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**State Procurement is a Business Unit of the NSW Department of Commerce**

**State Procurement invites this tender for and on behalf of the  
NSW Government State Contracts Control Board**

## **Request for Tender 0601335**

### **PROVISION OF AUCTIONEER SERVICES FOR THE DISPOSAL OF CONFISCATED GOODS, UNCLAIMED PUBLIC PROPERTY, EXPIRED COURT EXHIBITS AND OTHER OBSOLETE ITEMS ON BEHALF OF NSW POLICE**

**PERIOD: THREE YEARS FROM DATE OF ACCEPTANCE,  
PLUS 2 X ONE-YEAR EXTENSION OPTIONS**

**Tender Issue Date: Monday, 17 July 2006**

**Closing Date: Tuesday, 15 August 2006**

**Closing Time: 9:30am Sydney Time**

**Pre-tender Briefing: see Part A, Clause 4.4 for further details**

*Note: If a tender is not submitted electronically, the tenderer must submit the original tender, plus two copies of the tender. Tenders are to be marked "Original", "Copy 1" and "Copy 2", accordingly.*

Non-Refundable Hard Copy Document Fee \$110.00 (includes GST). **Note:** There is no charge for downloading an electronic copy from <https://tenders.nsw.gov.au/commerce>. Payment for a hard copy is to be made by either a cheque drawn in favour of the NSW Department of Commerce or by credit card (MasterCard, Visa and Bankcard). Cash will not be accepted.

This publication is available on request via email in large print and/or on computer disk for people with a disability. To obtain copies of this publication in either of these formats, please contact the Contact Officer identified in this RFT.

Other formats, such as Braille and audio (cassette tape), will be considered on a case-by-case basis.

# PROVISION OF AUCTIONEER SERVICES FOR THE DISPOSAL OF CONFISCATED GOODS, UNCLAIMED PUBLIC PROPERTY, EXPIRED COURT EXHIBITS AND OTHER OBSOLETE ITEMS ON BEHALF OF NSW POLICE

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## **PART A THE REQUIREMENT AND CONDITIONS OF TENDER**

### **1. DEFINITIONS OF TERMS USED IN PARTS A AND C**

- 1.1 Unless the context indicates otherwise, the following terms, where used in Parts A and C of this RFT, shall have the meanings set out below.

**“ABN”** means an Australian Business Number as provided in the GST Law.

**“Addendum”** means an addendum or addition to this RFT made by the Board before the Closing Date and Time.

**“Alternative Tender”** means a Non-Conforming Tender that is intended to offer a different method of meeting the object and intent of the Requirement.

**“Arbitrator”** means person contracted to perform alternative dispute resolution service on behalf of the NSW Police.

**“Board”** or **“SCCB”** means the State Contracts Control Board established under the Public Sector Employment and Management Act 2002 whose responsibilities include:

- Inviting and accepting tenders;
  - Determining the conditions under which tenders are invited or accepted;
  - Entering into contracts on behalf of the Crown in right of the State of New South Wales; and
  - On-going contract administration and management,
- and includes the duly authorised delegates of the Board, including officers of State Procurement.

**“Chairperson”** shall mean and include the Chairperson of the State Contracts Control Board and any person for the time being acting as such.

**“Closing Date and Time”** means the Closing Date and Time for receipt of Tenders, specified on the cover sheet to this RFT.

**“Code”** means the NSW Government Code of Practice for Procurement, as amended from time to time, together with any other codes of practice relating to procurement, including any amendments to such codes, that may be applicable to the particular RFT. The aforementioned code can be viewed and downloaded from:

[http://www.treasury.nsw.gov.au/procurement/pdf/code\\_of\\_prac-curr.pdf](http://www.treasury.nsw.gov.au/procurement/pdf/code_of_prac-curr.pdf)

**“Commerce”** means the NSW Department of Commerce.

**“Conforming Tender”** means a Tender that:

- (a) conforms to the Requirement;
- (b) is in the prescribed form;
- (c) conforms to the terms and conditions contained in Part B; and
- (d) conforms to all of the other requirements of this RFT.

**“Contractor”** means the successful tenderer as a party to the proposed Contract.

**“Delegate”** means the NSW Commissioner of Police and his or her authorised representative.

**“Late Tender”** means a Tender received after the Closing Date and Time for tenders and includes a Tender which is only partly received by the Closing Date and Time.

**“Non-Conforming Tender”** means a Tender that:

- (a) does not conform to the Requirement;
- (b) is not in the prescribed form;
- (c) does not conform to any one or more of the terms of the Contract in Part B, including a Tender which seeks to qualify or amend these terms; or
- (d) does not conform to any of the other requirements of this RFT.

**“OHS&R”** means occupational health, safety and rehabilitation.

**“Parties”** means the Principal and the Contractor, acting in concert.

**“Price Schedule”** means the list of Services offered by the tenderer, together with the corresponding pricing information.

**“Principal”** means the NSW Police for and on behalf of the Crown in right of the State of New South Wales who will be a party to the Contract.

**“Requirement”** means the detailed description of the required Services to be met by the tenderers and detailed in the Specification.

**“RFT”** means this Request for Tender.

**“Service/s”** means, depending on the context, an individual auctioneer service or auctioneer services in the aggregate, provided by the Contractor in accordance with this Contract and Specification, as itemised in the Price Schedule.

**“SME”** means small to medium enterprise.

**“Specification”** means the detailed description of the required Services contained in Part C2.

**“State Procurement”** means a business unit of the NSW Department of Commerce representing the Board and authorised to arrange and administer contracts on behalf of the Board.

**“Sub-Contractor”** means a person or organisation who furnishes equipment or Services to the Contractor either directly or through another sub-contractor for use under the Contract.

**“Tender”** means the offer to supply the Services submitted in response to the RFT.

**“Tender Price”** means, in respect of each Service offered, the commission and any other fees nominated in the Price Schedule for that Service.

## 2. OUTLINE DESCRIPTION OF THE REQUIREMENT

### 2.1 Tender for part or whole

- 2.1.1 Subject to the terms of this clause tenderers may tender for one or more or all of the types of auctioneer services covered by this Request for Tender.
- 2.1.2 A Contract for the provision of General and Special Auctions will be awarded to one only Sydney Metropolitan Area-based Auctioneer.
- 2.1.3 A panel of Contractors shall be appointed for the provision of Auctioneer Services for the Disposal of Confiscated Goods.
- 2.1.4 Ancillary services such as storage and transportation of goods may be performed by the Contractor or by a person or organisation sub-contracted by the Contractor to perform the task.

### 2.2 Background to current arrangements for General and Special Auctions

- 2.2.1 NSW Police's current auction arrangements cover the disposal of unclaimed public property expired court exhibits and other obsolete items.
- 2.2.2 Historically, "general" auctions have been held three times a year while "special" auctions are held whenever necessary. Special auctions usually consist of bulky or specialist items, for example, furniture, car parts, boats etc.
- 2.2.3 Past auctions have been attended by a large number of persons, sometimes in excess of 400 people.
- 2.2.4 Each general auction usually involves the offer of approximately 600 lots, with total sales averaging between \$120,000 and \$150,000 per auction.
- 2.2.5 All items will be sold "as is", without reserves unless otherwise advised.

### 2.3 Background to new additional requirements for Confiscated Goods (including other obsolete/surplus items from the Principal )

- 2.3.1 Recent amendments to the NSW 'Confiscation of Proceeds of Crime Act' enable and encourage NSW Police to store equipment and goods confiscated under the provisions of the Act as soon as possible after assets are frozen and dispose of them post approval for disposal by the Courts.
- 2.3.2 It is likely that equipment and goods disposed of under the provisions of the 'Confiscation of Proceeds of Crime Act' will need to be auctioned at least fortnightly.
- 2.3.3 All items will be sold "as is", **with reserves unless otherwise advised.**
- 2.3.4 Transportation from locations in NSW to storage areas are the responsibility of the Auctioneer or their Subcontractor (who have been approved by the Principal) for transportation/storage.
- 2.3.5 Storage for the classes tendered for is a requirement, either till disposal by Auctions or return to the owner after successful appeal process.

## 2.4 Scope

- 2.4.1 Tenders are hereby sought for the provision of auctioneer services, on behalf of NSW Police, for the disposal of:
- (i) unclaimed public property;
  - (ii) expired court exhibits;
  - (iii) equipment and goods confiscated under the provisions of the 'Confiscation of Proceeds of Crime Act and
  - (iv) Surplus or obsolete items.
- 2.4.2 The proposed Contract will be for a three year period from a date agreed by the Parties, with two options to extend the Contract for up to one year at a time.
- 2.4.3 The successful tenderer or tenderers will be responsible for providing transportation, storage, a venue and all services in relation to the management and conduct of the auction.
- 2.4.4 The Principal's full requirements are set out in the Specifications (2 Parts) at Part C2 to this RFT.

## 3. SUMMARY INFORMATION FOR TENDERERS

### 3.1 Structure of Request for Tender

- 3.1.1 This RFT is made up of Parts A to C. If submitting a Tender, retain Parts A and B. The completed Part C forms the Tender.
- 3.1.2 Part C must be submitted in accordance with the instructions in this Part A.

### 3.2 Contact Officer

- 3.2.1 Refer requests for information or advice regarding this RFT to:

For All Contractual and Technical Enquiries (all enquiries need to be followed up in writing)

Name: Greg Lynn  
 Phone: (02) 9372 7518  
 Fax: (02) 9372 7799  
 Email: Greg.Lynn@commerce.nsw.gov.au

- 3.2.2 Any information given to a tenderer to clarify any aspect of this RFT will also be given to all other tenderers if in the Board's opinion the information would unfairly favour the inquiring tenderer.

### 3.3 Nature of Contract

- 3.3.1 The Requirement is to be met by a Contract between the Principal and the successful tenderers on the terms and conditions of Part B. **Note: if you nominate at Part C that you comply with the Conditions of Contract (Part B), then the stated Conditions of Contract at Part B will not be subject to any negotiation should your tender be successful.**
- 3.3.2 The Contract will be for a term of three years and may be extended by two further terms, each of one-year duration. Any such extension shall be solely at the discretion of the Principal.



### 3.4 Eligibility to Tender

- 3.4.1 Tenders must be submitted by a legal entity or, if a joint Tender, by legal entities, with the capacity to contract. The Principal will only contract with the relevant legal entity or entities.
- 3.4.2 The Board may ask a tenderer to provide evidence of its legal status or capacity to contract. If Tenders from trustees are permitted this may include a copy of the relevant trust deed. Any evidence requested is to be provided within 3 working days of the request.
- 3.4.3 The Board may submit any financial information provided by the Tenderer for independent financial assessment of the Tenderer's business. If the Board judges the tenderer's financial position to be marginal, it reserves the right to make acceptance of any Tender conditional upon the tenderer entering into a bank or parent company guarantee, or an unconditional performance bond in a form satisfactory to the Board.
- 3.4.4 The Board reserves the right to reject any tender if it judges the tenderer not to have appropriate financial assets.
- 3.4.5 The Board will not enter into a contract with an organisation that does not have an Australian Business Number and is not registered for GST. Normally, tenderers must be registered for GST and state their ABN in their Tender.
- 3.4.6 Tenders from tenderers that do not have an ABN and/or are not registered for GST, such as tenderers commencing business in Australia, may be considered at the Board's discretion if the tenderer demonstrates that it will obtain an ABN and GST registration before entering into a Contract with the Principal. Such tenderers must state how and when they intend to obtain an ABN and register for GST in their Tender.
- 3.4.7 Tenders will only be considered from suitable companies/organisations who are able to demonstrate they have the resources, capability and expertise to provide the full range of services described herein. **Tenders for part services will be considered only for the provision of Auctioneer Services for Confiscated Goods (Part C2, Section1).**

## 4. PREPARATION OF TENDER - GENERAL

### 4.1 Conformity of Tenders

- 4.1.1 The Board seeks Conforming Tenders.
- 4.1.2 Tenders that do not include a fully completed Part C, in particular those Tenders, which do not contain sufficient information to permit a proper evaluation to be conducted, may be excluded from the tender process without further consideration, at the Board's discretion.
- 4.1.3 The Board will consider Alternative Tenders, provided the Alternative Tender meets the scope and functional intent expressed in the RFT. Where such Alternative Tender is proposed, a detailed description of the alternative must be submitted, stating clearly the manner in which it does not conform to the requirements of the RFT.
- 4.1.4 The Board may assess an Alternative Tender against the selection criteria.
- 4.1.5 An Alternative Tender must be clearly marked "Alternative Tender".
- 4.1.6 The Board expressly reserves the right to accept, in its discretion, either or both of the following:
  - (a) Any Alternative Tender or part of an Alternative Tender, which meets the scope and functional intent expressed in the RFT, and
  - (b) Any other Non-Conforming Tender or part of a Non-Conforming Tender that, in the Board's opinion, is substantially a Conforming Tender.

## **4.2 General Instructions for Completion of Tenders**

- 4.2.1 Prices, responses and other information provided in the Tender are to be in writing and in English.
- 4.2.2 Tenderers must initial and date any alterations to, and deletions from, a hard copy Tender.
- 4.2.3 Tenderers must complete ALL of Part C of this RFT, as directed.
- 4.2.4 Tenderers should notify the Contact Officer in writing on or before the Closing Date and Time if they find any discrepancy, error or omission in this RFT.
- 4.2.5 A Tenderer must satisfy itself that the Tender, including the Tender Price is correct and that it is financially and practically viable for it to enter into and perform the proposed Contract.

