**Request f or Tender**

**PURCHASE AND SUPPLY OF MATERIALS FOR THE RSA CEMETERY FORESHORE PROTECTION PROJECT**

**Contract No. C16-08**

**Date of Release: April 2016**

**ID: 151642**

INFRASTRUCTURE COOK ISLANDS





**All queries regarding this Request for Tender should be directed to: Contact Officer**

[solomona.solomona@cookislands.gov.ck](mailto:solomona.solomona@cookislands.gov.ck)

**TENDER CLOSING TIME: 3:00 pm (CI Time) 3pm, 6 May 2016**

Tender Documents Page i

**Revision History**

|  |  |  |  |
| --- | --- | --- | --- |
| **Revision Nº** | **Prepared By** | **Description** | **Date** |
| A | Tenga Mana |  | 01/03/2016 |
| B | Solomona Solomona |  | 18/04/2016 |
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**Document Acceptance**

|  |  |  |  |
| --- | --- | --- | --- |
| **Action** | **Name** | **Signed** | **Date** |
| Documents checked | Paul Maoate, Civil Engineer |  | 21/04/2016 |
| Documents checked | Joanne Rose, Chartered Accountant |  | 28/04/2016 |
| Documents checked | Catherine Evans, Crown Law Office |  | 28/04/2016 |
| Documents checked | Secretariat, Tender Committee |  |  |
| Approved for issue | Ngametua Pokino,  Secretary, ICI |  |  |

**Glossary and Definitions**

|  |  |
| --- | --- |
| **Term** | **Explanation** |
| RFT | Request for Tender |
| Tender Team | The team that is responsible for the management of this Tender, including the evaluation and administrative functions |
| Tender Evaluation Team (TET) | The group of people within the Tender Team that will evaluate this  Tender |
| Principal | Secretary, Infrastructure Cook Islands |
| ICI | Infrastructure Cook Islands |
| MFEM | Ministry of Finance and Economic Management |
| Manual | The Cook Islands Government Financial Policies and Procedures manual |
| Designated Site | RSA Cemetery, Panama, Rarotonga. |
| Product | Basalt Armour Rocks, Backfill Materials, Filter Cloth |
| Supplier | Tenderer |
| Engineer | Tenga Mana |
| Site Supervisor | Patrick Tangapiri |

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**Introduction**

**Summary of Requirement**

1. Through this RFT, Infrastructure Cook Islands (the 'principal'), wishes to implement the RSA Cemetery Foreshore Protection project. This RFT is for the Purchase and Supply of Materials for the above project.

2. This RFT will identify Tenderers that are able to undertake the contract works for the purchase and supply of the Product according to the specifications and standards set out in Appendix B.

3. Tenderers should note the requirements relating to the lodgement and content of responses to this RFT as set out in clauses 7 to 14 and Appendix A are mandatory. The Principal will reject any Tender that fails to comply with one or more of these requirements.

4. Tenderers should ensure they are registered and have downloaded or received all files for the

RFT including all prospective notices.

5. Tenders are invited from suppliers offering to purchase and supply the Product on a fixed-price contract basis.

6. Tenders will be evaluated according to the process set out in Appendix D for this RFT.

**Submission of Tender**

7. Tenders must be submitted in hard copy format (two copies) in an envelope marked "CONFIDENTIAL" and have the following information clearly exhibited on the outside:

TO: The Principal

Infrastructure Cook Islands

Arorangi Rarotonga COOK ISLANDS

FROM: (Name of Tenderer) (Tenderers address 1) (Tenderers address 2) (Tenderers address 3)

TENDER FOR: C16-08 PURCHASE AND SUPPLY OF MATERIALS FOR THE RSA CEMETERY FORESHORE PROTECTION PROJECT

TENDER CLOSES: 3.00PM, Friday 6 May 2016

8. Tenders received must be recorded on the "Tenders Received at Closing Date" Form and placed in the Tender Box by the due time and date. Failure to do so will result in the tender being rejected.

9. Form of Tender is specified in Appendix A.

10. Facsimile and electronic tenders will not be accepted.

**Tender Closing Time**

11. Tenders close at 3.00pm on Friday 6 May 2016.

12 The Tender Box is located at the Infrastructure Cook Islands office in Arorangi , Rarotonga, Cook Islands.

13. The Tenderer is responsible for ensuring that their Tender is placed in the designated Tender Box by the closing time.

14. Late tenders will not be accepted and will be returned unopened.

**Contact Officer**

15. Any queries in relation to this RFT should be by email to the Contact Officer: Person: Solomona Solomona

Telephone: (+682) 20321

Email: [solomona.solomona@cookislands.gov.ck](mailto:solomona.solomona@cookislands.gov.ck)

**Further Information or Clarifications**

16. Any further information or clarification required by the Tender in relation to this RFT must be directed to the Contact Officer.

