

Summary File ONLY

**PLEASE BE AWARE THAT
THIS PDF FILE
CANNOT BE PRINTED**

**IT IS BROWSABLE ON-SCREEN ONLY AND IS PROVIDED
FOR YOUR INFORMATION TO DECIDE WHETHER TO
BECOME A PROSPECTIVE TENDERER ONLY**

Note: This file may contain a brief scope statement, or an extract from the RFT documents, or a full exhibited copy – depending on the specific circumstances.

To participate in this tender process you **MUST** first download or order a full copy of the Request for Tender (RFT) documents, including the responsible components, and any addenda issued to date.

To do this return to the RFT web page on this web site and copy the RFT documents to your own computer or network – the blue “**DOWNLOAD A SOFT COPY**” link at the bottom provides access to the page from which you can do this.



Contracting Services is a Business Unit of the NSW Department of Commerce

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

**Request for Tender 0601457
In-Home Direct Care Services for the Home
Care Service of NSW**

**Period: Two (2) Years from Date of
Acceptance Plus 2 x 1 Year Extension Options**

Tender Issue Date: 24 July 2006

Closing Date: 24 August 2006

Closing Time: 9:30 am Sydney Time

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

© State of New South Wales – Contracting Services, 2003.

In-Home Direct Care Services for the Home Care Service of NSW

TABLE OF CONTENTS

PART A	THE REQUIREMENT and conditions of tender	4
1.	DEFINITIONS OF TERMS USED IN PARTS A and C	4
2.	OUTLINE DESCRIPTION OF THE REQUIREMENT	6
2.1	Scope	6
2.2	Background	6
3.	SUMMARY INFORMATION FOR TENDERERS	9
3.1	Structure of Request for Tender	9
3.2	Contact Officer	9
3.3	Nature of Contract	9
3.4	Eligibility to Tender	10
4.	PREPARATION OF TENDER - GENERAL	10
4.1	Conformity of Tenders	10
4.2	General Instructions for Completion of Tenders	11
4.3	Addenda to this RFT Before Close of Tenders	11
5.	PREPARATION OF TENDER - PRICE SCHEDULE AND PROJECT PLAN	11
5.1	Price Schedule	11
5.2	Calculating the Tender Price	11
5.3	Price Basis	12
5.4	GST Free or Input Taxed Supplies	12
5.5	Minimum Tender Validity Period	12
6.	PREPARATION OF TENDER – POLICY REQUIREMENTS	12
6.1	Procurement Policy – introduction	12
6.2	Code of Practice for Procurement	12
6.3	Occupational Health Safety & Return to Work	13
6.4	Competitive Neutrality	13
7.	SUBMISSION OF TENDERS	14
7.1	General Instructions for Submission of Tenders	14
7.2	Late Tenders	16
7.3	Extension of the Closing Date and Time	16
8.	EVALUATION OF TENDERS	16
8.1	General	16
8.2	Selection Criteria	16
8.3	Variation of Tenders	17

8.4	Exchange of Information Between Government Agencies	17
8.5	Corrupt or Unethical Conduct	18
9.	OUTCOMES	18
9.1	Negotiations Before Determination of Outcome	18
9.2	Acceptance or Rejection of Tenders	18
9.3	Discontinuance of the Tender Process	18
9.4	Post Tender Negotiations in the Event all Tenders Are Rejected	19
9.5	Complaints	19
9.6	Disclosure of Information Concerning Successful and Unsuccessful Tenders	19
9.7	Ownership of Tenders	19
9.8	Monitoring of Contract Performance	19
	 APPENDIX 1 - LIST OF HOME CARE REGIONS & BRANCHES	 19
	APPENDIX 2 - POSITION DESCRIPTIONS	20
	APPENDIX 3 - SERVICE LEVEL AGREEMENT (including KPIs & Quality Assurance)	25
	APPENDIX 4 – NSW DISABILITY SERVICE STANDARDS	32
	APPENDIX 5 – HACC NATIONAL SERVICE GUIDELINES	33

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.

“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 Contracting Services.

“CALD” means Culturally and Linguistically Diverse.

“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

“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.

“Contracting Services” 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.

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

“Customer” means the Eligible Customer that places an Order with the Contractor under the Standing Offer agreement.

“Deliverables” means the goods and services or goods or services sought under this RFT, as detailed in the Specification.

“DADHC” means the Department of Ageing Disability and Home Care.

“GST” is a goods and services tax and has the same meaning as in the GST Law.

“HACC” means Home and Community Care

“Home Care” means the Home Care Service of New South Wales.

“Industrial Instrument” includes an award, enterprise agreement, collective or individual agreement, a contract determination or a contract agreement regulating terms and conditions of work, whether made under State or Federal law.

“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 substantially 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 return to work.

“Order” means a request by a Customer to the Contractor for the provision or supply of any or all of the Deliverables.

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

“Principal” means the Home Care Service of New South Wales (Home Care).

“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” means the services sought under this RFT, as detailed in the Specification at Part C2.

“SME” means small to medium enterprise.

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

“Standing Offer” means an agreement made by a tenderer with the Principal pursuant to the RFT under which there is a standing offer for the provision or the Deliverables on the Order of any Customer for whom the Principal has arranged the contract. The Standing Offer will be embodied in a deed of agreement between the Principal and the Contractor.

“State Contracts Control Board” See definition for Board.

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

“Tender Price” means, in respect of each Service offered, the price nominated in the Price Schedule for that Service.

2. OUTLINE DESCRIPTION OF THE REQUIREMENT

2.1 Scope

- 2.1.1 This Request For Tender ("RFT") covers the provision of In-Home Direct Care Services for the Home Care Service of NSW (Home Care).
- 2.1.2 An additional RFT will be released covering the provision of Labour Hire for Disability Care Workers in Residential Group Homes and Large Residences in the Department of Ageing, Disability and Home Care (DADHC). Tenderers are asked to investigate this opportunity and complete the relevant columns of the Price Schedule accordingly.
- 2.1.3 The Board is responsible for the conduct of the tender process, assisted by Contracting Services.
- 2.1.4 Through this tender process, Home Care seeks to arrange a limited panel of Contractors sufficient to ensure its operational requirements are met. The result will be a standing offer for the supply of only such Service as may be required from time to time and Home Care shall not be bound expressly or implied to order from the Contractor any quantity of Service during the period of the Contract. Ideally providers should have broad geographical coverage or offer specialist skills.

2.2 Background

2.2.1 Home Care

The Home Care Service of NSW is a statutory authority administered by the Department of Ageing, Disability and Home Care (DADHC). It provides a range of services to frail aged, young people with a disability and their carers to enable them to live independently in their own homes and avoid premature admission to institutional care.

Home Care is the largest single provider in NSW of the Home and Community Care (HACC) program, a joint initiative by the NSW and Australian Governments. Home Care also provides services under a range of other home and community care programs. In 2004–05 Home Care employed more than 4,000 staff and delivered more than 3.6 million service hours to our clients.

There are 33 Home Care branches delivering services to clients across the State and eight additional Aboriginal Home Care branches providing a wide range of services specifically for Aboriginal communities. Pricing for services specifically for Aboriginal communities is not requested in this tender.

Home Care has a permanent workforce to deliver the majority of its services. We select staff sensitive to our clients' needs and provide training to assist them in their care provision. However it is not always possible to use Home Care staff for a range of circumstances including where the skills required for the service are not available in the branch or when staff are unavailable in the location or time the service is required. In such instances services would be subcontracted to an agency. Such an arrangement is temporary in most instances.

Home Care has undertaken a review of subcontracting procedures and has identified that a centralised process of selecting and managing contractors will improve accountability and cost effectiveness while ensuring a consistent, high quality service to clients.

The outcome of this tender process will be selection of a limited panel of suitable organisations that can deliver high quality, cost effective services in the Home Care Metropolitan Sydney, Hunter and Southern regions. A Standing Offer agreement will be negotiated and managed by Home Care centrally. The local Home Care branch will engage services for individual clients under the conditions set by the contract.

There are three service types that may be contracted out:

- domestic assistance,
- personal care;
- respite for carers in the care recipients' own home.

In order to provide a high standard of service to all its clients Home Care is committed to responding to individual client need, involving staff and clients in decision making processes, upholding independence and self determination, critically assessing our performance, listening to our clients' feedback and changing the way we work to better serve our clients.

Home Care values flexibility, empathy, responsibility and adaptability whilst creating safe and supportive working environment for our staff and clients. Home Care delivers customised services through individual care plans and procedures to meet individual needs.

Any agency providing subcontracted services to our clients would be expected to meet these standards and demonstrate compliance with the HACC service guidelines.

**Service Provision:
In 2004/2005**

- 10,000 clients received 1,384,356 personal care hours of care
- 40,000 clients received 1,665,924 domestic assistance hours of care
- 4,300 clients received 464,623 HACC respite hours

The vast majority (83%) of Home Care's clients have low support needs and receive less than 10 hours of service per four-week period, while 12 per cent receive between 10–28 hours per period and four per cent receive between 29–59 hours per week. Around one percent of clients receive 60 or more hours of service per four-week period and this group is referred to as the "High Need Pool".

In total, for the 12-month period to the end of October 2005, subcontracted services for personal care, domestic assistance and respite care, totaled approximately \$9 million. See table on next page.

Guide Only: Hours of SubContracted Services provided in the 12 month period to October 2005

Region	LPA	Home Care Branch	Domestic Assistance	Personal Care	Respite Care	Total Number of Hours
Sydney - Met Sth	Inner West	Canterbury	233	2,039	360	2,632
		Inner West Metro	581	8,014	1,312	9,907
	South Eastern Sydney	Cronulla/Sutherland	821	621	1,034	2,476
		Eastern Sydney	3,220	8,660	4,548	16,428
		St George	8,498	6,826	1,815	17,139
	South Western Sydney	Inner South West Sydney	6,439	10,574	4,969	21,982
South Western Sydney		1,809	4,440	1,914	8,163	
Sydney - Met Nth	Cumberland/Prospect	Cumberland	2,381	11,342	665	14,387
		Prospect/Hills	2,491	10,755	1,243	14,489
	North Sydney	Harbour North Service Centre	2,624	10,059	4,623	17,306
		Northern Sydney	9,164	19,135	2,925	31,225
	Nepean	Macquarie	1,363	7,244	1,456	10,062
Hunter	Central Coast	Central Coast Service Centre	5	3,140	0	3,145
	Hunter	Greater Newcastle	1,168	22,511	1,379	25,058
		Hunter Valley	0	153	0	153
Southern	Southern Highlands	Far South Coast	420	243	791	1,454
		Southern Highlands	1,673	116	365	2,153
	Illawarra	Illawarra North	957	3,759	223	4,939
		Illawarra South	509	830	829	2,169
Grand Total			44,354	130,459	30,450	205,264

* Note: Totals do not equal the sum due to rounding

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 Enquiries regarding Home Care Services

Name: Megan Makinson

Phone: 02 8270 2488

Fax: 02 8270 2421

Email: megan.makinson@dadhc.nsw.gov.au

For Contractual Enquiries

Name: Michael Milenko

Email: michael.milenko@commerce.nsw.gov.au

- 3.2.2 Three tender briefings will be held in Newcastle, Goulburn and Sydney:

NEWCASTLE

Date: Monday 31st July

Venue: Macquarie Club, 458 Lake Rd, Argenton

Time: 11:30am – 12:30pm

GOULBURN

Date: Wednesday 2nd August

Venue: Goulburn Workers Club, McKell Place, Goulburn

Time: 11:30am – 12:30pm

SYDNEY

Date: Friday 4th August

Venue: DADHC, Level 5, 83 Clarence St, Sydney

Time: 1:00pm – 2:00pm

The briefings will outline the Tender requirements, answer questions about the RFT and explain the Tender process. An attendance register will be circulated. While attendance is not compulsory, it is strongly recommended. Please RSVP by email to megan.makinson@dadhc.nsw.gov.au to confirm your attendance.