## **4.3 Addenda to this RFT Before Close of Tenders**

- 4.3.1 A tenderer may ask the Contact Officer for clarification of anything in the RFT before the Closing Date and Time. The Board may issue any instruction resulting from such request in writing to all tenderers in the form of an Addendum.
- 4.3.2 If for any other reason the Board requires the RFT to be amended an Addendum will be issued.
- 4.3.3 In each case, an Addendum becomes part of the RFT.
- 4.3.4 It is the obligation of the tenderer to verify if any addenda were issued prior to closing date, even if a tender has already been submitted. They must obtain a copy of all addenda and confirm in Part C that all addenda have been obtained and taken into consideration.

## **4.4 Pre-Tender Briefing**

- 4.4.1 A pre-Tender briefing will be held on the date, and at the time and location listed below. An officer of State Procurement will be available at that time to answer any queries regarding this RFT and the tender process generally.

Date: Monday, 31 July 2006  
Time: 10.00 a.m.  
Location: Ground level (3<sup>rd</sup> floor)  
Sydney Police Centre  
151 Goulburn Street  
SYDNEY NSW

- 4.4.2 Please register your intention to attend the briefing by contacting Ms Kamalini Jayasundara (email to [jaya1kam@police.nsw.gov.au](mailto:jaya1kam@police.nsw.gov.au)), no later than 5.00 pm on Thursday, 27<sup>th</sup> July 2006.

## **5. PREPARATION OF TENDER - PRICE SCHEDULE AND PROJECT PLAN**

### **5.1 Fee Schedule**

5.1.1 Tenderers must complete the Fee Schedule at Part C1.

### **5.2 Calculating the Tender Price**

#### **5.2.1 General**

5.2.1.1 The Tender Price must:

- (a) be in Australian dollars;
- (b) cover all costs of performing the Contract;
- (c) include Goods and Services Tax if it is payable and all other applicable taxes, duties and charges at the rates applicable at the Closing Date and Time for Tenders; and
- (d) include all costs associated with the preparation and submission of the Tender.

### **5.3 Price Basis**

#### **5.3.1 Price Basis: Auctioneer Services**

5.3.1.1 The tendered percentage fee rate(s) for the provision of all types of Auctioneer Services covered by this Request for Tender shall remain firm throughout the term of the Contract including any optional extensions to the term of the Contract.

#### **5.3.2 Price Basis: all other services**

5.3.2.1 The tendered (dollar) rate(s) for the provision of all other services shall remain firm throughout the term of the contract including any optional extensions to the term of the contract.

### **5.4 GST Free or Input Taxed Supplies**

5.4.1 Tenderers must identify and state the value of any GST Free or Input Taxed Supplies to be made under the Contract.

### **5.5 Not Used**

### **5.6 Minimum Tender Validity Period**

5.6.1 Tenders must remain open for acceptance for a period of at least six months from the Closing Date and Time for Tenders. Tenderers must state in Part C if their Tenders will remain open for any longer period.

## **6. PREPARATION OF TENDER – POLICY REQUIREMENTS**

### **6.1 Procurement Policy – introduction**

6.1.1 Tenderers should read the main policy document listed below. Other relevant policies and particular policy objectives to be implemented through this procurement are drawn to tenderers' attention in this cl.6. Their requirements are reflected in the selection criteria listed in cl.8.2 and in the responses required from tenderers in Part C.

- (a) NSW Government Procurement: Policy  
<http://www.treasury.nsw.gov.au/pubs/tpp2004/tpp04-1.pdf>

### **6.2 Code of Practice for Procurement**

6.2.1 Tenderers must comply with the NSW Government Code of Practice for Procurement, which is available at:

[http://www.treasury.nsw.gov.au/procurement/pdf/code\\_of\\_prac-curr.pdf](http://www.treasury.nsw.gov.au/procurement/pdf/code_of_prac-curr.pdf)

- 6.2.2 Lodgement of a tender will itself be an acknowledgement and representation by the tenderer that it is aware of the requirements of the Code, that the tenderer will comply with the Code and that the tenderer agrees to provide periodic evidence of compliance with the Code and access to all relevant information to demonstrate compliance for the duration of any agreement that may be awarded.
- 6.2.3 If a tenderer has failed to comply with the Code, this failure will be taken into account by the Board when considering its tender or any subsequent tender and may result in this or any subsequent tender being passed over without prejudice to any other rights or action or remedies available to the Board.

### **6.3 Occupational Health Safety & Rehabilitation**

- 6.3.1 Tenderers must comply with the following OHS&R requirements in the performance of any contract awarded:
- (a) The *Occupational Health and Safety Act 2000* (NSW) and any regulation made under this Act, including the OHS Regulation 2001, and
  - (b) Codes of Practice, approved and issued pursuant to the above Act and or regulations made under the Act
- 6.3.2 Tenderers must ensure that the tenderer's Sub-Contractors will comply with the OHS&R requirements listed in clause 6.3.1 in the performance of any contract awarded.
- 6.3.3 Tenderers must indicate in Part C, compliance with OHS&R requirements, including any specific requirements in clause 16 Compliance with Laws of Part B.

### **6.4 Environmental Management**

- 6.4.1 The NSW Government seeks to promote ecologically sustainable development through procurement. The Tenderer is required in Part C to highlight how the provision of the Services would promote this object if its Tender is accepted.

### **6.5 Not Used**

### **6.6 Economic Development Through Government Procurement**

- 6.6.1 Economic development is a key policy objective in all government procurement. This objective may incorporate policies regarding:
- (a) the giving of purchasing preferences to Deliverables of Australian and New Zealand origin;
  - (b) local industry participation, and;
  - (c) Small to Medium Enterprise (SME) involvement, employment and workforce development.
- 6.6.2 Policies of particular relevance to this procurement are drawn to tenderers' attention in this Part. Further details are to be found in the NSW Government Procurement Policy and from sources identified in this clause.
- 6.6.3 Tenderers are encouraged to take up the services offered by the Industry Capability Network (NSW) Ltd (ICN) to assist in maximising the local content of Tenders. The ICN is a business advisory service, managed by industry and funded by the NSW Government, primarily to

assist business and buying organisations to source their requirements from local producers who can provide goods, equipment and services against imports. The ICN provides a free service of identifying the supply capabilities of Australian manufacturers and import replacement. The ICN also assists in the preparation of Local Industry Participation Plans. Contact details are given below.

ICN (NSW) Ltd  
Suite 313 Henry Lawson Business Centre  
Birkenhead Point  
Drummoyne NSW 2047

Phone: 02 9819 7200  
Fax: 02 9181 3321  
E-mail: [enquiry@icnsw.org.au](mailto:enquiry@icnsw.org.au)  
Website address: [www.icnsw.org.au](http://www.icnsw.org.au)

- 6.6.4 The Board makes no representation or promise in relation to the suitability or otherwise of any advice or assistance offered by the ICN or its compliance with the Board's requirements.

**6.7 Not Used**

**6.8 Not Used**

**6.9 Not Used**

**6.10 Not Used**

**6.11 Not Used**

**6.12 Not Used**

**6.13 Not Used**

**6.14 Not Used**

**6.15 Not Used**

**6.16 Not Used**

**6.17 Not Used**

**6.18 Competitive Neutrality**

- 6.18.1 In this RFT, a reference to “**Government Businesses**” means in general, entities which: a) have some form of public sector ownership; b) are engaged in trading goods and/or services; c) have a large measure of self sufficiency; and d) are subject to Executive control. In this context, the term Government business includes Public Trading Enterprises, State Owned Corporations and General Government Businesses.

- 6.18.2 The objective of NSW Government Policy on the application of competitive neutrality is to ensure that Government Businesses, whether they are Commonwealth, State or Local, do not have any net advantage over their competitors as a result of their public sector ownership. It requires that comparisons between public and private sector bids be made on a similar basis. It means, amongst other things, that in-house bids should reflect adjustments that offset the effects of taxation exemptions, where it is feasible to do so, and be accurately costed.

- 6.18.3 A tenderer who is a Government Business is referred to the NSW Government Policy Statement on the Application of Competitive Neutrality, January 2002, available from the Cabinet Office at Level 37, Governor Macquarie Tower, 1 Farrer Place, Sydney 2000.

- 6.18.4 The principal or other appropriate senior officer of a tenderer who constitutes Government Business is required to affirm, in Part C, that the tenderer complies with this policy.

**6.19 Not Used**

**6.20 Not Used**

**6.21 Not Used**

## **7. SUBMISSION OF TENDERS**

### **7.1 General Instructions for Submission of Tenders**

- 7.1.1 A Tender must be received by the Closing Date and Time.

- 7.1.2 A Tender may be submitted by any of the following methods:

- (a) by delivery into the Tender Box:

It must be marked:

Tender Box – RFT 0601335  
NSW Department of Commerce  
Level 3, McKell Building (Ground Floor)  
2-24 Rawson Place  
Sydney, NSW 2000

- (c) by facsimile to (02) 9372 8974;

- (d) by electronic lodgement through the NSW Department of Commerce eTendering website at <https://tenders.nsw.gov.au/commerce/>

- 7.1.3 A tenderer must not change pre-existing text in the RFT other than to insert the required information.

- 7.1.4 If a tenderer intends to submit electronically through the NSW Department of Commerce eTendering website, the tenderer must follow the instructions contained in the “Tenderer’s Guide to Using eTenders” and “How to lodge a Response” found in the downloadable version of the RFT at <https://tenders.nsw.gov.au/commerce/>.

- 7.1.5 If a tenderer intends to submit electronically through the NSW Department of Commerce *eTendering website* or by facsimile, the following must be considered:

- (a) The facsimile machine and NSW Department of Commerce *eTendering website* are at peak use on the morning when Tenders close.

- 1) Due to the limitations of these means of communication it may take longer to lodge a Tender near Closing Date and Time than at other times.
- 2) When lodging by facsimile or through the NSW Department of Commerce *eTendering website*, it is recommended that a Tender be lodged well in advance of the Closing Date and Time.
- 3) A tenderer must determine whether lodgement of a Tender by facsimile or through the NSW Department of Commerce *eTendering website* is appropriate.

- (b) The facsimile machine and the NSW Department of Commerce *eTendering website* may experience difficulties in accepting a large Tender. A tender lodged via the NSW Department of Commerce *eTendering website* should ideally be below 7 megabytes

(MB) in total file size. Responses totalling more than 7MB may experience difficulties in lodgement. A tenderer is referred to the instructions contained in "How to lodge a Response" found in the downloadable version of the RFT at <https://tenders.nsw.gov.au/commerce/>, as to compressing electronically submitted Tenders.

- 1) In order to comply with the above paragraph, an electronic Tender may be supported by documents in hard copy or on CD-ROM.
- 2) Supporting documents, to be submitted in hard copy or on CD-ROM, may be specified as requirement throughout the RFT. Supporting documents may include, but are not limited to, statutory declarations, certificates, and company brochures.
- 3) If submitting an electronic tender with supporting documents:
  - (a) The complete Tender, including the supporting documents, must be submitted by Closing Date and Time, and
  - (b) Supporting documents should be clearly designated as "Supporting Documents to RFT 0601335."

- 7.1.6 A tenderer is strongly encouraged, although not required, to lodge its Tender electronically through the Department of Commerce *eTendering website*. A tender submitted electronically will be treated in accordance with the *Electronic Transactions Act 2000 (NSW)*, and given no lesser level of confidentiality, probity and attention than Tenders lodged by other means.
- 7.1.7 A tenderer, by electronically lodging a Tender, is taken to have accepted conditions shown on the Department of Commerce *eTendering website*.
- 7.1.8 An electronically lodged tender must be lodged in a file format which can be read, formatted, displayed and printed by Microsoft Word 97, or any format required by the RFT. Any CAD files submitted with an electronically lodged Tender must be in DWF, DWG or DXF format. A tenderer must ensure that any CAD files submitted will correctly display and print in Micro station Version 4.
- 7.1.9. Signatures are not required for a Tender submitted to the Department of Commerce *eTendering website*. A tenderer, however, must ensure that an electronically lodged Tender is authorised by the person or persons who may do so on behalf of the Tenderer and appropriately identify the person and indicate the person's approval of the information communicated.
- 7.1.10 If a tenderer experiences any persistent difficulty with the Department of Commerce *eTendering website* in submitting a Tender or otherwise, it is encouraged to advise the Contact Officer, and to note there are usually alternative Tender lodgement methods described in the RFT.

## **7.2 Late Tenders**

- 7.2.1 Late Tenders will not be considered except when the Board is satisfied that the integrity and competitiveness of the tendering process will not be compromised.

## **7.3 Extension of the Closing Date and Time**

- 7.3.1 The Board may, in its discretion, extend the Closing Date and Time.

# **8. EVALUATION OF TENDERS**

## **8.1 General**

- 8.1.1 Tenders will be assessed against the selection criteria listed below, which are not necessarily exhaustive, in order of significance or to be given equal weight.
- 8.1.2.1 Offers for the different types of Auctioneer Services shall be assessed separately.
- 8.1.2.2 The selection criteria for this Request for Tender for Auctioneer Services for Confiscated Goods that do not relate to price will account for 40% of the total evaluation score. The selection criteria for this Request for Tender that relate to price will account for 60% of the total evaluation score. (See 8.2.1.1 below.)
- 8.1.2.3 The selection criteria for this Request for Tender for Auctioneer Services for General and Special Auctions that do not relate to price will account for 60% of the total evaluation score. The selection criteria for this Request for Tender that relate to price will account for 40% of the total evaluation score. (See 8.2.1.2 below.)
- 8.1.3 Information supplied by the tenderer in Part C will contribute to the assessment against each criterion. Tenderers are advised to respond clearly to all the selection criteria listed in this RFT.
- 8.1.4 As part of the evaluation process, tenderers may be called upon at their own expense to make a presentation of their proposal to the evaluation committee.
- 8.1.5 Tenderers shall note that their premises and facilities may be inspected during the tender evaluation phase. Reasonable notice will be provided to tenderers of any proposed inspection. Inspections will be carried out between the hours of 9:00 am to 5:00 pm Monday to Friday.
- 8.1.6 At the Board's discretion any omitted detail or variation and/or qualification of any requirement may be either evaluated and/or scored in accordance with the tenderers statement (or lack thereof) or clarified by the Board as to the intention of the tenderer.

