

Terms and Conditions

Request for Quote

These conditions are to be used for purchases of Goods and/or Services not exceeding \$250,000 (GST inc) in value. For purchases exceeding \$250,000 (GST inc), please refer to Councils tendering guidelines.

1. Interpretation

These Request for Quote (**RFQ**) Conditions may be used where Hilltops Council (**Council**) is seeking quotes from Suppliers to potentially purchase Goods and/or Services.

2. Invitation Process

2.1. Supplier acceptance

By submitting a Quote, the Supplier:

- (a) accepts these Request for Quote Conditions;
- (b) agrees its Quote will be valid for acceptance by Council for a period of not less than thirty (30) days from the Closing Date and Time (**Offer Validity Period**); and
- (c) offers to enter into a Contract with Council to provide the Goods and/or Services .

Council may, but is not obliged to, accept the whole or part of a Quote during the Offer Validity Period.

2.2. Conditions of Participation

The Conditions for Participation are mandatory requirements, and are the minimum standards that Suppliers must meet for their Quotes to be considered. If Suppliers do not meet the Conditions of Participation, they will be excluded from the evaluation process.

The Conditions for Participation are:

- (a) The Supplier must be an acceptable legal entity. It is Council's policy not to trade with any organisation that does not hold a registered ABN.

- (b) The Supplier must not be bankrupt or insolvent.
- (c) The Supplier must declare and provide details of any occurrence, within 5 years prior to submitting a Quote, where the Supplier has been found guilty of breaching any Act or Regulation.
- (d) The Supplier must have the minimum level of insurance cover specified in the Contract.
- (e) It is the responsibility of the Supplier to familiarise himself/herself with the requirements of these Conditions of Quotation and Specification and to ensure that all the requirements are met. Failure to do so may result in the quotation being rejected.
- (f) The Supplier will provide a lump sum quotation, schedule of rates, or other required information on the fees to be charged for the goods/services requested, with no rise or fall during the validity period.

2.3. Council discretion

Council reserves the right to make any changes to these RFQ Conditions and/or the Invitation Process in its absolute discretion including:

- (a) amend dates including extend the Closing Date and Time;
- (b) consider or reject a Quote received after the Closing Date and Time;
- (c) accept Quotes which do not conform with these RFQ Conditions, alternative or



innovative offers, Quotes in part, or multiple Quotes;

- (d) reject any or all Quotes;
- (e) exercise discretion in the evaluation criteria applied to the assessment of Quotes;
- (f) negotiate with one or more Suppliers and allow any Supplier to vary its Quote;
- (g) interview, negotiate or hold discussions with any Supplier or prospective Supplier on any matter contained (or proposed to be contained) in a Quote to the exclusion of others;
- (h) request some or all Suppliers to conduct site visits, provide references and additional information, and/or make themselves available for panel interviews;
- (i) change the terms and conditions applicable to the Invitation Process, including terms of the proposed Contract;
- (j) allow or not allow the successful Supplier to enter into the proposed Contract in the name of a different legal entity from that which provided a response to this RFQ; or
- (k) suspend or cancel the Invitation Process or any part of it.

The Supplier will not make any claim for costs or compensation in connection with a decision by Council to exercise or not to exercise any of its rights in relation to the Invitation Process.

2.4. Lodgement process

Quotes must be lodged by the Closing Date and Time by the method stated by Council's contact officer as part of this RFQ.

3. Alternative offers

Council's procurement policy promotes an outcome focussed approach, seeking opportunities to innovate and improve value for money. Suppliers are encouraged to submit alternative offers and innovative offers where they believe that the alternative will meet Council's objectives.

4. No reliance on information

Council does not warrant the accuracy of any information or document provided as part of this RFQ or the Invitation Process and the Supplier is responsible for, and will be deemed to have made, its own investigations and assessment about all

matters relevant to the RFQ, the Goods and/or Services to be supplied, the accuracy of all information and documents provided by or on behalf of Council, and all other matters relevant to the Supplier's Quote.

5. Supplier cost

Participation in the Invitation Process is at the Supplier's cost. Council is not required to pay any costs or compensation to the Supplier in relation to the Invitation Process in any circumstances, for any reason, whether incurred directly by them or their advisors and regardless of whether such costs arise as a consequence directly or indirectly of any amendments or decisions made by Council at any time.

6. Subject to Contract

Nothing in this RFQ should be construed to give rise to any contractual obligations or rights, express or implied, by the issue of this RFQ, or the submission of a Quote in response to it.

No Contract will be formed between Council and a Supplier unless and until Council accepts a Supplier's Quote in writing or both parties sign a contract document.

The terms of that Contract comprise the following documents:

- (a) These RFQ Conditions.
- (b) The Quote, including any documents lodged with it.
- (c) The letter of acceptance of the Quote issued by Council.
- (d) The Specifications detailed in this RFQ, as amended from time to time by Council, whether by the issue of an addendum or otherwise.
- (e) The Conditions of Contract included as part of this RFQ, as amended or added to by Council.
- (f) Any other documents that Council and the Supplier agree in writing will form part of the Contract.

7. Compliance

The Supplier must:

- (a) **(communication)** direct all enquiries relating to the RFQ to the Council's nominated contact officer, and not discuss the RFQ with any



other person except as required to prepare its Quote.

- (b) **(Laws)** comply with all Laws.
- (c) **(confidentiality)** keep confidential all information which it obtains as part of the Invitation Process, not use it except for the purpose of responding to the RFQ, and not disclose it except to its Personnel on a need to know basis for the purpose of responding to the RFQ, or with Council's consent, or to the extent required by Law, or to its professional advisors.