- 3.2.3 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 tenderer(s) 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.***

The Board reserves the right to appoint more than one Contractor to supply the Requirement or a part of the Requirement.

- 3.3.2 The Contract will be for a term of 2 years and may be extended by 2 further terms, each of 1 year. 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.

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.

5. PREPARATION OF TENDER - PRICE SCHEDULE AND PROJECT PLAN

5.1 Price Schedule

- 5.1.1 Tenderers must complete the Price Schedule at Part C.

5.2 Calculating the Tender Price

- 5.2.1 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;
 - (d) include all costs associated with the preparation and submission of the Tender; and
 - (e) take account of the Contracting Services management fee, which is not to be shown as a separate charge.
- 5.2.2 Tender prices are sought on the basis of an all inclusive Hourly Rate and Fee. The tendered Hourly Rate for staff is to be inclusive of all costs associated with providing the service, except for those costs included in the Tenderer's Fee for Service. The tendered Hourly Rate payable shall commence upon arrival at the Client's residence or commencement of duties and shall conclude upon departure from the Client's residence or finalisation of duties. The tendered Hourly Rate shall include any costs associated with travel to and from the Contractor's premises.
- 5.2.3 The Tenderer's Fee is to cover the costs involved in providing the Service including but not limited to the sourcing and allocation of staff, training and assessment of staff, OH&S aspects, payment of wages, holding of appropriate licences and insurances by/for the staff/service, meeting all employer legal requirements, undertaking dispute resolution and the reporting

requirements of Home Care. Costs of other specific training and orientation are also at the Tenderer's expense.

5.3 Price Basis

5.3.1 Tenderer's Fee for Service

5.3.1.1 The Tendered Fee for Service shall remain FIRM for the duration of the Contract including any optional extension periods.

5.3.2 Hourly Rate

5.3.2.1 The Tendered Hourly Rates may be varied if required to comply with the applicable industrial instrument and the Tenderer shall inform Home Care of any such variation.

5.3.1 Hourly Rate

5.3.1.1 Tendered Hourly Rates shall be subject to variation in accordance with the industrial instrument as directed by the Tenderer and agreed by Home Care.
Alignment to or parity with Home Care industrial agreements only with written formal consent by Home Care senior management allowed to make that decision.

5.3.2 Tenderer's Fee for Service

The Tendered Fee for Service shall remain FIRM for the duration of the Contract including any optional extension periods.

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 Minimum Tender Validity Period

5.5.1 Tenders must remain open for acceptance for a period of at least six (6) 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.

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

- 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, Workers Compensation and Return to Work

- 6.3.1 Tenderers must comply with the following occupational health and safety, workers compensation and return to work requirements in the performance of any contract awarded:
- (a) *Occupational Health and Safety Act 2000*
 - (b) *Occupational Health and Safety Regulation 2001*
 - (c) *Workers Compensation Act 1987*
 - (d) *Workplace Injury Management and Workers Compensation Act 1998*
 - (e) *any Regulations made under these Acts*
 - (f) *Codes of Practice, approved and issued pursuant to the above Acts or Regulations*
- 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 compliance with OHS&R requirements on Part C.

6.4 Competitive Neutrality

- 6.4.1 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.
- 6.4.2 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.
- 6.4.3 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.
- 6.4.4 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.

6.5 Small to Medium Enterprise (SME) involvement

- 6.5.1 It is NSW Government policy to encourage the development of local industry and to support SMEs. Tenderers are required to state in Part C1 how they will provide opportunities for SMEs and, if the Tender involves the formation of a relationship with one or more SMEs, tenderers are asked to provide specified information regarding such relationship(s). The evaluation will favour tenderers that are prepared to contractually commit to supply chain management and using SMEs identified within their Tenders and the value of work that will flow through to SMEs.

6.6 Regional development activity

- 6.6.1 It is NSW Government policy to encourage regional development. Tenderers are to provide details in Part C1 of the number and type of regionally based enterprises participating in their Tender and of the expected regional economic impact of their Tender. The evaluation will favour proposals with a commitment to participation of regional enterprises and to activities that enhance regional development.

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:

- (1) It must be marked:

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

- (2) If delivery personnel require a signature as evidence of delivery the Tender must be delivered between 8:30 am and 4:30 pm, Mondays to Fridays (except public holidays);

- (b) by post, addressed to

Tender Box
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 0601250"
- 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 Microstation 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 The selection criteria for this Request for Tender 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.
- 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.
- 8.1.7 If any criterion or sub-criterion is stated to be mandatory, a failure by the Tenderer to fully comply with that criterion or sub-criterion will result in automatic exclusion of the Tender without further consideration.

8.2 Selection Criteria

- (a) Pricing.
- (b) Ability and capacity to perform the contract, including:
 - (i) *Human resource capacity, qualifications, skills and experience.*
 - (ii) *Financial capacity and stability (including security considerations).*
 - (iii) *Quality assurance systems.*
 - (iv) *Suitability of sub-contractors.*
 - (v) *Maintenance and support service levels including availability of Help Desk for help calls.*
 - (vi) *Previous experience and performance on other NSW Government contractual agreements.*

(vii) *Record of ethical behaviour in service delivery.*

- (c) Degree of compliance with specification.
- (d) Compliance with proposed conditions of the Contract.
- (e) Compliance with applicable NSW Government policies including industrial relations policies.

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 90 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.

9.8 Monitoring of Contractor Performance

- 9.8.1 During the course of the Standing Offer agreement the Contractor's performance will be monitored and assessed. For details refer to the NSW Government Procurement Guidelines on Service Provider performance management which is available on request from the Contact Officer, the NSW Department of Commerce or can be viewed and downloaded from

<http://www.ogp.commerce.nsw.gov.au/NR/rdonlyres/eucuz2722gdb54776cyhkw7ntoj4cpiw5iga5ztwvtvjethi2xjujwd4zrgsfte4cye7lgoqtlf4wxywdioutedaph/Service+Provider+Performance+Management.pdf>

- 9.8.2 A sample Service Level Agreement and Key Performance Indicators can be found in Appendix 3.

APPENDIX 1 HOME CARE - REGIONS/BRANCHES

Tender must cover at least 1 Home Care Region or 1 LPA

- | | |
|---|---|
| <input type="checkbox"/> Southern Sydney | <input type="checkbox"/> Southern |
| <input type="checkbox"/> Northern Sydney | <input type="checkbox"/> Central Coast, Greater Newcastle & Hunter |

LPAs

- | | | | |
|--|--|---|---|
| <input type="checkbox"/> Inner West | <ul style="list-style-type: none"> Ashfield Auburn Burwood | <ul style="list-style-type: none"> Canada Bay Canterbury Leichhardt | <ul style="list-style-type: none"> Marrickville Strathfield |
| <input type="checkbox"/> South Eastern Sydney | <ul style="list-style-type: none"> Botany Bay Hurstville Kogarah Randwick | <ul style="list-style-type: none"> Rockdale Sutherland Shire Sydney Waverley | <ul style="list-style-type: none"> Woollahra |
| <input type="checkbox"/> South Western Sydney | <ul style="list-style-type: none"> Bankstown Camden Campbelltown | <ul style="list-style-type: none"> Fairfield Liverpool | <ul style="list-style-type: none"> Wingecarribee Wollondilly |
| <input type="checkbox"/> Northern Sydney | <ul style="list-style-type: none"> Hornsby Hunter's Hill Ku-ring-gai Lane Cove | <ul style="list-style-type: none"> Manly Mosman North Sydney Pittwater | <ul style="list-style-type: none"> Ryde Warringah Willoughby |
| <input type="checkbox"/> Cumberland/Prospect | <ul style="list-style-type: none"> Auburn Baulkham Hills | <ul style="list-style-type: none"> Blacktown Holroyd | <ul style="list-style-type: none"> Parramatta |
| <input type="checkbox"/> Hunter | <ul style="list-style-type: none"> Cessnock Dungog Lake Macquarie <i>Liverpool Plains</i> | <ul style="list-style-type: none"> Maitland Muswellbrook Newcastle | <ul style="list-style-type: none"> Port Stephens Singleton |
| <input type="checkbox"/> Central Coast | <ul style="list-style-type: none"> Gosford | <ul style="list-style-type: none"> Lake Macquarie | <ul style="list-style-type: none"> Wyong |
| <input type="checkbox"/> Illawarra | <ul style="list-style-type: none"> Kiama | <ul style="list-style-type: none"> Shellharbour Shoalhaven | <ul style="list-style-type: none"> Wollongong |
| <input type="checkbox"/> Southern Highlands | <ul style="list-style-type: none"> Bega Valley Bombala Boorowa Cooma-Monaro Eurobodalla | <ul style="list-style-type: none"> Goulburn Harden Palerang Queanbeyan Snowy River | <ul style="list-style-type: none"> Upper Lachlan Yass Valley Young |
| <input type="checkbox"/> Nepean | <ul style="list-style-type: none"> Blue mountains | <ul style="list-style-type: none"> Hawkesbury | <ul style="list-style-type: none"> Penrith |

APPENDIX 2 INDICATIVE SERVICE DESCRIPTIONS – HOME CARE

The following duties and actions will be required to be undertaken for the provision of Domestic Assistance, Personal Care and Respite services:

MAIN DUTIES		
DOMESTIC ASSISTANCE The employee provides assistance with housework in the client's home with one or more of the following tasks as specified by Home Care.		
Domestic Assistance Grade One Cleaning Washing Ironing Vacuuming Dusting Meal preparation Cooking	Domestic Assistance Grade Two Where service consists of a mix of house work and personal care.	Complex Domestic Assistance Grade Three Housework involving heavy duty cleaning or where client behaviour is a factor
PERSONAL CARE Where the employee provides assistance and is totally responsible for the client while a family carer is not present in the caring role and/or where there is bodily intrusion.		
Showering/Bathing	Personal Care Grade Two Assisting client to shower/bath or totally showering/bathing client except where client has severely limited/uncontrollable body movements. Assisting with mobility or transferring to and from shower/bath except with clients who have severely limited/uncontrollable body movements. Supervising children's bath. Bathing a baby.	Complex Personal Care Grade Three Showering/Bathing adults and children with severely limited/uncontrollable body movements. Total bed bath/sponge where there is severely limited uncontrollable body movements or serious comfort/health considerations. Assisting clients to turn/sit where clients can offer limited/no assistance with weight bearing. Using mechanical aids to lift and transfer clients.
Transferring/Mobility	Total bed bath/sponge - exceptions Grade 3. Transferring client in and out of bed/chair/car and assisting with mobility - exceptions see Grade 3.	Assisting client with transfers/mobility where: <ul style="list-style-type: none"> • Client can offer limited/no assistance with weight bearing; • Particularly careful handling is required because of the client's health/disability;