## 8.2 Selection Criteria

- 8.2.1.1 The selection criteria to be used in the evaluation of tenders for **Auctioneer Services for Confiscated Goods and other Obsolete/Surplus Items** (Specification at Part C2, Section 1) are as follow:
- (a) the tenderer's ability to provide a good financial return to the Principal, measured by but not limited to reference to location and quality of the tenderer's place of auction, ability to auction higher value items on-line (see 8.2.3 below), presentation of the lots, quality of the tenderer's catalogues, marketing and advertising;
  - (b) the tenderer's compliance with the probity and security requirements of the Principal;
  - (c) the tenderer's capacity and ability to provide appropriate, skilled personnel;
  - (d) the tenderer's demonstrated expertise and experience in the successful delivery of similar auction services;
  - (e) the tenderer's degree of compliance with the Specifications in Part C2, Section 1;
  - (f) the tenderer's degree of compliance with the Conditions of Contract in Part B;
  - (g) the tenderer's financial capacity and stability;
  - (h) the quality of the tenderer's referee reports;
  - (i) the tenderer's membership of at least the Auctioneers and Valuers Association of Australia (Inc);
  - (j) the tenderer's compliance with the relevant NSW Government procurement policy;
  - (k) the number and quality of the tenderer's storage facilities and places of auction for the class(es) tendered;
  - (l) the ability to take possession of items within a short time (to be specified) after notification;
  - (m) the frequency of auctions for a class;
  - (n) the estimated annual cost of the services to the Principal; and



- (o) the level of the Buyer's Premium.

8.2.1.2 The selection criteria to be used in the evaluation of tenders for **Auctioneer Services for General and Special Auctions including Obsolete/Surplus Items** (Specification at Part C2, Section 2) are as follow:

- (a) the tenderer's ability to provide a good financial return to the Principal, measured by but not limited to reference to location and quality of the tenderer's place of auction, ability to auction higher value items on-line (see 8.2.3 below), presentation of the lots, quality of the tenderer's catalogues, marketing and advertising;
- (b) the tenderer's compliance with the probity and security requirements of the Principal;
- (c) the tenderer's capacity and ability to provide appropriate, skilled personnel;
- (d) the tenderer's demonstrated expertise and experience in the successful delivery of similar auction services;
- (e) the tenderer's degree of compliance with the Specifications in Part C2, Section 2;
- (f) the tenderer's degree of compliance with the Conditions of Contract in Part B;
- (g) the tenderer's financial capacity and stability;
- (h) the quality of the tenderer's referee reports;
- (i) the tenderer's membership of at least the Auctioneers and Valuers Association of Australia (Inc);
- (j) the tenderer's compliance with the relevant NSW Government procurement policy;
- (k) the tenderer's ownership or possession of a place of auction (with appropriate storage) in Sydney Metropolitan Area;
- (l) the tenderer's ability to conduct Special Auctions within two weeks of receiving notice from the Principal;
- (m) the estimated annual cost of the services to the Principal; and
- (n) the level of the Buyer's Premium.

8.2.2 The criteria listed at 8.2.1.1 and 8.2.1.2 are not in any particular order and are not necessarily exhaustive or to be given equal weight.

8.2.3 Tenderers are also encouraged to offer online auction services as an adjunct to auctioneer services as specified Part C2, Section 1.

### **8.3 Variation of Tenders**

8.3.1 At any time before the Board accepts any Tender received in response to this RFT, a tenderer may vary its Tender:

- (a) by providing the Board with further information by way of explanation or clarification ("provide an explanation");
- (b) by correcting a mistake or anomaly ("correct a mistake"), or
- (c) by documenting agreed changes to the Tender negotiated under this Part A.

8.3.2 Such a variation may be made either:

- (a) at the request of the Board, or
- (b) with the consent of the Board at the request of the tenderer

but only if,

- (c) in the case of variation requested by the tenderer to provide an explanation or correct a mistake, it appears to the Board reasonable in the circumstances to allow the tenderer to provide the explanation or correct the mistake or anomaly, or

- (d) in the case of variation to document agreed changes, the Board has confirmed that the draft documented changes reflect what has been agreed.
- 8.3.3 If a Tender is varied to provide an explanation or correct a mistake, the Board will provide all other tenderers whose Tenders have similar characteristics with the opportunity of varying their Tenders in a similar way.
- 8.3.4 A variation of a Tender will not be permitted if in the Board's view:
- (a) it would substantially alter the original Tender; or
  - (b) in the case of variation to provide an explanation or correct a mistake, it would result in the revising or expanding of a Tender in a way, which would give a tenderer an unfair advantage over other tenderers.

#### **8.4 Exchange of Information Between Government Agencies**

- 8.4.1. By tendering for this Contract, the tenderer authorises the Board to collect, or exchange with other public bodies, information and opinions about the tenderer's performance or financial position (that may identify the tenderer by name) for any purpose related to the performance by the tenderer of NSW public sector contracts. In particular, any such information and opinions about the tenderer may be used in considering whether to offer the tenderer opportunities for NSW public sector work.
- 8.4.2 The tenderer agrees that it will make no claim against the State, the Board, the Principal, or any other NSW public body in respect of information or opinions about the tenderer collected, exchanged and used for the above-stated purposes. The tenderer may have rights under the *Freedom of Information Act 1989* to access, and to require the correction of, information held by certain agencies.
- 8.4.3 The tenderer agrees that information which may be collected, exchanged and used in accordance with this provision includes "personal information" about the tenderer for the purposes of the Privacy and Personal Information Protection Act 1998. Lodgement of a Tender will be an authorisation by the tenderer to the Board to collect such information from third parties in accordance with this clause.

#### **8.5 Corrupt or Unethical Conduct**

- 8.5.1 If a tenderer, or any of its officers, employees, agents or sub-contractors is found to have:
- (a) offered any inducement or reward to any public servant or employee, agent or sub-contractor of the Board, the Client Agency, or the NSW Government in connection with this RFT or the submitted Tender;
  - (b) engaged in corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988*, or
  - (c) a record (including through an agency report) of unethical behaviour,
- this may result in the Tender not receiving further consideration.
- 8.5.2 The Board is under no obligation to do so, but may in its discretion invite a relevant tenderer to provide written comments within a specified time before the Board excludes the tenderer on this basis.

### **9. OUTCOMES**

#### **9.1 Negotiations Before Determination of Outcome**

9.1.1 Before making any determination as to acceptance or rejection of Tenders the Board may, at its discretion, elect to conduct limited negotiation with preferred tenderers or a preferred tenderer, including those who have submitted Alternative Tenders or who have submitted substantially Conforming Tenders, to mutually improve outcomes.

9.1.2 The Board will generally not enter into negotiations on the standard conditions of contract contained in Part B.

## **9.2 Acceptance or Rejection of Tenders**

9.2.1 The Board may accept all or any part or parts of any Tender or Tenders, including, in accordance with this Part A, any Alternative Tender or other Non-Conforming Tender.

9.2.2 The Board is not bound to accept the lowest or any Tender.

9.2.3 If the Board rejects all the Tenders received it may:

(a) invite fresh Tenders based on the same or different criteria (specifications and details contained in Alternative Tenders will not be used as the basis for the calling of new Tenders), or

(b) conduct post-tender negotiations in accordance with this Part A.

9.2.4 The Board will accept a Tender by letter of acceptance or by execution of a formal contract, at the Board's discretion. No Tender may be verbally accepted.

## **9.3 Discontinuance of the Tender Process**

9.3.1 The Board reserves the right to discontinue the tender process at any point, without making a determination regarding acceptance or rejection of Tenders.

9.3.2 The Board will not be liable for any losses suffered by a tenderer as a result of discontinuance of the tender process, including costs of tendering.

## **9.4 Post Tender Negotiations in the Event all Tenders Are Rejected**

9.4.1 If there are no acceptable Tenders the Board may negotiate with the tenderers which are closest to conforming with the tender requirements and provide best value for money.

## **9.5 Complaints**

9.5.1 It is the NSW Government's objective to ensure that industry is given every opportunity to win Government contracts. Should any entity feel that it has been unfairly excluded from tendering or unfairly disadvantaged by the Conditions in Part B or the Requirement, it is invited to write to:

Chairman, State Contracts Control Board  
Level 22, McKell Building  
2-24 Rawson Place  
SYDNEY NSW 2000

## **9.6 Disclosure of Information Concerning Successful and Unsuccessful Tenders**

9.6.1 In accordance with NSW Government Policy, the Board may publish information relating to the contract awarded under the RFT, including the identity of the successful tenderer, the price payable by the agency and the significant selection criteria used in Tender assessment plus their weightings.

- 9.6.2 Unless the successful tenderer agrees or release is legally required, the Board will not disclose the successful tenderer's financing arrangements, cost structure or profit margins, significant intellectual property or any other information that in the Board's view would put the successful tenderer at a substantial commercial disadvantage.
- 9.6.3 A tenderer may request that the Board not disclose particular information included in its Tender, giving reasons. The Board will consider any such request before disclosure of information under this clause, but the Board's decision is final and at its absolute discretion.
- 9.6.4 The Board may publish the identities of all tenderers, but will not disclose other information included in an unsuccessful Tender unless the tenderer agrees, or release is determined under the *Freedom of Information Act 1989* or is otherwise legally required.
- 9.6.5 For contracts valued over \$100,000, the Board will normally publish the names of tenderers when Tenders close, and the other public information about the contract on the internet, within 60 days after award of the contract. For other contracts the Board will disclose the public information on request.

## **9.7 Ownership of Tenders**

- 9.7.1 All Tenders become the property of the Board on submission.
- 9.7.2 The Board may make copies of the Tenders for any purpose related to this RFT.



State Procurement is a Business Unit of the NSW Department of Commerce

State Procurement invites this tender for and on behalf of, the  
NSW Government State Contracts Control Board

## PART B – CONDITIONS OF CONTRACT

**Contract No. 0601335**

**Provision of Auctioneer Services for the Disposal of  
Confiscated Goods, Unclaimed Public Property,  
Expired Court Exhibits and other Obsolete Items on  
behalf of NSW Police**

**PERIOD: 3 years from Date of Acceptance  
Plus 2 x 1-year extension options**

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## Part B – Conditions of Contract

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## **PART B CONDITIONS OF CONTRACT**

### **1. INTERPRETATION**

#### **1.1 Definitions**

**“Circumstances Beyond the Control of the Contractor”** include:

- (a) acts of God;
- (b) fire, flood, or earthquake;
- (c) national emergency or war; or
- (d) a serious industrial dispute

**“Confidential Information”** means, in relation to a Party, information that:

- (a) is by its nature confidential;
- (b) is designated by that Party as confidential; or
- (c) the other Party knows or ought to know is confidential.

**“Contract”** means this Contract concluded between the Principal and the Contractor, including all special conditions, specifications, schedules and other documentation incorporated with and forming part of the Contract.

**“Contract Material”** means:

- (a) any material brought into existence as part of, or for the purpose of providing the Deliverables including records, documents and Information stored by any means (“New Contract Material”);
- (b) any material which is existing at the date of this Contract and which is incorporated with the New Contract Material (“Existing Contract Material”).

**“Contractor”** means the organisation or individual who by the contract undertakes to provide the Deliverables required by the Contract and, where the contractor is an individual or partnership, the expression shall include the personal representatives of that individual or of the partners as the case may be and the expression shall also include any person to whom the benefit may be assigned by the Contractor with the consent of the Principal.

**“Contractor’s Insolvency”** means any of the following:

- (a) insolvency;
- (b) the Contractor indicates that it does not have the resources to perform the Contract or any Contract;
- (c) an application for winding up is made and not stayed within 14 days;
- (d) a winding up order is made;
- (e) a controller, administrator, receiver and manager, provisional liquidator or liquidator is appointed;
- (f) a mortgagee enters the possession of any property of the Contractor;
- (g) notice is given of a meeting of creditors for the purposes of a deed of arrangement; or
- (h) any actions of a similar effect are taken.

**“Date of Acceptance”** means the date on which there is a formal agreement to accept a tender.



**“Delegate”** means the NSW Commissioner of Police and his or her authorised representative.

**“Deliverables”** means the services to be supplied by the Contractor in accordance with this Contract and itemised in the Auction Fee Schedule and Specification Schedule.

**“Information”** includes information in the form of data, text or images.

**“Intellectual Property”** includes copyright, patent, trademark, design, semi-conductor or circuit layout rights, trade, business or company names, or other proprietary rights, or any rights to registration of such rights existing in Australia, whether created before or after the date of this Contract.

**“Parties”**, means the Principal and the Contractor.

**“Period Contract”** means the standing offer constituted by the acceptance of the Contractor’s tender for the term set out in the Tender Request;

**“Principal”** means the NSW Police for and on behalf of the Crown in right of the State of New South Wales who will be a party to the Contract.

**“Principal’s Material”** means any material, document, or Information supplied by the Principal, or any department or agency of the Crown, to the Contractor by whatever means.