Information supplied to Council by a Supplier will not be treated as commercially confidential unless specifically requested by the Supplier. Council will not knowingly exchange or transfer commercial-in-confidence information between any of the Suppliers who respond to this RFQ.

- (d) **(privacy)** if it collects or has access to any Personal Information (as that term is defined in the Privacy Act) in connection with the Invitation Process, comply as if it was the Council with the privacy principles in the Privacy Act or the Australian Privacy Principles in the Privacy Act, as applicable, in relation to that Personal Information and comply with all reasonable directions of Council relating to the Personal Information;
- (e) **(no publicity)** not make any public statement, announcements or advertisement relating to the Invitation Process.
- (f) **(competitive neutrality)** if the Supplier is a government owned business, local government, or Commonwealth, State or Territory or authority, its Quote to comply with the competitive neutrality principles of the Supplier's jurisdiction.
- (g) **(Personnel)** ensure that its Personnel also comply with these requirements.
- (h) **(accuracy of information)** ensure that all representations, warranties, declarations, statements, information and documents ("information") made or provided by the Supplier in connection with the Invitation Process are complete, accurate, up-to-date and not misleading in any way.

8. Anti-competitive conduct and conflicts of interest

8.1. Anti-competitive conduct

The Supplier warrants that neither it, nor its Personnel have engaged in any collusive, anti-competitive or similar conduct in connection with the Invitation Process or any actual or potential contract with any entity for goods and services similar to the Goods and/or Services.

The canvassing of Councillors at any time in respect to this quotation will not be permitted. Any firm or representative canvassing or approaching Councillors shall be disqualified from the quotation being considered. Unethical or inappropriate conduct will result in the quotation being disqualified.

8.2. Conflict of Interest

The Supplier warrants that it and its Personnel do not hold any office or possess any property, are not engaged in any business or activity and do not have any obligations whereby a conflict of interest is created, or may appear to be created, in conflict with its obligations under these RFQ Conditions or the proposed Contract, except as disclosed in the Supplier's Quote.

The Supplier warrants that it will not, and it will ensure that its Personnel do not, place themselves in a position that may give rise to a conflict of interest between the interests of Council and the Supplier's interests during the Invitation Process.

The Supplier warrants that it will immediately notify Council if any conflict of interest arises after lodgement of the Supplier's Quote

9. Supplier Warranties

9.1. Warranties are ongoing

The warranties in this section are provided as at the date of the Supplier's response to the RFQ and on an ongoing basis until the later of Council notifying the Supplier that its Quote has been rejected and expiry or termination of any Contract entered pursuant to the Invitation Process ("relevant period").

The Supplier warrants that it will immediately notify Council if it becomes aware that any warranty made as part of these RFQ Conditions was inaccurate, incomplete, out-of-date or misleading in any way when made, or becomes inaccurate, incomplete, out-of-date or misleading in any way, during the relevant period.



9.2. Breach of warranty

In addition to any other remedies available to it under Law or contract, Council may, in its absolute discretion (but is not required to), immediately disqualify a Supplier that it believes has breached any warranty in these RFQ Conditions.

10. Ownership of Quotes

All documents, materials, articles and information submitted by the Supplier as part of or in support of a Quote will become, upon submission, the absolute property of Council and will not be returned to the Supplier at the conclusion of the Invitation Process, provided that the Supplier be entitled to retain copyright and other intellectual property rights therein, unless otherwise provided by the Contract.

The Supplier does not acquire any intellectual property rights in this RFQ. The Supplier must not reproduce any of the RFQ documents in any material form (including photocopying or storage in any medium by electronic means) without the written permission of Council other than for use strictly for the purpose of preparing a Quote.

Council may only use information contained within a Quote for the purposes of the Invitation Process and Council may disclose that information:

- (a) to its Personnel for the purposes of the Invitation Process;
- (b) as required by Law;
- (c) to a Minister, their advisors or Parliament;
- (d) to its professional advisors.

Council may publish information contained in a Quote and/or about the Invitation Process where required or recommended by relevant legislation and guidelines.

11. TRANSPORT CHAIN OF RESPONSIBILITY

- (i) All transport drivers must meet the requirements of the Road Transport Act 2013, and Road Transport (Driver Licensing) Regulation 2008.
- (j) The Supplier is to ensure compliance with the Road Transport Act 2013 and Heavy Vehicle National Law (NSW) and Road Transport (General) Regulation 2013 and Heavy Vehicle

(Fatigue Management) National Regulation (NSW) and Heavy Vehicle (General) National Regulation (NSW) and Heavy Vehicle (Mass, Dimension And Loading) National Regulation (NSW) at all times by its employees and sub-contractors.

- (k) In terms of the chain of responsibility, Council's representative is to be informed immediately should a breach, or the possibility of a breach occur.
- (l) The supplier is to make available work scheduling documentation and records to demonstrate compliance with legislation if requested by Council's representative.

12. GST

Prices and fees listed in this quotation must include all allowances for the cost of paying Goods and Services Tax. If a supplier does not provide an Australian Business Number (ABN) indicating that the supplier will pay GST on any taxable supply made under the Contract, the quotation price will be weighted by a 10% increase in the assessment of quotation price relativity.

13. Definitions

Closing Date and Time is the date and time specified as part of this RFQ.

Contract means the contract that will be formed between Council and the successful Supplier in accordance with these RFQ Conditions.

Council means Hilltops Council

Goods and/or Services means the goods and/or services required to be provided under the Contract and as described in this RFQ.

Invitation Process means the process of Council inviting, assessing and accepting (or not accepting) Quotes for the Goods and/or Services.

RFQ means this Request for Quote

Supplier means any person or organisation who receives this RFQ and who submits a Quote in response.

Quote means a submission made to Council in response to this RFQ.