Fitting of Aids/Appliances		Such as splints and callipers
Therapy	<p>Assisting with therapy in any of the following circumstances:</p> <ul style="list-style-type: none"> • low level of assistance is involved • carer/therapist is on site or client is able to take responsibility for the therapy or carer/therapist is on site • simple instructions required rather than specialised training/knowledge 	<p>Assisting with therapy in any of the following circumstances:</p> <ul style="list-style-type: none"> • high degree of assistance is involved • Care Workers have total responsibility because client is unable to take responsibility for the therapy and carer/therapist is not on site • specialised training/knowledge is required.
Assistance with Eating	Assisting where there are no eating difficulties.	Assisting with eating where a risk of choking, vomiting or other eating difficulty is involved.
Grooming	<p>All hair care.</p> <p>Limits care of nails, as detailed in Personal Care Manual.</p> <p>Shaving – where there are uncontrollable body movements use electric razors only.</p> <p>All other shaving – electric razors recommended.</p>	<p>All hair care.</p> <p>Limits care of nails, as detailed in Personal Care Manual.</p> <p>Shaving – where there are uncontrollable body movements use electric razors only.</p> <p>All other shaving – electric razors recommended.</p> <p>All dressing/undressing or assistance with dressing/undressing except where there are severely limited/uncontrollable body movements.</p>
Oral Hygiene	<p>Assisting client with their own care of teeth or dentures.</p> <p>Care of teeth and dentures for the customer by using tooth brush/tooth past/oral solutions only.</p>	
Toiletting	<p>Helping clients to the toilet.</p> <p>Assisting clients to use the toilet by loosening clothing.</p> <p>Assisting client to change own incontinence and sanitary pads.</p> <p>Changing client's urinary incontinence pads.</p>	<p>Assisting or transferring client to commode chair except where client has severely limited/uncontrollable body movements. Assisting in placement, removal, emptying, care and cleaning of sheaths and leg baths.</p> <p>Assisting with indwelling catheterisation by changing collection bag and cleaning around the insertion site.</p>

	<p>Assisting clients with bottles.</p> <p>Assisting self-catheterisation by holding mirror or positioning legs except where there is severely limited/uncontrollable body movements.</p> <p>Changing baby's nappies, toileting children.</p>	<p>Changing or assisting with urinary diversion - colostomy and drainage bags.</p> <p>All bowel management.</p> <p>Continual caring of someone with bowel incontinence including washing person.</p> <p>Changing bowel incontinence pads.</p> <p>Responsibility for sterilising glass catheters for people using intermittent catheters.</p>
Menstrual Care	Assisting with menstrual care.	Assisting with menstrual care. Changing tampons and sanitary pads.
Skin Care	All skin care, eg: application of cream, rubbing pressure areas with lotions, etc, except where dressings are involved.	Changing dressings on pressure areas, ulcers, burns, wounds, cuts and grazes only in circumstances outlined in Personal Care Manual. Application of treatment creams to genital area.
Nasal Care	Cleaning noses.	
RESPITE Grade Two		
The employee provides relief to the usual carer by supervising and assisting the care recipient in their home. The usual carer is not present in their caring role. Respite may include some of the tasks of domestic assistance or personal care but the primary task is to provide relief to the usual carer.		
	Respite Grade Two	Complex respite Grade Three
	Supervision and assistance to the care recipient.	Respite where client behaviour is a factor or where complex personal care is involved.

DESCRIPTION OF PHYSICAL REQUIRMENTS FOR TASKS

DUTIES	ACTION	PHYSICAL REQUIREMENTS
DOMESTIC DUTIES		
Bathroom Cleaning	Walking, semi-squat, kneeling, upper limb actions between shoulder and mid thigh height	Full range of movement knees, full range of movement shoulder, adequate upper limb strength
Washing	Forward and backward lunge, bending from the hips whilst keeping lower back straight, semi squat, pivoting, reaching, lifting, carrying	Full range of movement knees, full flexion at hip joints, full range of movement shoulder with no signs of impingement.
Ironing	Sitting, standing, lifting, carrying, repetitive upper limb action at 110 degrees of elbow flexion, wide base of support and sideways lunging.	Full range of movement shoulder with no signs of shoulder impingement, adequate pelvic stability and trunk strength
Vacuuming	Walking, squatting, half kneeling, weight transference forwards and backwards, repetitive upper limb actions in forward plane, pushing, pulling.	Full range of movement shoulder with no signs of shoulder impingement, adequate pelvic stability and trunk strength. Full range of knee movement.
Mopping/sweeping	Walking, semi squat, weight transference forwards and backwards. Repetitive upper limb actions in a forward plane, pushing, pulling.	Full range of movement shoulder with no signs of shoulder impingement, adequate pelvic stability and trunk strength. Full range of knee movement.
Dusting	Walking, reaching, semi squat, weight transference forwards and backwards, pivoting, Light lifting, repetitive upper limb actions in a forward plane.	Full range of movement shoulder with no signs of shoulder impingement, adequate pelvic stability and trunk strength. Full range of knee movement.
Bed making	Walking, semi squat, half kneel, bending from the hips v's lower back, upper limb actions in forward and sideways planes, light lifting	Full range of movement shoulder with no signs of shoulder impingement, adequate pelvic stability and trunk strength. Full range of movement lumbar sacral spine.
Meal preparation	Lifting, reaching, walking, standing, semi squat, pivoting, weight transference sideways, upper limb actions in forwards and sideways planes and between shoulder and mid thigh height.	Adequate range of movement elbow and shoulders with no signs of repetitive stress in either region. Full range of movement cervical spine especially flexion.

PERSONAL CARE Mobility tasks <ul style="list-style-type: none"> • Bed mobility – rolling across the bed • Lying/sitting 	Standing, semi squat, bending from the hips v's the lower back, weight transference forwards, backwards and sideways, working in the lower body, minimal action in the upper body	Full range of movement lumbar sacral knees, adequate pelvic stability and trunk strength. Adequate upper limb strength
Transfers <ul style="list-style-type: none"> • Sitting to/from standing • Chair to chair/bed Sliding board Hoist 	Supporting, pushing, sliding, pulling, semi squat, weight transference sideways, pivoting, holding, working in the lower body, minimal action in the upper body.	Full range of movement spine, full range of movement knees, adequate pelvic stability and trunk strength. Adequate upper limb strength.
Walking – assisted	Standing, walking, holding, weight transference sideways, forwards and backwards, pivoting.	Adequate range of movement lumbar sacral spine, good pelvic stability and trunk strength.
Wheelchair/equipment – manoeuvring	Walking, pushing, pulling, pivoting	Adequate range of movement lumbar sacral spine, good pelvic stability and trunk strength. Upper limb's
Showering/assisting	Standing, holding, supporting, semi squat, transferring (as above), upper limb actions between shoulder and mid thigh height.	Full range of movement lumbar sacral spine, full range of movement knees, adequate pelvic stability and trunk strength. Adequate upper limb strength with full range of movement shoulders and no signs of impingement.
Dressing	Standing, semi squat, transferring, bed mobility (as above).	Full range of movement lumbar sacral spine, full range of movement knees, adequate pelvic stability and trunk strength. Adequate upper limb strength with full range of movement shoulders and no signs of impingement.
Toileting	Standing, semi squat, transferring, bed mobility (as above).	Full range of movement lumbar sacral spine, full range of movement knees, adequate pelvic stability and trunk strength. Adequate upper limb strength with full range of movement shoulders and no signs of impingement
Feeding	Sitting, upper limb actions in a forward plane between waist and head height.	Full range of movement shoulder, elbows and wrists. No signs of musculo-skeletal stress injury.
Grooming	Standing, upper limb actions between waist and head height.	Adequate range of movement lumbar sacral spine, adequate range of movement cervical spine and shoulders.
Therapy	Standing, massing, percussion, upper limb actions in all planes and ranges, pushing, pulling, holding, if working on a table or bed. Refer to bed mobility (above).	Full range of movement lumbar sacral spine, full range of movement knees, adequate pelvic stability and trunk strength. Adequate upper limb strength with full range of movement shoulders and no signs of impingement.
Baby/child care	Actions as per the required tasks.	

APPENDIX 3 SAMPLE SERVICE LEVEL AGREEMENT

The purpose of this Service Level Agreement is to enable the monitoring of Contractor performance by the Principal (Home Care) during the term of the contract.

1 PROVISION OF SERVICES

1.1 The Contractor will carry out the services as to:

- Comply with the specifications of the services in accordance with the terms and conditions of the contract.
- Achieve the service performance benchmarks (the "Service Levels") set out in clause 6 and Key Performance Indicators of this Service Level Agreement.

1.2 The Contractor shall use all reasonable care, skill and diligence in the provision of services.

2 CONTRACTOR PERFORMANCE

2.1 It is the intention of Home Care and the Contractor that the Agreement be a mutually beneficial arrangement.

2.2 The Contractor acknowledges that service performance in accordance with the set service levels is of prime benefit to Home Care.

2.3 The Contractor will participate in quarterly meetings (or at other scheduled times as required) with Home Care to review the Contractor's performance in meeting the Service levels.

3 ACCOUNT MANAGEMENT

3.1 The Contractor will allocate personnel with sufficient authority and experience to liaise with Home Care on a regular basis for the purposes of:

- Ascertaining business needs and service requirements;
- Resolving Service Level difficulties
- Ensuring the effective and timely administration of the Agreement.

4 CONTRIBUTION TO MANAGEMENT REPORTING

4.1 The Contractor will co-operate with Home Care in the design of management reports to monitor Service Levels in the provision of Services. These reports shall be provided on a monthly basis and submitted to Home Care for that period, or as otherwise requested from time to time.

5 GENERAL

5.1 This Service Level Agreement will be effective from date of agreement by both parties.

5.2 The purpose of this Agreement is to clearly define the areas of performance that will be monitored by Home Care, together with the expected service levels.

5.3 No modifications or amendments to the Service Level Agreement or any waiver of any terms or conditions herein shall be effective, unless agreed in writing and signed by both parties.

- 5.4 The Service Level Agreement is subject to arbitration/mediation procedures for the resolution of disputes in accordance with the provisions of Schedule 1, Part B.
- 5.5 Neither party shall be liable for failure to fulfil its obligations when such failure is due to reasons beyond its reasonable control.

6 SERVICE LEVEL BENCHMARKS

- 6.1 The service levels to be measured as part of this Service Level Agreement will monitor the following key accountabilities, which are considered essential for high standard services. They include but are not limited to:
- Ordering systems
 - Provision of accurate and timely reports
 - Complaints management
 - Induction procedures
 - Compliance with statutory requirements
- 6.2 The required service levels are detailed in the key performance indicators to this Agreement.
- 6.3 Home Care may also conduct surveys of its clients incorporating these key accountabilities, the results of which may be reported to the contractor and form part of the overall assessment.
- 6.4 Home Care may provide market share information to assist contractors in monitoring their own performance to that of their co-panellists during the term of the contract.

7 SCHEDULED PERFORMANCE MEETINGS

- 7.1 A meeting may be convened between delegates of both parties on a quarterly basis at a time agreed by both parties.
- 7.2 Additional quarterly meetings may be scheduled by Home Care in addition to those at clause 7.1 to discuss specific performance issues.

8 PERFORMANCE MANAGEMENT REPORTS

- 8.1 The Key Performance Indicators (KPI) report shall be submitted within seven (7) days of the end of each quarter.

9 FAILURE TO MEET SERVICE LEVELS

- 9.1 In the event of the Contractor's performance not meeting the Service Levels (the "Performance Deficiency"), Home Care will advise the Contractor in writing of the performance deficiency. The Contractor must effect corrective action within 30 days to rectify the Performance Deficiency.
- 9.2 It will be at Home Care's discretion to determine whether a failure to meet a service level warrants immediate action as per clause 32 of Part B – Termination of Contract.
- 9.3 If the Contractor is notified and fails to take corrective action in accordance with 9.1 above, the Contractor will be deemed to be in breach of the Agreement. Home Care will then notify the Contractor in writing that the Contractor is in breach of the Agreement.
- 9.4 If the Contractor is in breach of the Agreement, where such failure is not outside of the Contractor's reasonable control, will be liable to consequences which may include, but not limited to, the publicising of any sub-standard performance to users or, depending on the severity, termination of the Agreement at Home Care's discretion.

Proposed Key Performance Indicators

Methodology:

The KPI matrix is an effective way of scoring the performance of the supplier within desired parameters.

With the below example if the supplier has a success rate of 85% the score is .5. The KPI is given a weighting of 10, therefore the score would be 5 out of a possible 10.