**“Public Service”** has the same meaning as that given to it in the *Public Sector Management Act 1988* (NSW).

**“Schedule”** means any schedule to this Contract.

**“Specification”** means the detailed description of the Services to be provided under this Contract. In the event of any inconsistency between the Specification and any part of this Contract, this Contract will prevail to the extent of the inconsistency.

**“State of New South Wales”** means the Crown in right of the State of New South Wales.

**“Statutory Requirements”** means the laws relating to the performance of this Contract or the lawful requirements of any authority with respect to the performance of this Contract.

**“Sub-Contractor”** means a person who furnishes Supplies to the Contractor either directly or through another Sub-Contractor for use under the Contract;

**“Substantial Breach”** means a substantial breach of a term of this Contract by the Contractor and includes, but not limited to, any breach of the following clauses (which will be taken in each case to be a substantial breach of this Contract):

- (a) clause 13 (Conflict of Interest),
- (b) clause 15 (Insurance),
- (c) clause 16 (General Indemnity)
- (d) clause 20 (Licences and Approvals),
- (e) clause 29 (Confidentiality),
- (f) clause 33 (No Assignment or Novation)

**“Term”** means the period of this Contract, set out in clause 3.

## **1.2 Rules for interpreting this Contract**

- 1.2.1 Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- 1.2.2 A reference to:
- (a) legislation (including subordinate legislation) is a reference to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (b) a document or Contract, or a provision of a document or Contract, is a reference to that document, Contract or provision as amended, supplemented, replaced or novated;
  - (c) a person includes any type of entity or body of persons whether or not it is incorporated or has a separate legal entity;
  - (d) anything (including a right, obligation or concept) includes each part of it.
- 1.2.3 If this Contract expressly or impliedly binds more than one person then it shall bind each such person separately and all such persons jointly.
- 1.2.4 A singular word includes the plural, and vice versa.
- 1.2.5 A word which suggests one gender includes the other genders.
- 1.2.6 If a word is defined, another part of speech of that word has a corresponding meaning.
- 1.2.7 The Parties may undertake business by the electronic exchange of information and the provisions of this Contract will be interpreted to give effect to undertaking business in this manner.

## **2. NATURE OF THE CONTRACT BETWEEN PRINCIPAL AND CONTRACTOR**

- 2.1 This Contract covers the provision of auctioneer services on behalf of NSW Police (the Principal).
- 2.2 This Contract constitutes the entire Contract between the Parties. Any prior arrangements, Contracts, representations or undertakings are superseded. No notification or alteration of any clause of this Contract will be valid except in writing signed by both Parties.
- 2.3 The Contractor acknowledges that the Contract constitutes a standing offer for the supply of only such Service or Services as may be required from time to time during the currency of the Contract and that the Principal shall not be bound expressly or implied to order from the Contractor any quantity of Service or Services during the period of the Contract.

## **3. TERM**

- 3.1 This Contract will commence on the Date of Acceptance and will continue for a period of three years unless sooner determined in accordance with this Contract.
- 3.2 The Principal may, with thirty days notice being conveyed, extend this Contract by two further periods, each of one- year duration.

**4. CONTRACTOR'S REPRESENTATIVE**

- 4.1 The Contractor shall nominate a responsible person to liaise directly with the Principal in all matters relating to the Contract.

**5. RESPONSIBILITY OF THE CONTRACTOR**

- 5.1 The Contractor shall establish immediately, at no additional cost to the Principal, all necessary facilities for the effective conduct and management of all aspects of the Contract.
- 5.2 The Contractor shall, at all times during the term of the Contract or any extension thereto, be and remain a member of the NSW Auctioneers and Agents Association.

**6. PERFORMANCE OF WORK**

- 6.1 The work under this Contract shall be executed in accordance with the terms and conditions detailed herein and the Contractor shall carry out and perform the work in a thoroughly sound and competent manner, to the reasonable satisfaction of the Principal and in accordance with its general directions.
- 6.2 For the purposes of this clause, the word "direction" includes any agreement, approval, authorisation, certificate, decision, demand, determination, direction, explanation, instruction, notice, notification, order, permission, rejection, request or requirement which the Principal may make, give or issue pursuant to the provisions of the Contract.

**7. RIGHT TO OBTAIN SERVICES ELSEWHERE**

- 7.1 If, in the Principal's opinion, any Service/s required cannot be promptly or conveniently obtained under the Contract, it shall be lawful for the Principal to make, or authorise the making of, special arrangements for the provision of such Service/s and the Contract shall not be considered as infringed or vitiated thereby.
- 7.2 If Service of the kind contracted to be supplied under the Contract is provided in any government establishment or institution, they may be obtained from that establishment or institution instead of under the Contract and the Contract shall not be considered as infringed or vitiated thereby.

**8. FEE BASIS**

- 8.1 The percentage fee rate(s) for the provision of all types of Auctioneer Services covered by this Request for Tender shall remain firm throughout the term of the Contract including any optional extensions to the term of the Contract.
- 8.2 The (dollar) rate(s) for the provision of all other services shall remain firm throughout the term of the term of the Contract including any optional extensions to the term of the contract.

## 9. GOODS AND SERVICES TAX

- 9.1 In this clause and Contract:
- 9.1.1 “**Consideration**”, “**Tax Invoice**”, “**Taxable Supply**” and “**Supply**” have the same meaning as provided for in the GST Law.
- 9.1.2 “**GST**” is a goods and services tax and has the same meaning as in the GST Law.
- 9.1.3 “**GST Law**” means any law imposing a GST and includes *A New Tax System (Goods & Services Tax) Act 1999* (Cth) or if that Act does not exist, means any Act imposing, or relating, to a GST and any regulation based on those Acts.
- 9.1.4 Every invoice issued by a person making a Supply must be in the form of, or be accompanied by, a valid Tax Invoice. No amount is payable until a valid Tax Invoice for the Contract Price, or any instalment of the Contract Price, is received.
- 9.1.5 If there is any abolition or reduction of any tax, duty, excise or statutory charge associated with the GST, or any change in the GST, the Consideration payable for the Supply must be varied so that the Contractor’s net dollar margin for the Supply remains the same.
- 9.1.6 Any contract entered into by a Party to this Contract with a third party which involves a Supply being made, the cost of which will affect the cost of any Supply made under or in connection with this Contract, must include a clause in equivalent terms to clause 3.9.3.

## 10. GOVERNMENT TAXES, DUTIES AND CHARGES

- 10.1 All taxes, duties and charges imposed or levied in Australia or overseas in connection with the performance of the Contract shall be borne by the Contractor.

## 11. NO WARRANTY GIVEN AS TO QUALITY OF GOODS

- 11.1 No warranty is given as to the quality of the Items offered for auction or as to its fitness for any particular purpose and notwithstanding any representation made in respect of those Items offered for auction, it is provided as and where it lies, with all faults and with all errors or mis-statements of description, measurement, quality or otherwise, whether of a substantial nature or not and the Contractor shall have no claim against the Principal in respect of any such faults, errors or mis-statements.

## 12. REMITTANCE OF SALE PROCEEDS: AUCTIONEER SERVICES

- 12.1 Auctioneer fees calculated at the rate agreed and contained in the Fee Schedule, and any other costs that maybe agreed to between the parties, are to be deducted by the Contractor from total proceeds received from each auction.
- 12.2 All remaining proceeds from each auction shall be forwarded by the Contractor to the Principal by cheque or electronic funds transfer within 14 days of the date of the auction.
- 12.3 The Contractor’s additional expenses**
- 12.3.1 The Principal will only reimburse the Contractor any reasonable costs, expenses, or charges incurred by the Contractor and not provided for in the Contract where the Contractor has first obtained the Principal’s written approval.

**13. CONFLICT OF INTEREST**

- 13.1 The Contractor promises that, to the best of its knowledge, no conflict of interest of the Contractor, its employees, agents or sub-contractors exists or is likely to arise in the performance of its obligations under the Contract.
- 13.2 The Contractor must:
- (a) notify in writing, and consult with, the Principal immediately upon becoming aware of the existence, or possibility, of a conflict of interest; and
  - (b) comply with any direction given by the Principal in relation to those circumstances designed to manage that conflict of interest.
- 13.3 For the purposes of this clause, a “conflict of interest” includes engaging in any activity, or obtaining any interest, likely to conflict with the performance by the Contractor of, or to restrict the Contractor in performing, its obligations under the Contract.
- 13.4 The Principal may terminate the Contract in accordance with clause 33.1 if in its view a conflict of interest exists which prevents the proper performance of the Contract.

**14. MISTAKES IN INFORMATION**

- 14.1 The Contractor must pay for the extra costs (if any) occasioned by errors or omissions in material or other Information supplied by it, even though that material or Information may have been approved by the Principal.

**15. MINIMUM INSURANCE REQUIREMENTS**

- 15.1 The contractor must hold and maintain the following insurances for the Term, or for such other period as may be specifically required by this Contract for the particular policy:
- (a) a public liability policy of insurance to the value of at least \$10 million in respect of each claim,
  - (b) workers’ compensation insurance in accordance with applicable legislation for all the Contractor’s employees; and
  - (c) contents insurance to cover items to be sold on behalf of the Principal while on the Contractors premises to the value of \$1 million.
- 15.2 The Contractor must obtain the approval of the Principal for all insurers and policies.
- 15.3 The Contractor must ensure that each policy is in effect for the Term of this Contract or such other period as required by the Principal.
- 15.4 All policies must:
- (a) include the Principal and any sub-contractor as a joint insured under the policy for the purposes of this Contract. A reference to the Principal in the policy must be taken to include a reference to any Customer; (This clause does not apply to Worker’s Compensation Insurance policies.)
  - (b) require the insurer to notify the Principal at the same time as the insurer gives any notice concerning the policy, and at least seven days before any proposed cancellation of a policy;

- (c) provide that a notice of claim given to the insurer by the Principal, the Contractor or the sub-contractor will be accepted by the insurer as a notice of claim given by all of the insured; and
  - (d) contain a cross-liability clause in which 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.
- 15.5 The Contractor must, when requested in writing by the Principal, supply proof that all insurance policies required by this Contract are current.
- 15.6 The Contractor must, when requested in writing by the Principal, arrange for its insurer to complete a "Confirmation of Insurances Obtained" form, and on-send this to the Principal within 30 days of this request. An example of this form is shown below at clause 15.9
- 15.7 If the Contractor fails to comply with clauses 15.1, 15.5 and 15.6, the Principal:
  - (a) may effect and maintain that insurance and pay the necessary premiums; and
  - (b) may recover from the Contractor the cost of the premiums and the Principal's reasonable costs of effecting and maintaining the insurance.
- 15.8 The effecting of insurance shall not limit the liabilities or obligations of the Contractor under other provisions of this Contract.

## **16. GENERAL INDEMNITY**

- 16.1 The Contractor will be liable in respect of, and indemnifies, and shall keep indemnified, the Principal and its officers, employees and agents against any claim, loss or expense (including a claim, loss or expense arising out of personal injury or death or damage to property) which any of them pays, suffers, incurs or is liable for (including legal costs on a solicitor and client basis) (together "the loss") as a result of:
  - (a) any unlawful, negligent, reckless or deliberately wrongful act or omission of the Contractor (or its employees, agents or subcontractors or their employees) in the performance of this Contract; or
  - (b) any breach of this Contract or the confidentiality deeds required by this Contract.
- 16.2 The Contractor's liability in respect of, and indemnity given in, clause 16.1 shall be reduced proportionally to the extent that any unlawful, negligent, or deliberately wrongful act or omission of the Principal, its officers, employees or agents caused or contributed to the loss.

## **17. COMPLIANCE WITH LAWS**

- 17.1 The Contractor must, in carrying out this Contract, comply with all applicable Commonwealth, State and Local Government Statutory Requirements, however described. (Refer also clause 20.)

## **18. PAYMENT OF WAGES AND ALLOWANCES**

- 18.1 The Contractor shall ensure that all persons employed by it in or in connection with the Services are paid wages and allowances of every kind required to be paid by or under any relevant award, determination or order of the State or Territory in which the Services are being provided or by or under any industrial agreement that is in force in the State or Territory of the Commonwealth in which the Services are being provided and that all such persons are employed under the conditions contained in any such award, judgement, order or industrial agreement.

- 18.2 It shall be a precondition, notwithstanding any other provision of this Contract, to the obligation to pay any monies due to the Contractor that wherever requested by the Principal, the Contractor shall give the Principal a statutory declaration to the effect that no wages are due and owing by the Contractor in respect of work undertaken pursuant to this Contract.

## **19. THE CONTRACTOR'S ON-COSTS**

- 19.1 The Principal will not be liable for any of the Contractor's employee "on-costs", including wages, salaries, holiday pay or allowances, sick pay, Workers' Compensation, or any tax or levy voluntarily undertaken by or imposed (either by statute or otherwise) on the Contractor.

## **20. LICENCES AND APPROVALS**

- 20.1 The Contractor must obtain at its own cost all licences, approvals and consents necessary to perform this Contract.

## **21. KEEPING OF RECORDS AND ACCESS TO RECORDS**

- 21.1 The Contractor must keep proper accounts, records and time sheets in accordance with the accounting principles generally applied in commercial practice.
- 21.2 During the Term, the Contractor must, within a reasonable time of a request from the Principal, give the Principal access to, and copies of, any material relevant to the performance of the Contractor's obligations under this Contract, and any financial information, that the Principal reasonably requires.
- 21.3 Such information may include, but not be limited to, accounting and operating records necessary to establish that all claims for payments made by the Contractor and all moneys paid to the Contractor under the terms of this Contract are or have been properly accounted for.

