it does so, Tenderers will be advised accordingly and shortlisted Tenderers may be invited to provide further information, including through an interview or presentation, on their Tenders to GRDC.

**36 Preferred Tenderer status**

36.1 GRDC may select a Tenderer as preferred Tenderer, but such selection:

- (a) does not affect or limit GRDC's rights or the Tenderer's obligations under this RFT; and
- (b) is not a representation that any contract will be entered into between GRDC and that Tenderer, and GRDC may recommence or commence negotiations under this RFT with any other Tenderer whether or not a Tenderer has been selected as preferred Tenderer.

**37 Negotiations**

37.1 GRDC may engage one or more Tenderers in negotiations, which may involve:



- (c) Tenderers being asked to review, clarify, improve or consolidate any of the technical, commercial, legal, financial and operational aspects of their Tenders; or
  - (d) enter into an agreement with GRDC relating to the terms of the detailed engagement with that Tenderer.
- 37.2 Without limiting its other rights under this RFT, if in GRDC's view during final negotiations the preferred Tenderer has retracted, or attempts to retract, agreements under which material business, financial, technical and legal issues were resolved during negotiations or parallel negotiations, GRDC may reject the preferred Tenderer's Tender, discontinue negotiations with that Tenderer, re-enter negotiations or parallel negotiations with other Tenderers (including or excluding the successful Tenderer), and exercise any other right GRDC has under this RFT, at law or otherwise.
- 38 Security, probity and financial checks**
- 38.1 GRDC may perform such security, probity and financial investigations and procedures as GRDC may determine are necessary in relation to any Tenderer, its employees, officers, partners, associates, subcontractors or related entities including Consortium members and their officers, employees and subcontractors.
- 38.2 A Tender may be rejected by GRDC if the Tenderer does not provide, at its cost, all reasonable assistance to GRDC in this regard.
- 39 Debriefing of unsuccessful Tenderers**
- 39.1 Tenderers will be notified whether they have been successful or unsuccessful and may request a Tender debriefing. Tenderers requiring a debriefing should follow the instructions provided in any notice.
- 39.2 Tenderers who request a debrief will receive feedback relating to their Tenders against the Evaluation Criteria.