6	Example - Order fill rate	Result Score	>95% 1	85% to 95% .5	75% to 84% .25	<75% 0	.5	10	5
----------	---------------------------	-----------------	-----------	------------------	-------------------	-----------	----	----	---

If the supplier had 100% success rate for all KPIs their score would tally to 100

#	KPI	Result/Score	Measure				Score Received	Weighting	Weighted Score
1	Services consistent with ordering	Result Score	>85% 1	70% to 84% 0.5	50% to 70% 0.25	up to 50% 0		15	
2	OH&S Requirements met	Result Score	100% 1	75% 0.5	<75% 0	- -		20	
3	Induction procedures conducted	Result Score	>85% 1	70% to 84% 0.5	50% to 70% 0.25	up to 50% 0		20	
4	Customer Feedback Form returned in all cases. (see next page)	Result Score	>85% 1	70% to 84% 0.5	50% to 70% 0.25	up to 50% 0		20	
5	Order fill rate	Result Score	>95% 1	85% to 95% .5	75% to 84% .25	<75% 0		20	
6	Non conformances eg incorrect invoicing	Result Score	0 1	1 0.75	2 0.5	>2 -		5	

RESPONDENT:

Name of Representative:

(block letters)

Signature:

(block letters)

This form is to be completed by all subcontracted Field Staff every month and when providing service to new clients. The form should then be faxed to the relevant branch. Home Care will use this form to monitor performance.

Client Name	Client Number
Name of Organisation	Home Care Coordinator
Date of service	Service type

Please tick if you have noticed any change in the client's condition in relation to the following.

Please tick if you have noticed any change in the client's condition in relation to the following:		
Health <input type="checkbox"/> General wellbeing <input type="checkbox"/> Continence <input type="checkbox"/> Appetite/weight loss	<input type="checkbox"/> Personal care <input type="checkbox"/> Social Activity <input type="checkbox"/> Mobility	<input type="checkbox"/> Memory <input type="checkbox"/> Confusion <input type="checkbox"/> Neglect/Abuse
Behaviour <input type="checkbox"/> Tearful <input type="checkbox"/> Abusive	<input type="checkbox"/> Disorientated	<input type="checkbox"/> Lost interest or pleasure in usual activities
General <input type="checkbox"/> Communication	<input type="checkbox"/> Carer Issue	<input type="checkbox"/> Complaint
Safety (attach Hazard form) <input type="checkbox"/> Inside residence	<input type="checkbox"/> Outside residence	<input type="checkbox"/> Deterioration in living environment
Reassessment <input type="checkbox"/> Required	<input type="checkbox"/> Not Required	

[illegible]

Field Staff Signature:	Date:	Home Care Service Signature:	Date:
------------------------	-------	------------------------------	-------

Home Care Service NSW
Subcontractor Quality Assurance Audit (used by Home Care to monitor performance)

Subcontractor:	Date:
Customer:	Phone Number:

I am ringing to talk to you about the service you receive from Home Care. Do you have time to answer a few questions? We are currently employing a subcontractor.....to assist you with

1. Did the subcontractor notify you as to when they are coming to complete your service and the name of the carer who would be assisting you?

Yes → ☐

No → ☐

2. How do you rate the level of service you receive from the subcontractor? For example - responding to your inquiries/concerns/needs, informing you of changes to agency staff that will be assisting you, general communication?

	<i>Very Poor</i>	<i>Poor</i>	<i>Satisfactory</i>	<i>Good</i>	<i>Very Good</i>
	1	2	3	4	5
					NA

3. How do you rate the professionalism of agency staff? For example - did the agency staff arrive at the time advised to undertake the service, were they well groomed, did they listen to and help solve problems you may be having with the service provided?

Yes → ☐

No → ☐

4. How would you rate your overall satisfaction with the agency staff who provided the service on a scale of 1 to 5, where 1 is completely dissatisfied and 5 is completely satisfied? (Please circle number)

	Completely Dissatisfied	Dissatisfied	Satisfactory	Satisfied	Completely Satisfied
Domestic Assistance	1	2	3	4	5
Personal Care	1	2	3	4	5
Respite Care	1	2	3	4	5

5. How well does the level of service you receive from the agency staff meet your needs?

	Very Poorly 1	Poorly 2	Satisfactorily 3	Well 4	Very Well 5
Domestic Assistance					
Personal Care	1	2	3	4	5
Respite Care	1	2	3	4	5

6. How do you rate the knowledge and skills of the staff to undertake the service provided?

	Very Poor 1	Poor 2	Satisfactory 3	Good 4	Very Good 5
Domestic Assistance					
Personal Care	1	2	3	4	5
Respite Care	1	2	3	4	5

7. How do you rate the work that agency staff undertake in meeting your expectations?

Very Poor						Poor	Satisfactory	Good	Very Good
1	2	3	4	5	NA				

Please expand on how the agency staff performed well in meeting your expectations

8. What do they do that is not to your satisfaction?

How can the performance of agency staff be improved?

Thank you for your time today. Your feedback is very important to us in continuing to improve the services we provide.

Completed by :

APPENDIX 4 NSW DISABILITY SERVICE STANDARDS

Standards applicable to Home Care

Standard 1 - Service Access

Each consumer seeking a service has access to a service on the basis of relative need and available resources

Standard 2 - Individual Needs

Each person with a disability receives a service which is designed to meet, in the least restrictive way, his or her individual needs and personal goals.

Standard 3 - Decision Making and Choice

Each person with a disability has the opportunity to participate as fully as possible in making decisions about the events and activities of his or her daily life in relation to the services he or she receives.

Standard 4 - Privacy, Dignity and Confidentiality

Each consumer's right to privacy, dignity and confidentiality in all aspects of his or her life is recognised and respected.

Standard 5 - Participation and Integration

Each person with a disability is supported and encouraged to participate and be involved in the life of the community.

Standard 6 - Valued Status

Each person with a disability has the opportunity to develop and maintain skills and to participate in activities that enable him or her to achieve valued roles in the community.

Standard 7 - Complaints and Disputes

Each consumer is free to raise and have resolved, and complaints or disputes he or she may have regarding the agency or the services.

Standard 8 - Service Management

Each agency adopts sound management practices which maximise outcomes for consumers.

Standard 9 - Family Relationships

Each person with a disability receives a service which recognises the importance of preserving family relationships and is sensitive to their cultural and linguistic environments.

Standard 10 - Protection of Human Rights and Freedom from Abuse

The agency ensures the legal and human rights of people with a disability are upheld in relation to prevention of sexual, physical and emotional abuse within the service.

APPENDIX 5 HACC NATIONAL SERVICE GUIDELINES

Guidelines applicable to Home Care as a HACC program service provider

Objective 1 - Access to Service

To ensure that each consumer's access to a service is decided only on the basis of relative need.

Objective 2 - Information and Consultation

To ensure that each consumer is informed about his or her rights and responsibilities and the services available and consulted about any changes required.

Objective 3 - Efficient and Effective Management

To ensure that consumers receive the benefits of well-planned efficient and accountable service management.

Objective 4 - Co-ordinated, Planned and Reliable Service Delivery

To ensure that each consumer receives coordinated services that are planned, reliable and meet his/her specific ongoing needs.

Objective 5 - Privacy, Dignity and Confidentiality

To ensure that each consumer's rights to privacy and confidentiality are respected and that he/she has access to personal information held by the agency.

Objective 6 - Complaints and Disputes

To ensure that each consumer has access to fair and equitable procedures for dealing with complaints and disputes.

Objective 7 - Advocacy

To ensure that each consumer has access to an advocate of his/her choice.



Contracting Services is a Business Unit of the NSW Department of Commerce

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

PART B – CONDITIONS OF CONTRACT

Contract No. 0601457

***In-Home Direct Care Services for the Home Care
Service of NSW***

**PERIOD: *Two Years from Date of Acceptance
Plus 2 x 1 Year Extension Options***

Part B – Conditions of Contract

TABLE OF CONTENTS

PART B	CONDITIONS OF CONTRACT	4
1.	INTERPRETATION	4
1.1	<i>Definitions</i>	4
1.2	<i>Rules for interpreting this Contract</i>	6
2.	NATURE OF THE CONTRACT BETWEEN THE PRINCIPAL AND THE CONTRACTOR	7
3.	TERM	7
4.	SERVICES TO BE SUPPLIED	7
5.	RIGHT TO OBTAIN SERVICES ELSEWHERE	7
6.	RESPONSIBILITY OF THE CONTRACTOR	7
7.	PERFORMANCE OF WORK	7
8.	PRICE BASIS	8
9.	GOODS AND SERVICES TAX	8
10.	GOVERNMENT TAXES, DUTIES AND CHARGES	8
11.	PAYMENT	8
12.	CONFLICT OF INTEREST	9
13.	MISTAKES IN INFORMATION	9
14.	MINIMUM INSURANCE REQUIREMENTS	9
15.	GENERAL INDEMNITY	10
16.	COMPLIANCE WITH LAWS	11
17.	PAYMENT OF WAGES AND ALLOWANCES	11
18.	THE CONTRACTOR'S ON-COSTS	11
19.	LICENCES AND APPROVALS	11
20.	KEEPING OF RECORDS AND ACCESS TO RECORDS	11
21.	ACCESS TO CONTRACTOR'S PREMISES	11
22.	MONITORING OF PERFORMANCE	12
23.	EXCHANGE OF INFORMATION BETWEEN GOVERNMENT AGENCIES	12
24.	THE CONTRACTOR'S PERSONNEL/SPECIFIED PERSONNEL	12
25.	STAFFING	12
26.	CONFIDENTIALITY	13
27.	DELIVERY OF CONTRACT MATERIAL AND INFORMATION	14
28.	INTELLECTUAL PROPERTY RIGHTS	14
29.	ENTRY TO OFFICIAL ESTABLISHMENTS	15
30.	DAMAGE TO PROPERTY	15
31.	VARIATIONS	15
32.	TERMINATION FOR CAUSE	15
33.	TERMINATION FOR THE PRINCIPAL'S CONVENIENCE	16
34.	NO ASSIGNMENT OR NOVATION	16
35.	ISSUE RESOLUTION	17
35.1	<i>General</i>	17
35.2	<i>Amicable Resolution</i>	17
35.3	<i>Expert Determination</i>	17
36.	PERFORMANCE OF CONTRACT DURING ISSUE RESOLUTION	18
37.	WAIVER	18
38.	SEVERABILITY	18
39.	NOTICES	19
40.	COUNTERPARTS	19
41.	APPLICABLE LAW	19
42.	RIGHTS CUMULATIVE	19
43.	NO AGENCY/NO EMPLOYMENT/NO PARTNERSHIP	19
44.	SET-OFF/MONEY RECOVERABLE BY PRINCIPAL	19

45.	SUSPENSION OF PAYMENTS	19
46.	CONTRACTOR'S WARRANTIES	20
47.	CONTRACTOR'S WARRANTIES (GENERAL)	20
48.	SUB-CONTRACTING OF CONTRACT	20
49.	NON-MERGER	21
50.	MANAGEMENT FEE	21
<u>SCHEDULE 1 EXPERT DETERMINATION PROCEDURE</u>		25
1.	QUESTIONS TO BE DETERMINED BY THE EXPERT	25
2.	SUBMISSIONS	25
3.	CONFERENCE.....	26
4.	ROLE OF EXPERT	26
EXECUTED AS A DEED.....		27

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 documents incorporating 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 Service 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”).

“Contract Price” means the total amount payable by the Principal to the Contractor for the Service as detailed in the Pricing Schedule at Part C.

“Contractor” means the organisation or individual who by the contract undertakes to provide the Service 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.

“DADHC” means the Department of Ageing Disability and Home Care.