## **22. ACCESS TO CONTRACTOR'S PREMISES**

- 22.1 During the Contract period, the Contractor shall at all reasonable times permit or arrange for all officers authorised by the Principal to enter upon the premises of the Contractor for the purposes of inspecting work performed pursuant to the Contract and to be given access to all documents or information necessary for the same purposes.

## **23. MONITORING OF PERFORMANCE**

- 23.1 The Contractor shall permit the Principal to monitor the provision of the Services and shall:
- (a) supply to the Principal such information with respect to the progress of the Services as may be required from time to time;
  - (b) not deny to the Principal any information reasonably required for the purposes of monitoring the provision of the Services; and
  - (c) co-operate with the Principal in any enquiry of and conferral with the Contractor, its employees and agents in relation to the provision of the Services.

23.2 The Contractor must meet with the Principal from time to time, as reasonably directed by the Principal, to evaluate and monitor performance of this Contract by the Contractor.

23.3 Nothing in this clause shall limit the Contractor's obligations under this Contract.

## **24. EXCHANGE OF INFORMATION BETWEEN GOVERNMENT AGENCIES**

24.1 The Contractor authorises the Principal and its employees and agents to make available to NSW Government departments or agencies Information concerning the Contractor, including any Information provided by the Contractor to the Principal and any Information relating to the Contractor's performance under the Contract, or the Contractor's financial position.

24.2 The Contractor acknowledges that Information about the Contractor from any source including any substantiated reports of unsatisfactory performance, may be taken into account by NSW Government agencies in considering whether or not to offer the Contractor future opportunities for NSW Government work.

24.3 The Principal regards that the provision of Information about the Contractor to any New South Wales Government department or agency as privileged within section 22 of the Defamation Act 1974 (NSW).

24.4 The Contractor releases and indemnifies the Principal and the State of New South Wales from any claim in respect of any matter arising out of the provision of Information. Without limiting the above, the Contractor releases the Principal and the State of New South Wales from any claim it may have for any loss to the Contractor arising out of the provision of Information relating to the use of such Information by the recipient of the Information.

## **25. THE CONTRACTOR'S PERSONNEL/SPECIFIED PERSONNEL**

25.1 The Contractor warrants that all personnel engaged in the provision of the Deliverables are appropriately qualified, competent and experienced.

25.2 The Contractor must employ only such persons:

- (a) as are careful, skilled and experienced in the provision of the Deliverables or similar Deliverables;
- (b) (where applicable) who hold all necessary licences, permits and authorities; and
- (c) whose standards of workmanship are entirely suitable for the supply of the Deliverables and the requirement of this Contract.

25.3 The Contractor shall ensure that no staff are engaged prior to the Contractor obtaining all clearances required under this clause.

25.4 The Contractor shall ensure that all persons for whom approval is sought to be engaged as staff complete an individual consent form "Application for Criminal Record Check" including, but not limited to, the full name, former names(s), marital status and place and date of birth.

25.5 The Contractor shall submit the completed application forms to the Delegate at least seven days prior to the engagement of persons for whom clearances are sought.

25.6 The Contractor acknowledges that the Delegate may undertake investigations, including a check of Police records, of any staff or proposed staff of the Contractor or any Sub-contractor employed.



- 25.7 The Delegate shall inform the Contractor, in writing, if it approves of the engagement of the persons who are the subject of the submission.
- 25.8 The Delegate may, without being required to give any reason, direct the Contractor, in writing, not to engage a particular person as staff for Contract purposes and the Contractor shall forthwith comply with such direction.
- 25.9 If any person engaged as staff is, in the reasonable opinion of the Delegate, guilty of misconduct relative to the Contract or otherwise is, in the reasonable opinion of the Delegate, unsuitable to be engaged as staff, the Delegate may direct the Contractor to no longer engage that person as staff for Contract purposes and the Contractor shall forthwith comply with such direction.

**26. CONTRACTOR TO ESTABLISH NECESSARY FACILITIES**

- 26.1 The Contractor must establish all facilities necessary for the proper and effective conduct and management of all its obligations under this Contract.

**27. PRIVACY AND PERSONAL INFORMATION PROTECTION.**

- 27.1 The Contractor acknowledges it is aware the Privacy and Personal Information Protection Act applies to any personal information collected, used, stored or disposed of by the contractor for the NSW Police. The Contractor warrants it has obtained legal advice about the manner in which personal information is to be handled by it in the course of the performance of its contractual obligations and agrees to establish systems which may be demonstrated and reviewed by the NSW Police or its nominee during the term of the contract and the contractor agrees to observe the information protection principles established in the Privacy and Personal Information Protection Act.
- 27.2 The Contractor acknowledges it is aware that penalties apply under the Privacy and Personal Information Protection Act for failure to comply with certain provisions of the Privacy and Personal Information Protection Act.
- 27.3 The Contractor agrees to ensure that the NSW Police and the State Contracts Control Board are able to provide access to any applicant for personal information lawfully made under the Privacy and Personal Information Protection Act for access to personal information held by the Contractor under the contract

**28. DELIVERY OF CONTRACT MATERIAL AND INFORMATION**

- 28.1 On or as soon as practicable after the end of this Contract, the Contractor must deliver, as required, to the Principal or to the any incoming contractor all materials and information relating to the contract.
- 28.2 The Contractor may in good faith keep a copy of the Contract material and information for its records provided that the provisions of the Privacy and Personal Information Protection Act are observed in so doing.

**29. CONFIDENTIALITY**

- 29.1 In this Contract “**Confidential Information**” means information that:
- (a) is by its nature confidential;
  - (b) is designated by either party as confidential; or
  - (c) a party knows or ought to know is confidential;
- but does not include information which:
- (d) is or becomes public knowledge other than by breach of this Contract;

- (e) is in the possession of a party without restriction in relation to disclosure before the date of receipt from the other party; or
- (f) has been independently developed or acquired by a party.

- 29.2 Neither party shall, without the prior written approval of the other party (which approval shall not be unreasonably withheld) make public or disclose to any person any Confidential Information of the other party, any information about this Contract or any other agreement associated with this Contract and, in giving written approval, the other party may impose such terms and conditions as it thinks fit.
- 29.3 Each party shall take all reasonable steps to ensure that its employees or agents engaged for the purposes of this Contract, do not make public or disclose Confidential Information of the other party.
- 29.4 Either party may at any time require the other party to arrange for its employees or agents engaged in the performance of the Service to execute a deed of confidentiality.
- 29.5 Either party agrees to indemnify and hold harmless the other party against all costs, liability, losses and claims incurred by the other party as a result of any breach of confidentiality.
- 29.6 Each party shall on demand by the other party return any document supplied by the other party to it.
- 29.7 This clause shall survive the termination of this Contract.

### **30. VARIATIONS**

- 30.1 This Contract may not be varied except in writing signed by both the Principal and the Contractor.

### **31. TERMINATION FOR CAUSE**

- 31.1 Without prejudice to its rights at common law, the Principal may immediately terminate this Contract, in whole or in part, by written notice to the Contractor ("Notice of Termination for Cause"):
- (a) where the Contractor makes any statement, fact, information, representation or provides material in the Tender which is false, untrue, or incorrect in a way which materially affects the Contract;
  - (b) where proceedings or investigations are commenced or threatened by the Independent Commission Against Corruption or similar public body against the Contractor including for corrupt conduct or for collusive pricing;
  - (c) where the Contractor commits a Substantial Breach of the Contract that is not capable of remedy;
  - (d) where the Contractor commits a Substantial Breach of the Contract in a manner that is capable of remedy and does not remedy the breach within 7 days of receiving a notice from the Principal requiring it to do so ("Notice of Breach"), or such further time, having regard to the nature of the breach and a reasonable time to remedy it, as the Principal may reasonably allow;
  - (e) where the Contractor assigns its rights and/or obligations, or novates this Contract or subcontracts the Contract except in accordance with this Contract; or
  - (f) in the case of the Contractor's Insolvency.

### 31.2 Effect of Termination for cause

- 31.2.1 If the Principal terminates this Contract for cause the Principal may:
- (a) contract with any other person to complete the provision of the Service including but not limited to any Order remaining to be filled;
  - (b) deduct loss or damages arising from or in connection with the termination, including any loss or damages incurred by a Principal under any Contract (which may be ascertained and certified by the Principal), from any money due, or which may become due to the Contractor (whether under this Contract or any Contract) and/or from the Security (if any); and
  - (c) recover from the Contractor in an appropriate court the balance of any monies remaining unpaid as a debt due and payable by the Contractor to the Principal.

## 32. **TERMINATION FOR THE PRINCIPAL'S CONVENIENCE**

- 32.1 The Principal may terminate this Contract in whole or in part for its convenience by giving written notice ("Notice of Termination for Convenience") with effect from the date stated in the notice and without the need to give reasons.

### 32.2 Effect of Termination for convenience

- 32.2.1 The Principal shall reimburse the Contractor its unavoidable costs directly incurred as a result of termination provided that any claim by the Contractor:
- (a) must be supported by written evidence of the costs claimed;
  - (b) will be in total satisfaction of the liability of the Principal to the Contractor in respect of this Contract and its termination.
- 32.2.2 The Principal shall not in any circumstances be liable for any consequential loss or loss of profits suffered by the Contractor as a result of the termination of this Contract by the Principal.
- 32.2.3 The Contractor must, wherever possible, include in all sub-contracts and supply Contracts an equivalent provision to this clause.

## 33. **NO ASSIGNMENT OR NOVATION**

- 33.1 The Contractor must not assign or novate this Contract without first obtaining the prior written consent of the Principal.
- 33.2 The Contractor acknowledges that the Principal may make financial checks on the entity proposing to take over this Contract before determining whether or not to give consent to the assignment or novation.

## 34. **ISSUE RESOLUTION**

### 34.1 **General**

- 34.1.1 In order to resolve any conflicts or issues between the Parties promptly and to the satisfaction of the Parties, the issue resolution process stated below will be followed in this order until an issue is resolved:
- (a) Amicable Resolution (cl.34.2);
  - (b) Expert Determination (cl.34.3)

**34.2 Amicable Resolution**

- 34.2.1 Either Party may give notice to the other Party of an issue, including a dispute or difference, (“the Issue Notice”) about the meaning or effect of the Contract or about any matter arising under or out of the Contract. The Issue Notice must be given within a reasonable time of the Party becoming aware of the issue.
- 34.2.2 If the Party giving the Issue Notice is the Contractor, and this issue has arisen under the Contract, it must give the Issue Notice to the Principal.
- 34.2.3 If the Party giving the Issue Notice is the Principal, it must give the Issue Notice to the Contractor.
- 34.2.4 The Parties must follow the issue resolution process in this clause before either commences proceedings or takes similar action except to seek an urgent injunction or declaration.
- 34.2.5 If a Party gives an Issue Notice under this clause, each Party will nominate in writing a senior executive who will promptly confer to resolve the issue.
- 34.2.6 A Party is not entitled to refer an issue to Expert Determination until 21 days after the giving of the Issue Notice.
- 34.2.7 A Party may only refer an issue to Expert Determination by giving notice in writing specifying the issue to be decided (“the Referral Notice”).
- 34.2.8 If the Party giving the Referral Notice is the Contractor it must give the Referral Notice to the Principal.
- 34.2.9 If the Party giving the Referral Notice is the Principal, it must give the Referral Notice to the Contractor.
- 34.2.10 If a Referral Notice has not been given within 28 days of becoming entitled under clause 36.2.6 then the issue is barred from Expert Determination or any other action or proceedings (including court proceedings).

**34.3 Expert Determination**

- 34.3.1 If a Referral Notice is given under clause 34.2, the expert is to be agreed between the Principal and the Contractor. If they cannot agree within 28 days of the Referral Notice, the expert is to be nominated by the Chief Executive Officer, Australian Commercial Disputes Centre, Sydney.
- 34.3.2 The expert nominated must be a lawyer unless otherwise agreed. The expert must not be:
  - (a) an employee of the Parties;
  - (b) a person who has been connected with the Contract or the Contract as the case may be; or
  - (c) a person who the Parties have not been able to agree on.
- 34.3.3 When the person to be the expert has been agreed or nominated, the Principal, on behalf of both Parties, must engage the expert by letter of engagement (and provide a copy to the Contractor) setting out:
  - (a) the issue referred to the expert for determination
  - (b) the expert’s fees
  - (c) the procedure for the determination set out in Schedule 1.
  - (d) any other matter which is relevant to the engagement.

- 34.3.4 The Parties must share equally the fees and out-of-pocket expenses of the expert for the determination, and bear their own expenses.
- 34.3.5 The procedure for expert determination is set out in Schedule 1.
- 34.3.6 In answer to any issue referred to the expert by a Party, the other Party can raise any defence, set-off, or counter-claim.
- 34.3.7 If the expert determines that one Party must pay the other an amount exceeding the \$100,000.00 (calculating the amount without including interest on it, and after allowing for set-offs), then either Party may commence litigation, but only within 56 days after receiving the determination.
- 34.3.8 Unless a Party has a right to commence litigation under clause 34.3.7:
- (a) the Parties must treat each determination of the expert as final and binding and give effect to it; and
  - (b) if the expert determines that one Party owes the other money, that Party must pay the money within 28 days.

### **35. PERFORMANCE OF CONTRACT DURING ISSUE RESOLUTION**

- 35.1 The Parties agree to continue performing their obligations under this Contract while the issue is being dealt with in accordance with this clause 34.

### **36. WAIVER**

- 36.1 A waiver in respect of a breach of a term of this Contract by the other Party shall not be taken to be a waiver in respect of any other breach. The failure of either Party to enforce a term of this Contract will not be interpreted as a waiver of that term.