17. The Contact Officer may respond to queries received before the Enquiry Cut-Off Time (See Table 1) and may not respond to enquiries received after the relevant Enquiry Cut-Off Time.

18. The request and responses to any such request shall be given in writing and shall be circulated by sequentially numbered notices to registered Tenderers. Where the 'Principal' considers that the competitive advantage of individual Tenderers may be compromised by the distribution of responses to the request for information and/or clarifications to all Tenderers, the 'Principal' reserves the right to issue a response only to that Tenderer. Any additional information relating to this RFT will be uploaded to [**www.procurement.gov.ck**](http://www.procurement.gov.ck/) .

**Key Dates**

**Table 1: Approximate Dates for this Request for Tender**

|  |  |
| --- | --- |
| **Details** | **Date** |
| Issue of Request for Open Tender | Saturday, 30 April 2016 |
| RFT Enquiry Cut-Off Time | 3.00pm Thursday, 5 May 2016 |
| Tender Close | 3.00pm Friday, 6 May 2016 |
| Tender Evaluation Complete | Thursday 12 May 2016 |
| Contract Awarded and Contract Works Commencement | Friday 13 May 2016 |

**Selection Process**

19. All tenders deposited in the Tender Box by the Closing Time will be considered. Tenders submitted in the form specified in Appendix A (Forms A1 to A7) to this RFT will proceed to the tender evaluation stage.

20. Evaluation of the responses to this RFT will be in accordance with the Evaluation Criteria described in Appendix D. Failure to comply with the Standard Conditions will result in immediate exclusion from the Tender Evaluation process.

**Notification of Acceptance**

21. Tenders shall remain open for acceptance and shall not be withdrawn for a period of sixty (60) working days from the Closing Date of the tender.

22. Unsuccessful tenderers shall be notified in writing by the Principal or their representative within 10 working days of acceptance of the preferred tender.

23. If no tender is accepted by the Principal within twenty (20) working days after the Closing Date, each tenderer will be notified in writing by the Principal or their representative whether their tender is still under consideration or is no longer being considered.

24. The Tender Team reserves the right to contact referees and/or customers regarding the performance of the tenderer as it may pertain to this RFT.

25. The Principal shall not be bound to accept the lowest priced tender or the highest scored tender or any tender.

26. When the preferred supplier has been identified by the Tender Evaluation Team, the Principal will invite

the supplier to enter into negotiations based on the draft contract at Appendix C to this RFT. Only when the parties have agreed to the terms of the contract and executed the contract will the Principal issue to the successful tenderer a Letter of Acceptance.

27. Tenderers will not be entitled to see the evaluation documents. However, provision for appeal and request for further information leading to the cause of the decision will be provided.

28. If no tender has been accepted within the period stated, the Principal will notify the Tenderers that no tender was accepted and may:

1. Invite all Tenderers to provide additional information; and/or

2. Re-advertise the project extending the closing date of the tender. Tenderers may either re-tender or provide additional information to support their existing tender already received by the Principal.

**Probity**

29. No gifts or entertainment of any nature will be permitted between any parties involved throughout the tender process, including: tenderers or potential tenderers, tender team members, evaluation team members, the Head of Ministry, or any other member or organisation that may have an involvement with any aspect of the tender process.

**Statement of Requirements**

30. The specification of the Product to be delivered is described in Appendix B.

31. To enable the Product to be completed, Tenders must include provisions for the Tenderer, in the Tender

Price to:

a. Provide all technical and administrative resources required to successfully deliver the Product described in Appendix B.

b. Provide weekly progress reports to the Principal on the purchase and delivery status of the Product.

c. Provide warranties and guarantees on handover of the Product.

32. The Product is to be delivered within the timeframe agreed to in the final Contract.

33. The tenderer should note that they can only tender for the whole of the Contract Works specified in Appendix B and according to the conditions set out in Appendix C.

**Conditions of Tendering**

**Standard Conditions**

34. Tenders must be completed in the format contained in Appendix A of this RFT. If offers do not comply with this format, they will not be accepted.

35. Tenders must be deposited in the required form in the Tender Box by the closing time as specified in

Clause 11 of this RFT.

36. A) All proposals and related documentation in respect of this RFT must be in the English language.

B) Tenderers are to tender on all parts of the tender, i.e. to supply materials for the whole of the contract works as specified in the RFT.

37. A) Tenders must be presented in hard copy format only (two copies) and delivered in a sealed envelope to the location specified in Clause 12 of this RFT. Facsimile and electronic proposals will not be accepted.

B) All prices quoted must be in New Zealand dollars and inclusive of freight and delivery charges to the site at RSA Cemetery in Panama, Rarotonga.

38. Any foreign companies intending to submit a Tender must seek approval from the Business Trade Investment Board (BTIB) before submitting a Tender. Any fees associated with the application and registration process are to be covered by the Tenderer.