“Eligible Customer” means

- (a) an entity listed in Schedule 1 to the Public Sector Employment and Management Act 2002 as amended from time to time;
- (b) a public sector agency as defined by clause 18(4) of the Public Sector Management (goods and Services) Regulation 2000 being:
 - 1) a government trading enterprise (including a State owned corporation)
 - 2) a public or private hospital (including an area health service)
 - 3) a local government agency
 - 4) a charity or other community non-profit organisation
 - 5) a public or private school, college or university
 - 6) a public sector agency of this State, the Commonwealth or of any other State or Territory
 - 7) a contractor to a public sector agency (but only in respect of things done as such a contractor)
 - 8) a Nominee Purchaser as defined in clause 1.1 and
 - 9) such other persons or entities, which the Principal may from time to time in its discretion, determine through a customer registration process.

“Home Care” means the Home Care Service of New South Wales.

“Industrial Instrument” includes an award, enterprise agreement, collective or individual agreement, a contract determination or a contract agreement regulating terms and conditions of work, whether made under State or Federal law.

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

“Intellectual Property” means all rights in copyright, patents, registered and unregistered trademarks, registered designs, trade secrets, and all other rights of Intellectual Property defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967, whether created before or after the date of this Contract.

“Parties” means the Principal and the Contractor.

“Price” means the price payable for each Deliverable as set out in the Price Schedule.

“Price Schedule” means the Price Schedule attached to the Tender in Part C.

“Principal” means the means the Home Care Service of New South Wales (Home Care) 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 to the Contractor by whatever means, including information supplied by the Principal which is information from other departments or agencies of Crown.

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

“Schedule” means a schedule to this Contract.

“Service” means the services to be supplied by the Contractor in accordance with this Contract and as itemised in the Price Schedule.

“Specification” means the detailed description of the Service to be provided under this Contract that is at Part C2. 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.

“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 14 (Insurance),
- (b) clause 15 (General Indemnity)
- (c) clause 19 (Licences and Approvals),
- (d) clause 26 (Confidentiality),
- (e) clause 28 (Intellectual Property Rights); and
- (f) clause 34 (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 THE PRINCIPAL AND THE CONTRACTOR

- 2.1 This Contract covers the provision of In-Home Direct Care Services for Home Care Services of NSW (The Principal), in accordance with the Specification.
- 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 Parties agree that any Eligible Customer, although not a Party to this Agreement, may take the benefit of, and seek to enforce, this Agreement in its own name at the consent of Home Care.

3. TERM

- 3.1 This Contract commences on the date of acceptance and expires two (2) years from date of acceptance unless sooner determined in accordance with this Contract.
- 3.2 The Principal may, in its sole discretion, extend this Contract for two (2) further periods, each of one (1) year duration.

4. SERVICES TO BE SUPPLIED

- 4.1 The Contractor acknowledges that the Contract constitutes a standing offer for the supply of only such Service as may be required from time to time during the currency of the Contract and the Principal shall not be bound expressly or implied to order from the Contractor any quantity of Service during the period of the Contract.

5. RIGHT TO OBTAIN SERVICES ELSEWHERE

- 5.1 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.
- 5.2 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.

6. RESPONSIBILITY OF THE CONTRACTOR

- 6.1 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.

7. PERFORMANCE OF WORK

- 7.1 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.
- 7.2 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.

8. PRICE BASIS

8.1 Hourly Rate

- 8.1.1 Tendered Hourly Rates shall be subject to variation in accordance with the applicable industrial instrument provided that the Contractor notifies Home Care prior to the date on which the increase is to take effect. The Contractor shall advise Home Care of the increases required by the applicable industrial instrument and the percentage increase involved.
- 8.1.2 The Contractor shall ensure that increases required by the applicable industrial instrument are automatically applied and paid to the staff from the effective date of the instrument increase.

8.2 Tenderer's Fee for Service

- 8.2.1 The Tendered Fee for Service shall remain FIRM for the duration of the Contract including any optional extension periods.

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 9.1.5.

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. PAYMENT

- 11.1 Home Care shall pay to the Contractor the fees set out in the Price Schedule. NSW BusinessLink facilitates the payment of invoices for Home Care. NSW BusinessLink payment terms are 31 days. Invoices issued over six months after the date of service will not be paid.
-

- 11.2 No payment by Home Care for any services provided pursuant to this agreement will be made unless a written statement satisfying the requirements of s.127 of the Industrial Relations Act 1996 has been provided. No liability will arise for any payment not made where no written statement has been provided by the Contractor.
- 11.3 Payment will be made on presentation of the appropriate invoice and within the trading terms agreed. Where the contractor is registered for GST, payment will only be made on the presentation of a "TAX INVOICE". Where the contractor is not registered for GST and does not quote an ABN number then withholding tax will be applied at the rate determined by the ATO.
- 11.4 Invoices are to be provided on a monthly basis and accompanied by timesheets that carry the signature of the client. Invoices must list the client name and number as well as the date and duration of the service.

12. CONFLICT OF INTEREST

- 12.1 The Contractor warrants 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.
- 12.2 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.
- 12.3 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.
- 12.4 The Principal may terminate the Contract in accordance with clause 32.1 if in its view a conflict of interest exists which prevents the proper performance of the Contract.

13. MISTAKES IN INFORMATION

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

14. MINIMUM INSURANCE REQUIREMENTS

- 14.1 The Contractor must hold and maintain and must ensure that all subcontractors are beneficiaries under or otherwise 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:
- 14.1.1 a public liability insurance to the value of at least the amount of \$20 million in respect of each claim; and
 - 14.1.2 workers' compensation insurance in accordance with applicable legislation for all the Contractor's employees; and
 - 14.1.3 Professional indemnity insurance to the value of \$5 million.
- 14.1.3.1 The professional indemnity insurance:
-

- i) must be maintained by the Contractor for 2 years after the conclusion of this Contract for an amount sufficient to indemnify the Contractor in respect of all liabilities arising out of this Contract; and
 - ii) must cover the Contractor's liability to the Principal in respect of the services and any products supplied ancillary to the services;
 - iii) must include one automatic reinstatement provision; and
 - iv) must include a description of the risk covered by the policy; and
- 14.2 All policies of insurance must be effected with an insurer approved by the Principal (which approval will not be unreasonably withheld).
- 14.3 All policies, apart from workers compensation and professional indemnity insurance must:
- (a) note the interest of the Principal, the State and the State;
 - (b) not exclude liability assumed by the Contractor under this Contract.
- 14.4 During the Term, the Contractor must when requested in writing by the Principal:
- (a) supply proof that all insurance policies required by this Contract are current; and
 - (b) if required, arrange for its insurer to complete and sign a "Confirmation of Insurances Obtained Form", and on-send this to the Principal within 30 days of the request. Equivalent evidence as to the currency of insurance policies required by this Contract will be acceptable to the Principal.
- 14.5 If the Contractor fails to comply with clauses 14.1, 14.2, 14.3 and 14.4, the Principal
- (a) may affect 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.
- 14.6 Where the Contractor is insured under a foreign company's or holding company's insurance policy, that insurance policy must clearly indicate that it applies to and extends coverage to the Contractor.
- 14.7 The effecting of insurance shall not limit the liabilities or obligations of the Contractor under other provisions of this Contract.

15. GENERAL INDEMNITY

- 15.1 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 or damages (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.
- 15.2 The Contractor's liability in respect of, and indemnity given in, clause 15.1 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.
-

16. COMPLIANCE WITH LAWS

- 16.1 The Contractor must at all times act in a lawful manner in the provisions of the Service and the conduct of its business including, without limitation, complying with all taxation legislation, industrial relations legislation, privacy legislation, workers compensation and occupational health and safety requirements. In providing the Service the Contractor shall also comply with:
- (i) the Crimes (Administration of Sentences) Act 1999;
 - (ii) any other Legislative requirement; and
 - (iii) the provisions of this Contract.

17. PAYMENT OF WAGES AND ALLOWANCES

- 17.1 The Contractor shall ensure that all persons employed by it in or in connection with the Service are paid wages and allowances of every kind required to be paid by or under any relevant industrial instrument and that all such persons are employed under the conditions contained in any such industrial instrument.
- 17.2 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.

18. THE CONTRACTOR'S ON-COSTS

- 18.1 The Principal will not be liable for any of the Contractor's employee "on-costs", including wages, salaries, training, 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.

19. LICENCES AND APPROVALS

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

20. KEEPING OF RECORDS AND ACCESS TO RECORDS

- 20.1 The Contractor must keep proper accounts, records and time sheets in accordance with the accounting principles generally applied in commercial practice.
- 20.2 During the Term, the Contractor must, within seven (7) days 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. ACCESS TO CONTRACTOR'S PREMISES

- 21.1 During the Contract period, the Contractor shall at all times during hours (ie. Monday to Friday, 9.00am to 5.00 pm) 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.
-

22. MONITORING OF PERFORMANCE

- 22.1 The Contractor must meet with the Principal from time to time, as reasonably directed by the Principal and as a minimum on a quarterly basis, to evaluate and monitor performance of this Contract by the Contractor.
- 22.2 At all times during the term and any extensions of the term of the Contract, the Contractor shall perform the services to the standards set out in the specification and also strictly in accordance with requirements of the specification.

23. EXCHANGE OF INFORMATION BETWEEN GOVERNMENT AGENCIES

- 23.1 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.
- 23.2 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.
- 23.3 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).
- 23.4 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.

24. THE CONTRACTOR'S PERSONNEL/SPECIFIED PERSONNEL

- 24.1 The Contractor warrants that all personnel engaged in the provision of the Service are appropriately qualified, competent and experienced.
- 24.2 The Contractor must employ only such persons:
- (a) as are careful, skilled and experienced in the provision of the Service or similar Service; and
 - (b) (where applicable) who hold all necessary licences, permits and authorities.

25. STAFFING

- 25.1 For each and every person employed or engaged by the Contractor under the Contract, the Contractor shall provide to Home Care where required, for retention, the information detailed below.
- 25.2 Staff engaged by the contractor must:
- be fit to undertake the work for which they will be engaged;
 - be appropriately skilled and trained to undertake the work for which they will be engaged, including holding any necessary work-related licences or permits; and
 - have been provided with induction training by the contractor, relevant to the work to be undertaken by them.

OCCUPATIONAL HEALTH AND SAFETY, WORKERS COMPENSATION AND RETURN TO WORK

The contractor is required to:

- ensure workers engaged by them comply with DADHC's OHS policies and procedures appropriate to the work being undertaken;
- provide all training necessary, including training in the use of equipment, for workers to safely carry out the work for which they are engaged under the contract;
- provide all tools or equipment, including personal protective equipment required by them or their staff to safely undertake the work for which they are engaged under the contract;
- nominate a suitably qualified or trained person responsible for notifying DADHC of OHS incidents and issues and the resolution of those issues.

The contractor is required to provide evidence of their:

- OHS Management System; and
- OHS Performance Record, including incident/injury details as well as Prohibition or Improvement Notices issued and prosecutions initiated by WorkCover NSW in the previous three years.

The contractor is required to:

- provide evidence of their Return to Work Program, including policies and procedures outlining their systems for managing workers who suffer work related injury and illness;
- provide all necessary injury management, return to work and rehabilitation of any workers it engages who are injured while undertaking work as part of the contract;
- nominate a suitably qualified or trained person responsible for return to work coordination.