### **37. SEVERABILITY**

- 37.1 If any part of this Contract is void or voidable, then that part is severed from this Contract but without affecting the continued operation of the remainder of the Contract.

### **38. NOTICES**

- 38.1 Notices must be sent to the other Party at the nominated address, or the address last notified to the other Party in writing, or in the case of the Contractor, at the Contractor's registered office.
- 38.2 All notices must be in writing and signed by the relevant Party and must be given either by hand delivery, post or facsimile transmission.
- 38.3 If delivery or receipt of a notice is not made on a business day, then it will be taken to be made on the next business day.

### **39. STAMP DUTY**

- 39.1 Stamp Duty, if any, shall be payable in full by the Contractor.

**40. COUNTERPARTS**

- 40.1 If there are a number of counterparts of this Contract, the counterparts taken together constitute one and the same instrument.

**41. APPLICABLE LAW**

- 41.1 This Contract is governed by the laws of the State of New South Wales and the Parties submit to the non-exclusive jurisdiction of the courts of the State of New South Wales and the Commonwealth of Australia.

**42. RIGHTS CUMULATIVE**

- 42.1 The rights and remedies provided under this Contract are cumulative and not exclusive of any rights or remedies provided by law or any other right or remedy.

**43. NO AGENCY/NO EMPLOYMENT/NO PARTNERSHIP**

- 43.1 The Contractor agrees that the Contractor will not be taken to be, nor will it represent that it is, the employee, partner and/or agent of the Principal.
- 43.2 Contractor personnel allocated for the purposes of the Contract shall operate under the following specific terms and conditions:  
"The Contractor agrees that it will at all times hereafter indemnify and keep indemnified the Government against all actions, proceedings, claims and demands, costs, damages and expenses which may be levied, brought or made against the Government or which it may pay sustain or incur by reason of statute or otherwise in the event that the personnel supplied by the Contractor are deemed to be or alleged to be deemed to be employees of the Government".

**44. CONTRACTOR'S WARRANTIES**

- 44.1 In relation to Services, the Contractor warrants that:
- (a) it will provide the Service in accordance with the requirements of the Contract and with due care and skill;
  - (b) it will comply with all statements or representations as to the provision of the Service contained in the Tender;
  - (c) the information contained in the Tender as to the structure, viability, reliability, insurance cover, capacity, experience and expertise of the Contractor and its employees and subcontractors is correct;
  - (d) it has established and will comply with and maintain during the Contract, the quality assurance arrangements set out in the Tender; and
  - (e) it will not enter into any arrangement that impedes or is likely to impede its performance of the Service in a manner, and to a standard, that is satisfactory to the Principal without first obtaining the Principal's consent.

**45. CONTRACTOR'S WARRANTIES (GENERAL)**

- 45.1 The Contractor warrants that the Service shall conform to any legally applicable standards.

**46. SUB-CONTRACTING OF CONTRACT**

- 46.1 The Parties agree that the Contractor will not sub-contract the Contract without first obtaining the written consent of the Principal, which may be subject to any conditions which the Principal may impose.
- 46.2 A consent under this clause does not relieve the Contractor from its liabilities or obligations under the Contract.
- 46.3 Regardless of any consent given, the Contractor will be responsible for ensuring the suitability of any sub-contractor and that the sub-contractor meets the requirements of a Contract.
- 46.4 The Parties agree that the Principal may withdraw its consent to a sub-contractor if in its reasonable opinion the sub-contractor is not meeting the requirements of the Contract. The Principal will notify the Contractor in writing that its consent is withdrawn and the Contractor will immediately terminate its arrangement with the sub-contractor.
- 46.5 The Contractor will be liable for any acts or omissions of any sub-contractor or any employee or agent of the sub-contractor as fully as if they were the acts or omissions of the Contractor and will indemnify and release the Principal from any liability or loss resulting from the acts or omissions of any sub-contractor.
- 46.6 This clause will not merge on the completion or earlier termination of the Contract.
- 46.7 The Contractor will ensure that a sub-contractor is aware of and complies with all the terms and conditions of the Contract.
- 46.8 This clause does not apply in the event that the Principal requests a particular sub-contractor to provide the Deliverables.

**47. PROBITY CHECK**

- 47.1 The Contractor is to provide consent for probity checks, to be carried out as and when required, for each of its officers, principals and/or employees. If the Contractor is a company, its nominated officers are also required to provide a consent for probity check.
- 47.2 The Contractor acknowledges and agrees that probity checks in respect to each of its officers, principals, and/or employees engaged in the provision of the services will be conducted by the Delegate.
- 47.3 The Contractor shall provide to the Delegate, consents for probity checks from each of its officers, principals and/or employees who are engaged in the provision of the services, including any officer, principal and/or employee appointed by the Contractor subsequent to the date of the Contract.
- 47.4 The Delegate shall be at liberty by written notice given to the Contractor to determine the Contract or any part thereof if the Contractor fails to provide the said consents to probity checks or if the results of the said probity checks are unacceptable to the Delegate.
- 47.5 The Contractor acknowledges that the services provided and information obtained concerning the Delegate by the Contractor is confidential and undertakes to not directly divulge or communicate to a third party any information concerning the Delegate acquired as a result of the performance of the services.

## SCHEDULE 1

## EXPERT DETERMINATION PROCEDURE

**1. Questions to be determined by the Expert**

- 1.1 The expert must determine for each issue the following questions (to the extent that they are applicable to the issue):
  - 1.1.1 Is there an event, act or omission which gives the claimant a right to compensation under the Contract:
    - (a) for damages for breach of the Contract, or
    - (b) otherwise in law?
  - 1.1.2 If so: what is the event, act or omission?
    - (a) on what date did the event, act or omission occur?
    - (b) what is the legal right which gives rise to the liability to compensation?
    - (c) is that right extinguished, barred or reduced by any provision of the Contract, estoppel, waiver, accord and satisfaction, set-off, cross-claim, or other legal right?
  - 1.1.3 In the light of the answers to clauses 1.1.1 and 1.1.2 of this Expert Determination Procedure:
    - (a) What compensation, if any, is due from one party to the other and when did it fall due?
    - (b) What interest, if any, is due when the expert determines that compensation?
- 1.2 The expert must determine for each issue any other questions required by the parties, having regard to the nature of the issue.

**2. Submissions**

- 2.1 The procedure for submissions to the expert is as follows:
- 2.2 The Party to the Contract which has referred the issue to Expert Determination must make a submission in respect of the issue, within 15 business days after the date of the letter of engagement referred to in clause 34.3.2 of the Contract.
- 2.3 The other party must respond within 15 business days after receiving a copy of that submission. That response may include cross-claims.
- 2.4 The Party referred to in clause 2.2 may reply to the response, but must do so within 10 business days after receiving the response, and must not raise new matters.
- 2.5 The other party may comment on the reply, but must do so within 10 business days after receiving the reply, and must not raise new matters.
- 2.6 The expert must ignore any submission, response, reply, or comment not made within the time given in clause 2.1 of this Expert Determination Procedure, unless the Principal and the Contractor agree otherwise.
- 2.7 The expert may request further information from either Party. The request must be in writing, with a time limit for the response. The expert must send a copy of the response to the other Party, and give the other Party a reasonable opportunity to comment on the response.
- 2.8 All submissions, responses, replies, requests and comments must be in writing. If a Party to the Contract gives information to the expert, it must at the same time give a copy to the other Party.



**3. Conference**

- 3.1 The expert may request a conference with both parties to the Contract. The request must be in writing, setting out the matters to be discussed.
- 3.2 The Parties agree that such a conference is considered not to be a hearing which would give anything under this Expert Determination Procedure the character of an arbitration.

**4. Role of Expert**

- 4.1 The Expert:
  - 4.1.1 acts as an expert and not as an arbitrator
  - 4.1.2 must make its determination on the basis of the submissions of the parties, including documents and witness statements, and the Expert's own expertise; and
  - 4.1.3 must issue a certificate in a form the expert considers appropriate, stating the expert's determination and giving reasons, within 12 weeks after the date of the letter of engagement referred to in clause 2.2.
- 4.2 If a certificate issued by the expert contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the expert must correct the certificate.



**State Procurement is a Business Unit of the NSW Department of Commerce**

**State Procurement invites this tender for and on behalf of the  
NSW Government State Contracts Control Board**

## **PART C: TENDER RESPONSE**

**Contract 0601335**

**Provision of Auctioneer Services for the Disposal of  
Confiscated Goods, Unclaimed Public Property, Expired Court  
Exhibits and other obsolete items on behalf of NSW Police**

**Period: 3 years from Date of Acceptance  
Plus 2 x one-year Options**

**Closing Date: 15/8/2006**

Your Company's Legal Entity: \_\_\_\_\_

Your Company's Trading Name: \_\_\_\_\_

Your Company's ABN number: \_\_\_\_\_

Contact Name: \_\_\_\_\_  
<insert name to whom enquiries should be directed>

Contact Phone: \_\_\_\_\_

*Note: If a tender is not submitted electronically, the tenderer must submit the original tender, plus two copies of the tender. Tenders are to be marked "Original", "Copy 1" and "Copy 2" accordingly.*

**Pre-tender Briefing: see Part A, Clause 4.4 for further details**

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# PART C Tender Response

## PART C1 INFORMATION SUPPLIED IN RESPONSE TO PART A

### 1. INTRODUCTION

- 1.1 The information provided in this Part will be used in the assessment of Tenders. Questions have been framed to ensure responses that are relevant to the selection criteria. Please provide attachments where necessary, clearly labelled and cross-referenced.
- 1.2 References to “you” in this Part means the tenderer and all responses given will be taken to be responses of the tenderer.

### 2.1 AUCTION FEE AND RELATED FACTORS

- 2.1.1 Wherever possible, the tendered Auction Fee must include all costs and charges, with the exception of Valuation Services, involved in the provision of the services under the Contract.
- 2.1.2 Expenses incurred in the conduct of each Auction including, but not necessarily limited to the following and any other cost necessarily incurred in the provision of the Service are to be included in the Auction Fee:
- conduct of the Auction, reporting and remittance of sale proceeds;
  - provision of a catalogue;
  - preparation and placement of print and electronic media advertising;
  - lotting and layout of items entered for sale (at the discretion of the Principal);
  - provision of materials-handling equipment and personnel to unload sale items;
  - provision of pallets, as required;
  - provision of general assistance and advisory services to maximise sale proceeds;
  - having in place all licences;
  - having in place appropriate insurance while the sale items are under the control of the Contractor;
  - having in place appropriate security arrangements;
  - provision of consumables used in display of items at the auctions;
  - all licenses and expenses related to on-line auctions; and
  - valuation (e.g. in-house valuer) for Confiscated Goods Auctions.
- 2.1.3 You must complete the commission and price schedules provided on the following pages.

**Note: All rates must include GST.**

**P.T.O.**

**2.1.3.1 Auction fees and other costs for the disposal of Confiscated Goods & other Obsolete Items** in accordance with the terms of the Contract (Part B) and Specification (Part C2, Section 1) for the following categories of items

Category of goods	Buyer's Premium	Transportation: Price per kilogram per kilometre			Storage costs per square metre
		Sydney Metro Area	Regional NSW	Country NSW	
(a) Fine Art	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
(b) Household items	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
(c) Motor vehicles, boats & other modes of transport	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
(d) Heavy machinery & plant	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
(e) Office furniture & equipment	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
(f) Jewellery	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
(g) Liquor	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
(h) Pharmaceuticals	_____ %	\$ _____	\$ _____	\$ _____	\$ _____
(i) General and other	_____ %	\$ _____	\$ _____	\$ _____	\$ _____

**Note:** Sales are subject to reserve prices in most cases.

**2.1.3.2     Other fees for the disposal of Confiscated Goods & other Obsolete Items**

<b>Category of goods</b>	<b>Other fees: please nominate types of fees and details</b>
(a) Fine Art	
(b) Household items	
(c) Motor vehicles, boats & other modes of transport	
(d) Heavy machinery & plant	
(e) Office furniture & equipment	
(f) Jewellery	
(g) Liquor	
(h) Pharmaceuticals	
(i) General and other	

**Note:**        **Sales are subject to reserve prices in most cases.**

**2.1.3.3 Auction fee for the disposal of goods at General & Special Auctions:** unclaimed public property, expired court exhibits and other obsolete items, comprising a Buyer's \_\_\_\_\_% Premium per lot, as a percentage of the 'knockdown" auction price, in accordance with the terms of the Contract (Part B) and Specification (Part C2, Section 2)

**2.1.3.4 Valuation Service** \$\_\_\_\_\_ per class of item

<b>2.1.3.5 <u>Charges levied on buyers</u></b>			
Registration on auction day	\$ _____	Payment by credit card	_____ %
Catalogues (per each)	\$ _____	Other	\$ _____

**2.1.4 Fee Basis: Auctioneer Services only**

The tendered percentage fee rate(s) for the provision of all types of Auctioneer Services covered by this Request for Tender shall remain firm throughout the term of the Contract including any optional extensions to the term of the Contract.

**2.1.5 Price Basis: all services other than Auctioneer Services**

The tendered (dollar) rate(s) for the provision of all other services shall remain firm throughout the term of the contract including any optional extensions to the term of the contract.

**2.2 Tender Validity Period**

**2.2.1** The Tender will remain valid for acceptance within \_\_\_\_\_ months from the deadline for lodgement of tenders, in accordance with Part B.