- 25.3 The Contractor will provide adequate and efficient personnel at all times. All Contractor personnel shall at all times demonstrate competence in their duties to the satisfaction of Home Care.
- 25.4 Approvals given in respect of any person may be revoked at any time.
- 25.5 Should the Client be unhappy with the appointed Contractor's staff member, the Contractor shall replace the staff member immediately.
- 25.6 The Contractor shall ensure all staff, including sub-contractors, are briefed on Home Care's requirements and appropriate Home Care policies.
- 25.7 The Contractor agrees that all of its employees and sub-contractors, who are to be involved in the provision of the Services under this Contract, are to submit to a criminal records check arranged by the Contractor, prior to commencing the services and if appropriate, during the currency of the Term.
- 25.8 The Contractor agrees to bring to the attention of the Home Care, prior to the commencement of the Services, any matter of a criminal nature relating to the Contractor, its employees and sub-contractors, including but not limited to details of any criminal convictions.
- 25.9 In the event that the criminal records check is unsatisfactory in respect of any one or more employees and sub-contractors of the Contractor, Home Care reserves all of its rights including the right of refusal to such employees and sub-contractors being involved in the provision of any part of the Services. In the event that several of the Contractor's employees and/or sub-contractors, particularly key personnel, return an unsatisfactory criminal records check, the Principal reserves the right to immediately cancel this Contract in accordance with clause 32.

26. CONFIDENTIALITY

- 26.1 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.
- 26.2 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.
- 26.3 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.
- 26.4 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.
- 26.5 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.
- 26.6 Each party shall on demand by the other party return any document supplied by the other party to it.
- 26.7 This clause shall survive the termination of this Contract.
- 27. DELIVERY OF CONTRACT MATERIAL AND INFORMATION**
- 27.1 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.
- 27.2 The Contractor may in good faith keep a copy of the Contract material and information for its records.
- 28. INTELLECTUAL PROPERTY RIGHTS**
- 28.1 The Contractor must not at any time breach or infringe any Intellectual Property rights of the Principal or of any other person whether in the course of providing the Service or otherwise.
- 28.2 The Contractor agrees to indemnify and keep indemnified the Principal (which term includes in this clause, any Principal, and their officers, employees and agents) from and against any actions, claims, proceedings, demands, costs, expenses, losses and damages, arising from or in connection with any infringement or alleged infringement of any Intellectual Property rights.
-

- 28.3 The Principal may take legal proceedings including injunctive proceedings against the Contractor if there is any actual, threatened or suspected breach of clause 28.1 despite the provisions of clause 35.
- 28.4 The Contractor acknowledges that, in the event of a breach of clause 28.1 the Principal may terminate this Contract in accordance with clause 32 without prejudice to any accrued rights or remedies of the Principal.
- 28.5 In the event of any claim being made or brought against the Principal in respect of any breach or alleged breach by the Contractor of any Intellectual Property rights, the Principal will notify the Contractor. The Contractor will, with the reasonable assistance, if required, of the Principal, but at the Contractor's sole expense, conduct all negotiations for the settlement of such claims or any litigation that may arise in connection with the claim. If the Contractor fails to conduct such negotiations or settlement the Principal may suspend payment of any money due to the Contractor under the Contract until such claim has been satisfied, settled, or withdrawn.

29. ENTRY TO OFFICIAL ESTABLISHMENTS

- 29.1 All persons entering official establishments are required to be approved and conform with the regulations regarding security and discipline within the area as may be laid down by the Principal or authority concerned.

30. DAMAGE TO PROPERTY

- 30.1 If, in the performance of the Contractor's obligations herein, the Contractor or any servant or agent of the Contractor by any act or omission damages or causes to be damaged any property of the Principal or the Principal's client, then the Contractor shall pay the costs of repairing and making good such damage and the amount of any consequential losses, costs or expenses which may be suffered or incurred by reason of such property having been so damaged.

31. VARIATIONS

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

32. TERMINATION FOR CAUSE

- 32.1 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.
- (g) where the Contractor has not for three consecutive Payment Periods issued any invoice to a Customer or received any Order; or
- (h) If in the Principal's view a conflict of interest exists for the Contractor which prevents the proper performance of the Contract.

32.2 Effect of Termination for cause

32.2.1 If the Principal terminates this Contract for cause the Principal may:

- (a) contract with any other person to complete the provision of the Service;
- (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.

33. TERMINATION FOR THE PRINCIPAL'S CONVENIENCE

33.1 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.

33.2 Effect of Termination for convenience

33.2.1 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.

33.2.2 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.

33.2.3 The Contractor must, wherever possible, include in all sub-contracts and supply Contracts an equivalent provision to this clause.

34. NO ASSIGNMENT OR NOVATION

34.1 The Contractor must not assign or novate this Contract without first obtaining the prior written consent of the Principal.

- 34.2 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.

35. ISSUE RESOLUTION

35.1 General

- 35.1.1 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.35.2);
- (b) Expert Determination (cl.35.3)

35.2 Amicable Resolution

- 35.2.1 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.
- 35.2.2 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.
- 35.2.3 If the Party giving the Issue Notice is the Principal, it must give the Issue Notice to the Contractor.
- 35.2.4 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.
- 35.2.5 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.
- 35.2.6 A Party is not entitled to refer an issue to Expert Determination until 21 days after the giving of the Issue Notice.
- 35.2.7 A Party may only refer an issue to Expert Determination by giving notice in writing specifying the issue to be decided ("the Referral Notice").
- 35.2.8 If the Party giving the Referral Notice is the Contractor it must give the Referral Notice to the Principal.
- 35.2.9 If the Party giving the Referral Notice is the Principal, it must give the Referral Notice to the Contractor.
- 35.2.10 If a Referral Notice has not been given within 27 days of becoming entitled under clause 35.2.6 then the issue is barred from Expert Determination or any other action or proceedings (including court proceedings).

35.3 Expert Determination

- 35.3.1 If a Referral Notice is given under clause 35.2, the expert is to be agreed between the Principal and the Contractor. If they cannot agree within 27 days of the Referral Notice, the expert is to be nominated by the Chief Executive Officer, Australian Commercial Disputes Centre, Sydney.
-

35.3.2 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.

35.3.3 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.

35.3.4 The Parties must share equally the fees and out-of-pocket expenses of the expert for the determination, and bear their own expenses.

35.3.5 The procedure for expert determination is set out in Schedule 1.

35.3.6 In answer to any issue referred to the expert by a Party, the other Party can raise any defence, set-off, or counter-claim.

35.3.7 If the expert determines that one Party must pay the other an amount exceeding \$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.

35.3.8 Unless a Party has a right to commence litigation under clause 35.3.7

- (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 27 days.

36. PERFORMANCE OF CONTRACT DURING ISSUE RESOLUTION

36.1 The Parties agree to continue performing their obligations under this Contract while the issue is being dealt with in accordance with this clause 35.

37. WAIVER

37.1 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.

38. SEVERABILITY

38.1 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.

39. NOTICES

- 39.1 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.
- 39.2 All notices must be in writing and signed by the relevant Party and must be given either by hand delivery, post or facsimile transmission.
- 39.3 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.

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, officer and/or agent of the Principal.

44. SET-OFF/MONEY RECOVERABLE BY PRINCIPAL

- 44.1 The Principal may deduct from amounts which may be payable or which may become payable to the Contractor, any amount due from the Contractor to the Principal in connection with the supply of the Service.
- 44.2 Without limiting clause 44.1, any damages, costs and expenses recoverable by the Principal from the Contractor in consequence of the Contractor's breach of the Contract may be deducted from money then due to the Contractor under the Contract. If that money is insufficient for that purpose, the balance remaining unpaid will be a debt due by the Contractor to the Principal and may be:
- (a) set off against any other money due to the Contractor by the Principal under this or any other Contract between the Principal and the Contractor; or
 - (b) recovered from the Contractor by the Principal in an appropriate court.
- 44.3 Nothing in this clause will affect the right of any Principal to recover from the Contractor the whole of the debt or any balance that remains owing after deduction.

45. SUSPENSION OF PAYMENTS

- 45.1 Should the Contractor refuse or neglect to carry out the instructions or requirements of the Principal in regard to any matter connected with this Contract, the Principal, may suspend all payments to the Contractor without penalty until such instructions or requirements have been complied with by the Contractor.

46. CONTRACTOR'S WARRANTIES

- 46.1 In relation to Service that are 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 sub-contractors 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.

47. CONTRACTOR'S WARRANTIES (GENERAL)

- 47.1 The Contractor warrants that:
- (a) the Service do not infringe the Intellectual Property rights of a third party; and
 - (b) the Service shall conform to any legally applicable requirements and standards.

48. SUB-CONTRACTING OF CONTRACT

- 48.1 The Parties agree that the Contractor will not sub-contract the Contract without first obtaining the written consent of the Principal and the Principal, which may be subject to any conditions which the Principal may impose.
- 48.2 For the purposes of this and other relevant conditions "Sub-Contractor" is defined as any person whose services are utilised by the Contractor for the purposes of this Contract and who is not an employee of the Contractor.
- 48.3 While a preference is held for all personnel utilised under the Contract to be employees of the Contractor, the Government of New South Wales recognises that, in certain circumstances, the Contractor may need to utilise the services of Sub-Contractor(s) in order to provide a Service requested by the Principal. In such a case, it will be an express condition of Contract that, for all purposes, the Sub-Contractor(s) will be regarded as employee(s) of the Contractor.
- 48.4 A consent under this clause does not relieve the Contractor from its liabilities or obligations under the Contract.
- 48.5 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.
-

- 48.6 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.
- 48.7 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.
- 48.8 This clause will not merge on the completion or earlier termination of the Contract.
- 48.9 The Contractor will ensure that a sub-contractor is aware of and complies with all the terms and conditions of the Contract.
- 48.10 This clause 48 does not apply in the event that the Principal requests a particular sub-contractor to provide the Service.

49. NON-MERGER

- 49.1 The obligations of the parties under the contract, do not conclude at the cessation of the contract, whether such cessation be through termination, short-closure, suspension or expiry of the contract.

50. MANAGEMENT FEE

- 50.1 (a) The Contractor must pay to the Contracting Services a Management Fee in accordance with this clause.
- (b) The Contractor shall act in good faith in respect of all its obligations under this clause 50 and shall use its best endeavours to ensure that the obligations imposed on it in relation to management fee are met.
- 50.2 The Management Fee is the GST-exclusive value of the Deliverables supplied to a Customer, multiplied by **1.25%** plus the GST payable on this amount, where the supply of Deliverables to the Customer was or should have been made under this Agreement.
- 50.3 The amount of the Management Fee will not under any circumstances be shown as a separate charge in any quote or invoice to a Customer.
- 50.4 The Contractor agrees to take all reasonable steps to ensure that all Customers do purchase all Deliverables under this Agreement. The Contractor agrees that the Contracting Services may treat all purchases of Deliverables by Customers as Orders under this Agreement, whether or not a NSW Department of Commerce Customer Number is quoted, unless the Contractor can provide evidence, to the satisfaction of the Contracting Services, that the purchase was made under some other contract between that Customer and the Contractor.
- 50.5 The Contractor agrees that the Management Fee payable has been allowed for in the Prices specified in the Price Schedule together with all costs associated with the calculation and proving payment of the Management Fee.
- 50.6 The Payment Period will be monthly. At the end of each Payment Period, the Contracting Services shall forward to the Contractor a request for a Report ("The Sales Report") which relates to the relevant Payment Period and which requires the Contractor to report the:
- (a) total amount, exclusive of GST, all Customers are liable to pay in respect of all items invoiced by the Contractor or its approved dealers or distributors to Customers in respect of the Agreement; and
-

(b) the sales information on a monthly basis, or as the Contracting Services requests in writing from time to time.

(c) such other relevant information as the Contract Authority may require.

- 50.7 Upon receipt of a request for a Sales Report, the Contractor shall within 30 days complete the Sales Report for the relevant Payment Period and return the same to the Contracting Services.

In the event that the Contractor does not complete the Report within 30 days, the Contractor shall be liable to pay to the Contracting Services the cost to the Contracting Services of ensuring the compliance by the Contractor with its obligations under this clause, calculated from the date the sales return was first due to be submitted. The statement by the Contracting Services as to the amount of the administrative costs payable under this clause shall be final and binding and the amount shall be payable on demand as a debt due to the Contracting Services.