**N.B.** The minimum validity period of six (6) months is required.

### 3. SELECTION CRITERIA

Tenderers are required to respond individually to each of the selection criteria outlined in the following spaces. The information provided will be used in the assessment of tenders. Responses are to be concise and focus on key elements of the tenderer's proposal as it relates to each of the selection criteria.

- (a) **Pricing Considerations and Value for Money of the Proposed Services by reference to the cost of the services and the level of the Buyer's Premium** (applicable to all Auctioneer Services covered by this RFT)
- (b) **Satisfactory Referees' Reports** (applicable to all Auctioneer Services covered by this RFT)
- (c) **The tenderer's compliance with relevant NSW Government procurement policy** (applicable to all Auctioneer Services covered by this RFT)

No response is required to any of criteria (a), (b) or (c); information provided elsewhere in the tender will be used to assess these criteria.

- (d) **The tenderer's compliance with the probity and security requirements of the Principal - Part B, clause 47** (applicable to all Auctioneer Services covered by this RFT)

If No, provide below full details of deviations.

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- (e) **Compliance with Conditions of Contract** (applicable to all Auctioneer Services covered by this RFT)

Does the tendered service fully comply with the Conditions of Contract at Part B.

**YES/NO** (delete whichever is inapplicable)

**Note: if you answer "yes" to this question, the stated Conditions of Contract at Part B will not be subject to any negotiation should your tender be successful.**

If No, please list clause numbers not fully complied with below and provide full details of deviations below.

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**NOTE: ATTACH ADDITIONAL SHEETS AS NECESSARY**



- (f) **Appropriate, skilled employees** (applicable to all Auctioneer Services covered by this RFT)

Please complete the following questions

(1) Total number of all employees throughout NSW: \_\_\_\_\_

(2) Number of higher-level employees in NSW:

	Management	Administration	Security
Full-time			
Part-time			

(3) Details of Key Personnel to be utilised under the contract:

Name (optional): \_\_\_\_\_

Position: \_\_\_\_\_

Roles and Responsibilities: \_\_\_\_\_

Qualifications: \_\_\_\_\_

Experience: \_\_\_\_\_

Length of service: \_\_\_\_\_

Proposed level of involvement: \_\_\_\_\_

Name (optional): \_\_\_\_\_

Position: \_\_\_\_\_

Roles and Responsibilities: \_\_\_\_\_

Qualifications: \_\_\_\_\_

Experience: \_\_\_\_\_

Length of service: \_\_\_\_\_

Proposed level of involvement: \_\_\_\_\_

Name (optional): \_\_\_\_\_

Position: \_\_\_\_\_

Roles and Responsibilities: \_\_\_\_\_

Qualifications: \_\_\_\_\_

Experience: \_\_\_\_\_

Length of service: \_\_\_\_\_

Proposed level of involvement: \_\_\_\_\_

(g) **Expertise and experience in the successful delivery of similar auction services**  
**(applicable to all Auctioneer Services covered by this RFT)**

**Please complete the following questions**

- (1) Provide details of any previous Contract(s) with the Client Agency, other NSW Government Departments, the Board and/or Private Organisations that you have been involved in during the past four years, providing similar services

Contract No.	Contract Name	Client Organisation	Contract Period	Contract Manager	Phone Number

- (2) Demonstrate expertise and experience in the successful provision of services on a similar scale to the Requirement.

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- (3) If you have undertaken any previous Contracts provide details of any assessment undertaken of your performance. If performance reports were prepared in respect of your performance, please provide copies.

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(h) **Financial capacity and stability** (applicable to all Auctioneer Services covered by this RFT)

**Years in Business**

State the number of years you have been in business in the form in which you are presently constituted.

\_\_\_\_\_

State the number of years providing the required Service: \_\_\_\_\_

Scope of tenderer's current business activities

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Financial Capacity and Viability**

Give the annual Australian turnover for the past three years in \$A.

2004-2005: \$A\_\_\_\_\_

2003-2004: \$A\_\_\_\_\_

2002-2003: \$A\_\_\_\_\_

If a company, please submit a copy of each of your annual financial reports for the last three financial years with your Tender.

- (i) **Membership of relevant industry associations** (applicable to all Auctioneer Services covered by this RFT)

Please provide details of the tenderer's membership of relevant industry associations. (Note: Membership of the NSW Auctioneers and Agents Association is a Condition of Contract.)

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Please provide comprehensive details of the number and location of the storage facilities and places of auction you offer within NSW, with further information (attach separately if necessary, label and cross-reference) stating size in square metres, quality of premises and security arrangements such as back-to-base alarms (e.g. Digital Photographs, plans etc to elaborate claims).

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**NOTE: ATTACH ADDITIONAL SHEETS AS NECESSARY**

(k) **Ability to take possession of items for storage/auction soon after notification**  
(applicable to Auctioneer Services for Confiscated Goods and other Obsolete/Surplus Items)

Please provide below details of the tendered period between notification and your taking possession of items. (The Principal requires the Contractor to take possession as soon as possible.)

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(l) **Frequency of auctions** (applicable to Auctioneer Services for Confiscated Goods and other Obsolete/Surplus Items)

Please provide below details of the frequency with which you would be able to conduct auctions for the classes tendered with which you would be able to conduct auctions for these types of auctions.

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- (m) **Tenderer's ownership or possession of a place of auction (with appropriate storage) in Sydney Metropolitan Area** (applicable to Auctioneer Services for General and Special Auctions including Obsolete/Surplus Items)

Please provide below details of your ownership or possession of a place of auction with appropriate storage facilities in the Sydney Metropolitan Area.

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- (n) **Ability to conduct auctions within two weeks of receiving notice** (applicable to Auctioneer Services for General and Special Auctions including Obsolete/Surplus Items)

Please describe your ability to conduct auctions within two weeks of receiving notice.

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**Online auction services** (applicable to all Auctioneer Services covered by this RFT)

If you wish to offer Online Auction Services as an adjunct to the services required at Part C2, Section 1, please provide comprehensive details of the service you tender and the specific charges involved.

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**4. REFEREES' REPORTS**

Provide details required below for persons willing to act as referees to the tenderer's standard of service and performance in relation to their ability as a provider for the required Service.

**Referee No 1.**

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Company: \_\_\_\_\_

No. of Years tenderer has provided required Service to Referee: \_\_\_\_\_ years

Telephone No: \_\_\_\_\_

Fax No: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Referee No 2.**

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Company: \_\_\_\_\_

No. of Years tenderer has provided required Service to Referee: \_\_\_\_\_ years

Telephone No: \_\_\_\_\_

Fax No: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Referee No 3.**

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Company: \_\_\_\_\_

No. of Years tenderer has provided required Service to Referee: \_\_\_\_\_ years

Telephone No: \_\_\_\_\_

Fax No: \_\_\_\_\_

Email Address: \_\_\_\_\_

**5. COMPLIANCE WITH POLICY REQUIREMENTS****5.1 Code of Practice for Procurement**

- 5.1.1 Have you have read the [NSW Government Code of Practice for Procurement](#) and taken it into consideration in preparing and submitting your Tender?

**Yes/No**

- 5.1.2 Will you maintain compliance with the Code for the purposes of this Contract, advise the Board of any breaches of the Code for the duration of the Contract and provide evidence of compliance when requested by the Board during the course of this Contract?

**Yes/No**

- 5.1.3 Provide any other relevant information below

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**5.2 Occupational Health Safety & Rehabilitation**

- 5.2.1 Do you currently comply with your OHS&R statutory obligations and will you continue to do so including obligations relating to performance monitoring and Sub-Contractor performance for the duration of any Contract awarded?

**Yes/No**

If “No”, provide details below

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**5.3 Environmental Management**

- 5.3.1 Indicate your compliance with the Government Energy Management Policy principles, including any waste minimisation, energy conservation and recycling strategies that you may have in place.

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**5.4 Competitive Neutrality (To be completed by Government Agencies or Trading Enterprises only)**

- 5.4.1 As a public sector tenderer, do you comply with the policy that Government agencies should not have a net advantage over their competitors as a result of their public ownership?

**Yes/No**

If “No”, provide details

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**6. SCHEDULE OF INSURANCE****6.1 Worker's Compensation Insurance**

Insurance Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Policy number: \_\_\_\_\_

Expiry Date: \_\_\_\_\_

**6.2 Contents Cover Insurance**

Insurance Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Policy number: \_\_\_\_\_

Expiry Date: \_\_\_\_\_

Limit of Liability: \_\_\_\_\_

**6.3 Professional Indemnity**

Insurance Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Policy number: \_\_\_\_\_

Expiry Date: \_\_\_\_\_

Limit of Liability: \_\_\_\_\_

**7. OTHER INFORMATION REQUIRED****7.1 Details of Ownership**

- 7.1.1 If you are a company, please provide details of your ownership, that is, Australian, Overseas, largest shareholder, paid-up capital and other relevant details.

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- 7.1.2 If you are a partnership, please provide a list of partners and details of the partnership financial arrangements.

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**7.2 Contracting as Agent/Trustee**

- 7.2.1 If awarded a Contract, do you intend to enter the Contract in your own right or as agent or trustee for some other entity or entities? If the latter, provide full details.

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7.3.1 Are you or any of your directors or close associates currently, or have you, or have your directors or close associates been at any time within the last five years, the subject of any or any pending:

- (a) legal proceedings, including winding up or bankruptcy proceedings,
- (b) insolvency administrations or investigations; and/or
- (c) investigations by ICAC or any other public body?

If **“Yes”**, please supply full details below:

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**8. ADDENDA TO THIS RFT AFTER ISSUE**

- 8.1 If there have been any Addenda by the Board to this RFT after the issue of this RFT, indicate below whether you have read and allowed for the Addenda in your Tender.

**YES/NO/THERE HAVE BEEN NO ADDENDA BY THE BOARD**

If **NO**, provide reasons below

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## **PART C2 SPECIFICATION AND STATEMENT OF COMPLIANCE**

The Service/s are to be in accordance with the Specification detailed on the following pages.

Tenderers must state hereunder whether the Service/s offered conform to the Specification.

The following terms are appropriate in providing a statement of compliance:

**COMPLIES** means:

- (a) in the case of a clause which is of an informative nature only, that the clause has been read and understood;
- (b) in the case of a clause which specifies a requirement or performance standard to be met by the Service/s to be provided, that the offer is to provide the requirement or standard.

*In the case of (b) above, tenderers are to state or describe how the requirement is or is to be met.*

**PARTIALLY COMPLIES** means, in the case of a clause, which specifies a requirement or performance standard, it can only be met subject to certain conditions. Where this is the case and the tenderer is prepared to make good on the condition, requirement or performance standard the tenderer must explain and cost the required change.

**DOES NOT COMPLY** means that the requirement or performance standard of the clause is not met by the offer. Full details of non-compliance must be stated.

**ALTERNATIVE** means that the tenderer's method, system or process either does not require the feature or the tenderer's method, system or process fully complies in a manner different to that described. In both cases a description must be provided.

**SIGNIFICANTLY EXCEEDS REQUIREMENTS** means, in some cases, the Services offered may significantly exceed the specified requirements. As this may have a bearing on the evaluation process, full details must be stated.

The Specification is indicative of the needs of the Principal, and any Service/s offered must be of at least the same standard and potential. Consideration may be given, however, to Service of a higher standard if they are available and better suited to the Principals requirements.

Any failure by the tenderer to make clear the extent of compliance or non-compliance with any clause or paragraph of the Specification may be interpreted as failure to comply with the requirement concerned when assessing the relative merits of tenders.

Tenderers are required to tender in accordance with the tender requirements.



Specification for the disposal at auction of goods confiscated under the 'Proceeds of Crime Act' and for the disposal of other Obsolete or Surplus Items

REQUIRED SPECIFICATION		TENDERED SPECIFICATION
<b>1. OVERVIEW</b>		
1.1	For this part of the tender, the Principal seeks a panel of contractors across all class of items who will be able to pick up items from locations throughout the state of NSW, store them either directly or via subcontractors till disposal by auctions.	-----
1.2	Most items confiscated and stored will be disposed of via auctions, though the Principal has the right to retain certain items as it sees fit, or dispose of them via other means than public auctions. Some items in storage may have to be returned to the owners post successful appeal process.	-----
1.3	It is a requirement of the Principal that the items handed over to the contractors with confirmation to auction (written authorisation from the Principal to auction) be disposed of as soon as practical, and to this end, the Principal requires the auctions to be held frequently as appropriate for the class of item.	-----
1.4	The contractors need to be flexible to the monetary value of proceeds from each auction, as the value can vary significantly.	-----
1.5	Items available for auction may need to have a reserve, and to this end the Principal depends on the contractors to carry out the valuations prior to auctions, to recommend this reserve. The Principal has the right to carry out independent valuations regularly as it sees fit. Some items might have a valuation stipulated by the Courts. The Principal will confirm all reserves where they apply.	-----
1.6	A criminal records check is mandatory for the contractors, all its employees and subcontractors. Checks need to be carried out for all new employees and subcontractors during the term of the contract. All parties associated with this contract during its entire term, need to abide by the Probity and Confidentiality requirements in Part B.	-----
1.7	Any subcontractors engaged will need the prior approval of the Principal.	-----

REQUIRED SPECIFICATION	TENDERED SPECIFICATION
1.8 The Principal may contract multiple contractors for a class to service the entire State of NSW, unless a particular contractor demonstrates the ability to service the State by itself.	-----
1.9 The Principal has the right to negotiate with the contractors, the terms and conditions of the contract if a change in legislation occurs.	-----
1.10 The contractors need to demonstrate the least cost method to conduct the auctions (e.g. On-line Auctions, travel to the place of storage etc).	-----
1.11 No member of the Contractor's staff is permitted to purchase at auctions.	-----
1.12 Contractors need to have a Trust Fund to remit funds from the auctions in the interim.	-----
1.13 The contractors need to transfer proceeds less any retainer to the Principal's account within 14 days of disposal of the corresponding assets.	-----
1.14 The Principal or its representative(s) has the right to attend on-site auctions for the purpose of recording the bids for the Principal's purposes and overseeing the process.	-----
1.15 Any media releases need prior approval of the Principal.	-----
1.16 Hazardous items will not be forwarded for storage or auctions, but the Principal will request any other obsolete items be stored and auctioned (for the classes tendered for) during the term of the contract.	-----

REQUIRED SPECIFICATION		TENDERED SPECIFICATION
<b>2.</b>	<b>PRINCIPAL'S RESPONSIBILITIES</b>	
2.1	All class of items will be photographed prior to them being handed over for storage /auctioning, to the contractors.	-----
2.2	Upon written notification by an authorising officer (to be notified at the contract negotiation with the successful respondents), the contractor will either auction or store items till further notified	-----
2.3	Photographs and/or a condition report will be prepared by the Principal and be given at the time of collection of items from the Principal. The length of time the contractor needs to keep the records and subsequent return process will be stated at the contract formation	-----
<b>3.</b>	<b>AUCTIONEER'S RESPONSIBILITIES</b>	
<b>3.1</b>	<b>Before the auction</b>	
3.1.1	The contractors or their nominated agents [i.e. subcontractor(s)] need to have the ability to take possession of /collect items from the Principal at short notice.	-----
3.1.2	State the call out times if applicable. The Principal desires a 24 hour x 7 day x 365 days call out	-----
3.1.3	If immediate response time from call out is not possible, state response time for a class/location within the State.	-----
3.1.4	The contractors or their nominated agents are responsible for the transportation of all items from the time of handover by the Principal, including large or unusual items. The contractors need to specify/tabulate their transportation methods, storage facilities and subcontractors employed if any.	-----
3.1.5	The contractors need to state the boundaries/locations of pick-up for the class(es) tendered for within the State of NSW if applicable. The principal desires state wide coverage for a class of item	-----

REQUIRED SPECIFICATION	TENDERED SPECIFICATION
<p>3.1.6 The items need to be verified against the photographs/ condition reports provided by the Principal as soon as practical after taking possession from the Principal. If any items are found inside motor vehicles or alike etc. they need to be returned to the Principal's representative who transacted the items. Similarly, if there is a discrepancy between the condition report/photograph and the item(s) collected, it needs to be communicated with the Principal as soon as it comes to notice. The contractors need to submit a sample property inspection report and outline how discrepancies will be managed.</p>	<p>-----</p>
<p>3.1.7 The contractors or their nominated agents need to have secure areas to store items from collection from the Principal till disposal via auction. State the proposed locations of storage for the classes tendered for, the size and the security arrangements for the site. Some items stored will be returned to the owners subsequent to a successful appeal process. The copy of the written notification / letter of authorisation handed over at the time of collection will dictate the status of the process. If the status of the item changes while in storage, the contractors will be notified in writing by the Principal.</p>	<p>-----</p>
<p>3.1.8 The contractor is to provide qualified and experienced staff who are able to provide accredited valuation services and can accurately assess the true nature and value of items offered for sale. The contractor's staff or their accredited valuer shall be able to distinguish between an identity fake or reproduced items from a genuine article.</p>	<p>-----</p>
<p>3.1.9 The contractors need to have sufficient insurance for the class(es) tendered. State the classes, amounts and types of insurance for that class, the provider and the expiry date of the policy. Insurance needs to cover possible damage to items while in transit and in storage.</p>	<p>-----</p>
<p>3.1.10 The contractors need to have a trust fund to remit funds in the interim.</p>	<p>-----</p>
<p>3.1.11 The contractors need to specify [tabulate for the class(es) tendered for], their methods of auctions (e.g. on-site, web, off-site, other as detailed ).</p>	<p>-----</p>

REQUIRED SPECIFICATION	TENDERED SPECIFICATION
<b>3.2 During the auction</b>	
3.2.1 The contractors need to be able to conduct auctions on a regular basis (e.g. weekly, fortnightly etc.) depending on the class of item(s) tendered for in the view of obtaining the best value for the State of NSW.	-----
3.2.2 The contractor is to provide sufficient staff to manage the auction, this may include but not limited to Auctioneer, back-up Auctioneer, support staff and security. State details (e.g. accreditations, years of experience etc.) of all staff involved for the classes tendered for.	-----
3.2.3 The contractor is to provide all advertising, printing and consumables used in the display of auctioned items.	-----
3.2.4 The determination of the Reserve Prices, lotting, labelling, and other administration tasks are to be completed by the contractors and the cost should be all inclusive in the buyer's premium which should be stated for the class(es) in the pricing schedule.	-----
3.2.5 The contractor is to hold all necessary licences and permits to conduct Auctions for all classes tendered for and items within each class collected from the Principal. Submit a copy of the license with the tender.	-----
3.2.6 The contractor and/or their nominated agents may need to have a forklift truck (and associated WorkCover licences) and/or other transportation aids/tools necessary for the classes tendered. Submit copies of licenses with the tender.	-----
3.2.7 The contractors are to provide sufficient quantities of catalogues for the members of the public for on-site auctions. All items should have the required exposure prior to the auctions. The cost of the catalogues are to be met from the contractors' fees/buyer's premium.	-----
3.2.8 The contractors need to have the appropriate financial services in place to handle cash and EFTPOS including credit card transactions as required for the auctions.	-----
3.2.9 The contractors need to have the necessary security arrangements (e.g. CCTV, detectors, personnel, lockable spaces) before and during auctions for monetary and non-monetary items.	-----

REQUIRED SPECIFICATION	TENDERED SPECIFICATION
<p><b>3.3 After the auction</b></p> <p>3.3.1 The contractors are to provide to the Principal, within fourteen days of the completed auction, an itemised account of all items sold.</p> <p>3.3.2 The contractors must effect payment by EFTPOS to the Principal, the proceeds of the auction less any commission and/or other agreed to fees as outlined in the pricing schedule.</p> <p>3.3.3 The contractors need to have the necessary record keeping procedures for auditing purposes by the Principal and other external bodies such as ASIC, ATO etc.</p> <p>3.3.4 An Account Manager for the contractor and all staff details need to be amended as required during the entire term of the contract with the Principal.</p>	<p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>

## **PART C2, SECTION 2**

Specification for disposal at auction of unclaimed property, expired court exhibits and other Obsolete Items

REQUIRED SPECIFICATION	TENDERED SPECIFICATION
<p><b>1. OVERVIEW</b></p> <p>1.1 The contractor will be responsible for providing a venue and all services in relation to the management and conduct of the auction. The venue ( for this section only ) should be in the Sydney Metropolitan Area.</p> <p>1.2 Currently unclaimed public property and expired court exhibits are disposed of at public auctions. Historically, "General" auctions have been held three times per annum with "Special" auctions held on an as needed basis. Special auctions usually consist of bulky or specialist items for example, furniture, car parts, boats etc.</p> <p>1.3 Past auctions have been attended by a large number of persons, sometimes in excess of 400 people.</p> <p>1.4 General auctions usually comprise of approximately 600 lots being offered per auction, with total sales averaging between \$120,000 and \$150,000 per auction.</p> <p>1.5 Most items sold are on an "as is" basis without reserves. The Principal will notify any exceptions.</p>	<p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>-----</p>
<p><b>2. PRINCIPAL'S RESPONSIBILITIES</b></p> <p>2.1 The items for auction are currently maintained at the NSW Police Metropolitan Exhibit and Property Centre, Portman Street, Zetland (however this may change to another Sydney Metropolitan Area site during the term of the contract).</p> <p>2.2 The Principal prepares all items for auction in lots, including attachment of stickers/labels to identify each lot. This may change during the term of the contract as directed.</p> <p>2.3 Approximately 3 months notice will be given by the Principal of a need to conduct an auction.</p>	<p>-----</p> <p>-----</p> <p>-----</p>

REQUIRED SPECIFICATION	TENDERED SPECIFICATION
2.4 The Principal reserves the right to dispose of some items separate to these auctions as it sees fit	-----
2.5 An itemised list of sale items will be provided to the contractor at the time the goods are collected by the contractor from the Principal's premises.	-----
2.6 The Principal reserves the right to withdraw items from sale at anytime.	-----
2.7 The Principal may from time to time conduct electrical safety checks for items where by doing so, it expects to maximise the return for working items.	-----
<b>3. AUCTIONEER'S RESPONSIBILITIES</b>	
3.1 Auctions are to be known as "The NSW Police Sale of Unclaimed Property and other obsolete items".	-----
3.2 The Contractor is to ensure only the Principal's items are offered for sale at this Auction.	-----
3.3 Auctions are to be held on Fridays or any other day requested by the Principal. Appropriate notice will be given to the Contractor.	-----
3.4 The Contractor is responsible for the transportation of all items from the Principal's premises to the contractor's premises, including large or unusual items.	-----
3.5 The Contractor will prepare an advertisement of the proposed sale in sufficient time for the contractor to insert the advertisement in the appropriate print media.	-----
3.6 The Contractor is to provide sufficient staff to manage the auction, this may include but not be limited to Auctioneer, back-up Auctioneer, support staff and security.	-----
3.7 The Contractor is to provide qualified and experienced staff who are able to provide valuation services and can accurately access the true nature and value of items offered for sale. The Contractor's staff will be able to distinguish between an identify fake or reproduced items from a genuine article.	-----



REQUIRED SPECIFICATION	TENDERED SPECIFICATION
3.8 The Contractor is to provide all consumables used in the display of auctioned items.	-----
3.9 The Contractor is to hold all necessary licences and permits to conduct Auctions for all types of items supplied by the Principal. Copies of such licenses and permits need to be submitted with the tender.	-----
3.10 The Contractor is to provide a secure area dedicated to the Principal for its sale items for up to 7 days before the auction.	-----
3.11 The Contractor is to provide a dedicated sales area of a minimum of 1500 square metres, able to handle up to 600 pallets.	-----
3.12 The Contractor is to provide a forklift truck to assist in handling auction lots. Copies of any licenses required for its operation need to be submitted with the tender.	-----
3.13 The Contractor is to provide sufficient quantities of catalogues for the members of the public. The cost of the catalogues to be charged at a minimum cost to the public.	-----
3.14 The Contractor is to provide to the Principal, within seven days of the completed auction an itemised account of all items sold.	-----
3.15 The Contractor must effect payment by EFTPOS (to a nominated account for the Principal), the proceeds of the auction, less any commission and other agreed to fees as outlined in the pricing schedule.	-----
3.16 The Contractor must allow the Principal's representative(s), to attend the auction, for the purpose of recording the bids for Police purposes and overseeing the process.	-----
3.17 The Contractor must provide appropriate toilet facilities for the use of the public on auction days.	-----
3.18 It is preferred that the Contractor arranges appropriate catering services for the use of the public on auction days.	-----

REQUIRED SPECIFICATION		TENDERED SPECIFICATION
3.19	The Contractor must have appropriate financial services in place to handle cash, EFTPOS and credit card transactions on auction days.	-----
3.20	The Contractor must have the capacity to attend any nominated site as prior advised by the Principal (for the provision of specialised auction services).	-----
3.21	All parties entering the premises must be in the company of a registered buyer.	-----

## **PART C3 TENDERER IDENTIFICATION DETAILS & CONFIRMATION OF TENDER**

### **1. TENDERER IDENTIFICATION DETAILS**

#### **1.1 Name of Tenderer:**

**Individual:** [Print name]

Trading Name (if applicable):

or

**Company:** [Full name]

Trading Name (if applicable):

Name and official position of authorised officer completing tender:

or

**Partnership:** [Trading Name of partnership]

Name of partner completing tender:

#### **1.2 ABN:**

#### **1.3 Address of Tenderer:** [in the case of a company, state registered office and, if different, principal place of business]

#### **1.4 Business Postal Address:**

STD Area Code:

Telephone No.:

( )

Facsimile No:

( )

Email:

Website:

Contact Name for general enquiries:

Telephone No.:

Tenderer's reference number

## 2. ACKNOWLEDGEMENT AND CONFIRMATION OF TENDER

Note to tenderers: If submitting a hard copy Tender, execute cl. 2.2. If submitting an electronic Tender, only complete cl. 2.3.

- 2.1 Lodgement of a Tender will itself be an acknowledgment and representation by you that you are aware of the requirements of the Code; that you will comply with the Code; and that you agree to report to the Board any breaches of the Code for the duration of the Contract.
- 2.2 I affirm that this is my Tender to supply the Service sought in the RFT at the prices tendered, and in accordance with the conditions of the RFT except as expressly amended in my Tender, and that the information given in my Tender is correct:

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature of tenderer (if an individual, as identified in cl. 1 Part C3)

OR

\_\_\_\_\_  
Signature of authorised officer of tenderer (as identified in cl. 1 Part C3)

OR

\_\_\_\_\_  
Signature of partner completing tender on behalf of partnership (as identified in cl. 1 Part C3)

- 2.3 If submitting an electronic Tender, do you acknowledge and accept that electronic submission in accordance with the requirements of the RFT and any conditions of the NSW Department of Commerce tenders website is sufficient to verify and affirm that this is your Tender to supply the Service at the prices tendered on the conditions contained in Part A, except as expressly amended in your Tender and that the information contained in your Tender is correct?

Note that such acknowledgment and acceptance, by stating "Yes", is a necessary prerequisite to consideration of your Tender.

**Yes/No**

\_\_\_\_\_  
Print Name and Title