AND/OR

In the event that the Contractor does not complete the Report within 30 days and thus causing a failure by the Contractor to comply with its obligations under clause 50.8, the Contractor shall be liable to pay the Contracting Services a Late Payment Fee.

- 50.8 (a) The Contracting Services shall then compile a tax invoice based on the Sales Report and forward that invoice to the Contractor.

(b) The Contractor shall then forward payment to the Contracting Services within sixty days of the conclusion of the Payment Period.

(c) In the event that the Contractor does not provide payment within sixty days the Contractor shall be liable to pay to the Contracting Services the cost to the Contracting Services of ensuring the compliance by the Contractor with its obligations under this clause an amount calculated from the date the payment was first due to be made. The statement by the Contracting Services as to the amount of the costs payable under this clause shall be final and binding and the amount shall be payable on demand as a debt due to the Contracting Services.

AND/OR

(c) In the event that the Contractor does not provide payment within sixty days the Contractor shall be liable to pay to the Contracting Services a Late Payment Fee.

- 50.9 The tax invoice will set out the Management Fee payable to the Contracting Services and the GST payable on the Management Fee.

- 50.10 The Contracting Services may alter the above procedure for the collection of the Management Fee as advised in writing and from time to time during the Term.

- 50.11 Where the Contractor considers that an accounting adjustment to the amount of the Management Fee paid or payable during a Payment Period is required, it should consult with the Contracting Services and the Parties may agree on the amount of any adjustment.

- 50.12 Where the Contractor has not issued any invoice to a Customer during a relevant Payment Period the Contractor must provide, within 30 days of the conclusion of that Payment Period, a report stating that no Deliverables were provided by the Contractor to any Customer during the Payment Period.
- 50.13 The Contractor must set up and maintain a system which:
- (a) to the reasonable satisfaction of the Contracting Services is suitable for identifying all purchasers of the Deliverables that are eligible Customers whether pursuant to Official Orders or otherwise and
 - (b) enables monitoring by the Contracting Services of the Orders placed with and invoices issued by the Contractor or its approved dealers or distributors and for the provision of the sales information; and
 - (c) accommodates the use of the Customer's corporate credit card if the Parties have agreed to use that card for the purchases of Deliverables.
 - (d) Failure to establish such a system to the reasonable satisfaction of the Contracting Services shall constitute a breach of this Agreement and the Contract Authority may, in its discretion terminate the Agreement.
- 50.14 (a) The Contracting Services may at its own cost, take such measures as it considers reasonable in the circumstances (including the appointment of an auditor) to verify the Contractor has paid the correct amount of Management Fee due to the Contracting Services by the Contractor and the Contractor agrees to cooperate with the Contracting Services (including any auditor appointed by the Contracting Services).
- (b) If the Contracting Services appoints an auditor, the Contracting Services will inform the Contractor in writing of the appointment. The Contractor agrees to cooperate with the auditor appointed by the Contracting Services including providing access within 10 working days of the written notification from the Contracting Services that an audit will take place, to information about all sales of Deliverables made to eligible Customers (whether pursuant to an Order or otherwise), copies of all contracts, orders and invoices between the Contractor and any eligible Customers. The Contractor agrees to provide the Auditor appointed by the Contracting Services access on the basis of the appointed auditor entering into an Auditor Confidentiality Agreement.
- 50.15 If the measures taken in clause 50.14 verify that the Contractor has not paid the Management Fee that is actually due to the Contracting Services, the Contractor must:
- (a) remit the difference between the Management Fee paid to the Contracting Services and the Management Fee actually due to the Contracting Services within 30 days of a direction from the Contracting Services; and
 - (b) at the discretion of the Contracting Services, reimburse the Contracting Services's costs and expenses of the measures taken (including any auditor's fees) under clause 50.14 to the Contracting Services in accordance with the sliding scale set out below:
- Difference between management fee paid and payable
- (a) 99% or more of management fee was paid
 - (b) 90-98% of management fee paid
 - (c) 75-89% of management fee paid
 - (d) 50-74% of management fee paid
 - (e) less than 50% of payable management fee paid
-

Portion of Audit costs to be borne

- (a) \$0
- (b) 25% of audit and other costs
- (c) 50% of audit and other costs
- (d) 75% of audit and other costs
- (e) 100% of audit and other costs.

- 50.16 The Contractor shall during the Term of this Agreement and for a 12 month period after the Agreement has expired or is terminated, keep secure all relevant documents and Information for the purposes of this clause and give any auditor appointed by the Contracting Services access to those documents and Information at all reasonable times.
- 50.17 A breach of this clause (including without limitation, a failure by the Contractor to cooperate satisfactorily with the audit referred to in clause 50.14) shall be a substantial breach of this Agreement which will entitle the Contracting Services to terminate this Agreement pursuant to clause 50.1 without prejudice however to the right of the Contracting Services to recover from the Contractor any sums payable to the Contracting Services under this agreement or otherwise, or the right of the Contracting Services to deduct those sums from any money that may be or become payable by the Contracting Services to the Contractor on any other account.
-

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 35.3.2 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 2.1 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 2.2 to 2.5 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 of the Contract.
 - 4.1.4 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.
-

EXECUTED AS A DEED

SIGNED, SEALED AND DELIVERED)
 by <insert name and position of person)
signing> For and on behalf of the **NEW**)
SOUTH WALES STATE CONTRACTS
CONTROL BOARD for and on behalf of
 the Crown in right of the State of New
 South Wales but not so as to incur any
 personal liability in the presence of:

Witness

Signatory

Print Name

Print Name

SIGNED SEALED AND DELIVERED by)
<insert name of company>, ACN <insert)
ACN number> in accordance with)
 section 127 of the Corporations Act and
 in the presence of :

Witness

Signatory

Print Name

Print Name



Contracting Services is a Business Unit of the NSW Department of Commerce

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

PART C

TENDER RESPONSE

Contract 0601457 – In-Home Direct Care Services for the Home Care Service of NSW

Period: Two (2) Years from Date of Acceptance Plus 2 x 1 Year Extension Options

Closing Date: 24 August 2006

Your Organisation's Legal Entity: _____

Your Organisation's Trading Name: _____

Your Organisation'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 (2) copies of the tender. Tenders are to be marked "Original", "Copy 1" and "Copy 2" accordingly.

TABLE OF CONTENTS

PART C1	INFORMATION SUPPLIED IN RESPONSE TO PART A	3
1.	INTRODUCTION	3
2.	PRICING AND RELATED FACTORS	3
2.1	<i>Tender Response Categories</i>	3
2.2	<i>Price Schedule</i>	3
2.3	<i>Price Variation</i>	3
2.4	<i>Tender Validity Period</i>	3
2.5	<i>Tenderer Identification Details</i>	4
3.	SELECTION CRITERIA	6
Criteria (a)	<i>Pricing</i>	6
Criteria (b)	<i>Ability and capacity to perform the contract</i>	6
Criteria (c)	<i>Degree of compliance with Specification</i>	17
Criteria (d)	<i>Degree of compliance with Conditions of Contract</i>	17
Criteria (e)	<i>Compliance with applicable NSW Government policies</i>	18
Criteria (f)	<i>Referee reports</i>	21
4.	ADDITIONAL INFORMATION TO BE PROVIDED BY TENDERER	22
4.1	<i>Sub-Contractors</i>	22
4.2	<i>Suitability of Proposed Sub-Contractors</i>	22
4.3	<i>Conflict of Interest</i>	22
4.4	<i>Details of Ownership</i>	23
4.5	<i>Contracting as Agent/Trustee</i>	23
4.6	<i>Current Legal Proceedings</i>	23
4.7	<i>ADDENDA TO THIS RFT AFTER ISSUE</i>	24
5.	SCHEDULE OF INSURANCE	25
5.1	<i>Worker's Compensation Insurance</i>	25
5.2	<i>Public Liability Insurance</i>	25
5.3	<i>Professional Indemnity</i>	25
PART C2	SPECIFICATION AND STATEMENT OF COMPLIANCE	26
PART C3	CONFIRMATION OF TENDER	28
1.	ACKNOWLEDGEMENT AND CONFIRMATION OF TENDER	28

PART C THE TENDER

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. PRICING AND RELATED FACTORS

2.1 Tender Response Categories

- 2.1.1 Please indicate the categories that your tender covers at the tab labelled “Competency and Location” in the Price Schedule.
- 2.1.2 Tenderers are asked to provide their competency in each location for services to DADHC also, where applicable, should they be accepted as a successful supplier through this tender for Home Care.

2.2 Price Schedule

- 2.2.1 You must complete the Price Schedule on the attached Microsoft Excel spreadsheet. Please complete the applicable tabs in the Price Schedule following the instructions provided.
- 2.2.2 Tenderers are asked to provide their rates for services to DADHC also, where applicable, should they be accepted as a successful supplier through this tender for Home Care.

2.3 Price Variation

2.3.1 Hourly Rate

- 2.3.1.1 Tendered Hourly Rates shall be subject to variation in accordance with the applicable industrial instrument as directed by the Tenderer and agreed by Home Care.

2.3.2 Tenderer's Fee for Service

- 2.3.2.1 The Tendered Fee for Service shall remain FIRM for the duration of the Contract including any optional extension periods.

2.4 Tender Validity Period

- 2.4.1 The Tender will remain valid for acceptance within _____ months from the deadline for lodgement of tenders, in accordance with Part A.

N.B. The minimum validity period is 6 months as stated in cl. 5.5 of Part A.

2.5 TENDERER IDENTIFICATION DETAILS**2.5.1 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:

2.5.2 ABN:**2.5.3 Address of Tenderer:***[in the case of a company, state registered office and, if
different, principal place of business]***2.5.4 Business Postal Address:**

STD Area Code:

Telephone No.:

Facsimile No:

Email:

Website:

()

()

Contact Name for general enquiries:

Telephone No.:

Tenderer's reference number

2.5.5 CONSORTIUM DETAILS

- (i) Please complete this page only if this tender is being submitted by a consortium of organisations. A “Letter of Intent” or a “memorandum of understanding” signed by the proposed members showing their agreement to enter into a consortium arrangement must be attached to the application.

Lead agencies must acknowledge that all funding liabilities will be with them. They will be required to properly account for the processes of the consortium; to have higher levels of financial management skills to fulfil the responsibilities that will fall to them; and to ensure that all other legal liabilities such as those to clients and staff, are applied through their sub-contracting arrangements with other members

Lead Agency or new Organisation Name: _____

Other Member Organisations:

Description of Internal arrangements between member organisations.

Considering the responsibilities outlined above, describe how the consortium will be set up, including the nature of the legal relationship between parties, and how internal arrangements will be managed and over-sighted by the lead agency.

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.

Criteria (a) Pricing

No response is required by tenderers, information provided in the Price Schedule will be used to assess this criteria.

Criteria (b) Tenderer's ability and capacity to perform the contract including:-

- (i) **Demonstrated ability, expertise and experience in the successful provision of the full range of services tendered for (as indicated at the "Competency and Location" tab in the Price Schedule).**

No. of Years in Business: _____

No. of years providing similar services: _____

Scope of tenderer's current business activities

Describe the different types of services you currently provide.

NOTE: ATTACH ADDITIONAL SHEETS AS NECESSARY

Please tick the areas for which you are tendering. Tick only boxes where you are **currently** able to provide a service

Your tender must cover at least 1 Home Care Region or 1 LPA

Home Care Regions

- | | |
|--|--|
| <input type="checkbox"/> Southern Sydney | <input type="checkbox"/> Southern |
| <input type="checkbox"/> Northern Sydney | <input type="checkbox"/> Central Coast, Greater Newcastle & Hunter |

LPAs

<input type="checkbox"/> Inner West		
• Ashfield	• Canada Bay	• Marrickville
• Auburn	• Canterbury	• Strathfield
• Burwood	• Leichhardt	
<input type="checkbox"/> South Eastern Sydney		
• Botany Bay	• Rockdale	• Woollahra
• Hurstville	• Sutherland Shire	
• Kogarah	• Sydney	
• Randwick	• Waverley	
<input type="checkbox"/> South Western Sydney		
• Bankstown	• Fairfield	• Wingecaribee
• Camden	• Liverpool	• Wollondilly
• Campbelltown		
<input type="checkbox"/> Northern Sydney		
• Hornsby	• Manly	• Ryde
• Hunter's Hill	• Mosman	• Warringah
• Ku-ring-gai	• North Sydney	• Willoughby
• Lane Cove	• Pittwater	
<input type="checkbox"/> Cumberland/Prospect		
• Auburn	• Blacktown	• Parramatta
• Baulkham Hills	• Holroyd	
<input type="checkbox"/> Hunter		
• Cessnock	• Maitland	• Port Stephens
• Dungog	• Muswellbrook	• Singleton
• Lake Macquarie	• Newcastle	
• <i>Liverpool Plains</i>		
<input type="checkbox"/> Central Coast		
• Gosford	• Lake Macquarie	• Wyong
<input type="checkbox"/> Illawarra		
• Kiama	• Shellharbour	• Wollongong
	• Shoalhaven	
<input type="checkbox"/> Southern Highlands		
• Bega Valley	• Goulburn	• Upper Lachlan
• Bombala	• Harden	• Yass Valley
• Boorowa	• Palerang	• Young
• Cooma-Monaro	• Queanbeyan	
• Eurobodalla	• Snowy River	
<input type="checkbox"/> Nepean		
• Blue mountains	• Hawkesbury	• Penrith

Provide details of any current and 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:

(Note: Current and Previous clients may be contacted for references in addition to referees nominated at clause 3(f).

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

Demonstrated expertise and experience in the successful provision of services tendered for.

Demonstrated experience in providing services to Frail Aged, Younger Disabled and their carers.

Demonstrated experience and commitment to the philosophy of Community Care.

Describe key service policies and philosophies of your organisation

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.

Meeting the required standards

Demonstrate how your organisation has an awareness of the NSW Disability Service Standards and HACC Service Guidelines under which Home Care provides service.

See attached at Appendix 4 to Part A and the HACC National Service Guidelines and Disability service standards.

Please provide Statement below.

The HACC special needs groups are:

- People from culturally and linguistically diverse backgrounds
- People from Aboriginal and Torres Straight Islander backgrounds
- People with dementia
- People who are financially disadvantaged, and
- People living in remote and isolated areas

Demonstrate your ability and experience in managing and providing Respite Care, Personal Care and Domestic Assistance services to these groups.

Include the regions your organisation can service, the organisation's ability to provide staff, the CALD categories covered by staff and other skills and knowledge on offer to service these special needs groups. i.e staff language skills, staff trained in dementia care.

Provide any additional information you wish to add to address this criteria including value added services.

Human Resources

- (ii) **Human resources availability, capacity, qualifications, skills and experience, to be utilised for the purposes of the contract including location of human resources to adequately service the Contract.**

Total No of Employees: _____

Details of Employee Nos:

	Management	Professional	Administration
Permanent			
Casual/Contracted			

Key Personnel:

Provide the following details for each Key Personnel to be utilised under the contract, eg. Management, Contract Manager, etc.

Name:

Position:

Roles and Responsibilities:

Qualifications:

Experience:

Length of Service:

Employment Status:

NOTE: ATTACH ADDITIONAL SHEETS AS NECESSARY

Human Resources Management

Briefly describe the procedures in place for the following

Staff Recruitment	
Supervision System	
Performance Review	
Dispute Resolution	
Position Description Development and Review	
Training Rationale or Plan	
Team Building	

Provide details of staff training and development opportunities current or proposed for the organisation.

	General Staff Competencies	Direct Service Competencies	Other
eg	OHS, Manual Handling EEO	Infection control, continence management	Induction and orientation
What training opportunities are available to your staff			
How often does training occur?			
Who undertakes the training?			
What form does the training take?			
What actions result from the training			

(iii) Organisational infrastructure and capacity the meet the geographically diverse requirements of the request for tender.

Provide details of your organisation's infrastructure and how you will meet the requirements to provide service across the nominated regions. Tenderers are required to nominate the regions in NSW in which they can meet the requirements on the Competency and Location tab of the Price Schedule.

(iv) Tenderer's financial capacity and stability

Give the annual Australian turnover for the past three (3) years in \$A.

1. _____ 2. _____ 3. _____

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

Demonstrate below that your organisation is profitable, has a positive cash flow and is in a solid financial position based on net tangible assets

Criteria (c) Degree of Compliance with Specification

No response is required by tenderers, information provided at Part C2 will be used to assess this criteria.

Criteria (d) Degree of Compliance with Conditions of Contract

Do the tendered Services 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.

Criteria (e) Compliance with applicable NSW Government policies.**(i) Code of Practice for Procurement**

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

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

Provide any other relevant information below

(ii) Occupational Health Safety, Workers Compensation and Return to Work

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

Describe your Return to Work Program; include your policies and procedures. Outline your systems for managing workers who suffer work related injury and illness.

Key Personnel:

Provide details of your nominated Return to Work Coordinator and their qualifications or training.

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

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

(iv) Small to Medium Enterprise (SME) involvement (consortium only)

State below how you will provide opportunities for SMEs in performing any Period Contract awarded. If the project involves formation of a relationship with one or more SMEs, provide the following information:

- (a) Name of, and contacts for, each SME
- (b) Description of each SME's role
- (c) Estimated dollar value of each SME's contribution, and
- (d) Level of value-added activity and any other benefits associated with each SME.

--

(v) Regional development activity (consortium only)

Provide information below on:

- (a) The number and type of regionally based enterprises participating in your Tender
- (b) The expected regional economic impact of your Tender in terms of:
 - training, other skills enhancement and the uptake or maintenance of existing technologies and capabilities
 - expected increases in employment and investment investment, and
 - the expected impact on existing and future R&D programs and innovation.

--

(vi) Other applicable policies

Provide details of any other initiatives/strategies/policies you have or propose to implement under the resultant contract in relation to the following areas: OHS&R, best Practice, training and skills formation, affirmative action, workplace and industrial relation practices, improving workplace diversity, employment of aboriginal people and environmental management and performance.

Criteria (f) Referee 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 all the nominated services.

Note: If you are currently providing service to Home Care it is acceptable to nominate Home Care staff as a referee.

Referee No 1.

Name: _____

Position: _____

Company: _____

No. of Years tenderer has provided service to Referee: _____ years

Telephone No: _____

Fax No: _____

Email Address: _____

Referee No 2.

Name: _____

Position: _____

Company: _____

No. of Years tenderer has provided service to Referee: _____ years

Telephone No: _____

Fax No: _____

Email Address: _____

Referee No 3.

Name: _____

Position: _____

Company: _____

No. of Years tenderer has provided service to Referee: _____ years

Telephone No: _____

Fax No: _____

Email Address: _____

4. ADDITIONAL INFORMATION TO BE PROVIDED BY TENDERER**4.1 Sub-Contractors**

4.1.1 Is any part of the Service to be provided through sub-contract?

Yes/No

If **“Yes”**, give details of item, name, address and ABN of proposed sub-contractor(s).

--

4.2 Suitability of Proposed Sub-Contractors

4.2.1 Provide details of proposed sub-contractors' legal status (company, partnership, individual etc) and their experience and qualifications in the provision of similar Services.

--

4.3 Conflict of Interest

4.3.1 Tenderers are to provide details of any matter connected to the contract that may give rise to an actual or potential conflict of interest of the Contractor, its officers, employees, contractors, servants or agents, and how they propose to overcome any existing or perceived conflicts of interest.

--

4.4 Details of Ownership

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

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

4.5 Contracting as Agent/Trustee

- 4.5.1 If awarded an 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.

4.6 Current Legal Proceedings

- 4.6.1 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?

Yes/No

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

4.7 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

5. SCHEDULE OF INSURANCE. Successful applicants will need to provide copies after selection.

5.1 Worker's Compensation Insurance

Insurance Company: _____
Address: _____

Phone number: _____
Policy number: _____
Expiry Date: _____

5.2 Public Liability Insurance

Insurance Company: _____
Address: _____

Phone number: _____
Policy number: _____
Expiry Date: _____
Limit of Liability: _____

5.3 Professional Indemnity

Insurance Company: _____
Address: _____

Phone number: _____
Policy number: _____
Expiry Date: _____
Limit of Liability: _____

PART C2 SPECIFICATION AND STATEMENT OF COMPLIANCE

This section seeks a summary of the tenderer's ability to comply with the minimum standards of the tender specification. Required standards are described as MANDATORY.

Failure by the Tenderer to fully comply with any mandatory requirement will result in automatic exclusion of the Tender without further consideration.

The service/s are to be in accordance with the specification below. Tenderers must state hereunder whether the service/s offered comply to the specification.

REQUIREMENT	COMPLY YES /NO	COMMENT
1. INNOVATION & TECHNOLOGY		
1.1 Online order system		
1.2 Online feedback system		
1.3 Fax order system (MANDATORY)		
1.4 External audit of supplier records		
1.5 Online timesheeting		
2. SERVICE		
2.1 1300 customer service number		
2.2 Order fulfilment verification by invoice with timesheet and customer signature (fax/online) (MANDATORY)		
2.3 Out of hours contact		
2.4 Defined reporting on a regular basis (see KPIs in Appendix 3 to Part A) (MANDATORY)		
2.5 Itemised invoice displaying client name, number and time and date of service (MANDATORY)		
2.6 Responsibility for management of subcontractors		
2.7 No communication via 3 rd party (MANDATORY)		
2.8 CALD client experience, HACCC Special Needs Group		
2.9 Past experience in Respite Care, Domestic Assistance, Personal Care (MANDATORY)		
2.10 Supplier reporting aligned to Home Care cost centres (MANDATORY)		

REQUIREMENT	COMPLY YES /NO	COMMENT
2.11 Provide client services as specified by Home Care (MANDATORY)		
2.12 Complete monthly client feedback form – format provided by Home Care (MANDATORY)		
2.13 Single point of contact (or single contact at regional level) (MANDATORY)		
2.14 Hierarchical account management		
2.15 Annual account management plan (Must describe how Home Care guidelines are met)		
2.16 Annual report against previous year's account management plan		
3. QUALITY		
3.1 Agreement to comply with Key Performance Indicators and with the Service Level Agreement (see Appendix 3 to Part A) (MANDATORY)		
3.2 Complaints management system equivalent to ISO9000 and Disability Service standards (MANDATORY)		
3.3 Clearly defined established process for ordering (MANDATORY)		
4. OCCUPATIONAL HEALTH AND SAFETY		
4.1 Clear processes for identifying risk (MANDATORY)		
4.2 Contractor to have clearly defined safety systems (including risk reporting) (MANDATORY)		
4.3 Refresher training e.g. manual handling (MANDATORY)		
4.4 Induction of staff into OH&S procedure (MANDATORY)		
4.5 Induction of staff into standard work practices eg.correct cleaning procedure (MANDATORY)		
4.6 Contractor is a Registered Training Organisation (MANDATORY)		
4.7 Contractor will provide training to workers under this contract (MANDATORY)		
4.8 Reporting on number of lost time injuries (MANDATORY)		
4.9 Reporting on number of injuries (MANDATORY)		

PART C3 CONFIRMATION OF TENDER**1. 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.

- 1.1 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.

- 1.2 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)

- 1.3 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