**Registration of Tenderers**

39. Prospective Tenderers must register their interest to participate in this RFT by emailing the Contact Officer prior downloading e-copy or uplifting a copy of the RFT document. Only Tenderers who have emailed the Contact Officer and have received an acknowledgement of receipts will receive notices as and when they are issued.

**Information Supplied by Tenderer**

40. The Principal may ask Tenderers to provide additional information during tender evaluations. The

Tenderer must supply that information in the form and within the time stated in the Principal's request.

41. The Principal may contact Tenderer's referees, competitors, or customers to enquire on the performance of the Tenderers', and/or make any other enquiries about the Tenderers' that the Principal may deem necessary.

42. Tenderers can provide additional documents/information to support their application.

43. The Principal reserves the right to require further clarification on any information or pricing supplied with any tender.

**Issue of Tender Document**

44. The Tenderer is not required to pay any fee prior to the issue of a printed copy of the Request for Tender documents.

|  |  |  |
| --- | --- | --- |
| 45. | RFT documents can also be obtained electronically from the Infrastructure Cook Islands or from | the |
|  | Cook Islands Government procurement website (www.procurement.gov.ck). Tenderers obtaining | an |
|  | electronic copy must ensure they are registered in accordance with clause 39. |  |
|  |  |  |

**Negotiations**

46. Negotiations will not be permitted between the tender team and any prospective tenderers during the tender advertising period. However, prospective tenderers may seek clarification of the tender documents prior to submitting their tenders.

47. The Principal may enter into post offer negotiations with the preferred Tenderer(s) before a letter of acceptance is issued.

**Repudiation of Contract**

48. If the Tender is accepted and for some reason the Tenderer does not sign the Contract within 10

Working Days of the Principal asking the Tenderer to do so, the Principal will regard the Contract as null and void.

**Proposed Delivery Programme and Methodology**

49. Each Tenderer is required to submit, on placement of their tender, a proposed methodology/programme of works outlining how the works would be executed, including special tasks, targets and timelines, and make a provision for the possibility of time extensions.

50. The format for the Delivery Programme to be submitted by Tenderers is provided in Appendix A.

### Warranties and Guarantees

51. Unless otherwise agreed in writing, the Tenderer shall tender to provide the minimum warranties and guarantees that will cover within the Cook Islands as set out below:

Warranty on Parts & Service 1 year minimum

**Payment Schedule**

52. Payments will be made based on the payment schedule as detailed below:

|  |  |
| --- | --- |
| Payment Component | %of Contract Price |
| 1. Upon signing of the Contract, the Principal shall pay the Contractor 30% of the  Total Contract price. | 30% |
| 2. Upon delivery of all Products to the designated site, the Principal shall pay the  Contractor 60% of total contract price. The method of measurement adopted shall be  NZS 4224:1983 – “Code of Practice for Measurement of Civil Engineering Quantities”. | 60% |
| 3. Subject to the outcome of product acceptance by the Principal, the Principal shall pay  the Contractor the residual 10% on total contract price.  Atiu  Aitu . | 10% |
| Note: All claims are to be directed to the following: The Engineer  Contract No. C16-08  Infrastructure Cook Islands  PO Box 102, Rarotonga |  |

**APPENDICES**

**APPENDIX A - FORM OF TENDER**

**Instructions**

a. Tenderers must complete and submit all of the forms in the format provided in this

Appendix.

b. Tenderers who fail to comply with the requirements in a. above will be deemed non- conforming and be excluded from the evaluation process.

c. Tenderers should note that the requirements relating to the lodgement of the responses to this RFT as set out in clauses 7 to 14 are mandatory.

d. Tenderers are required to tender for the whole contract works, i.e. all materials.

**A1 - FORM OF TENDER**

**To:** The Secretary, Infrastructure Cook Islands Arorangi

Rarotonga

**COOK ISLANDS**

**Tender for:** Purchase and Supply of Materials for the RSA Cemetery Foreshore Protection Project, Contract No. C16-08

**Supplier:**

I/We, the undersigned, having examined the Request for Tender, hereby offer to carry out part/whole of the Contract Works.

I/We, will achieve delivery in working days from the date of signing the contract.

I/We, agree to abide by this Tender for a period of sixty (60) days from the date fixed for receiving the same and it shall remain binding upon us and may be acceptable by you at any time before the expiry of that period.

Unless and until a Contract Agreement is prepared and executed, this Tender together with your written acceptance thereof, shall constitute a binding contract between us.

I/We understand that you are not bound to accept the lowest or any Tender you may receive.

I/We understand that no contract shall come to existence, and no legal or other obligations shall arise between us and you (or between us and any other agent of the Principal) in relation to the conduct, outcome or otherwise of the Tender process, prior to and apart from your acceptance of our Tender.

I/We understand that you may contact the referees nominated by us in this offer and make whatever enquiries you deem necessary regarding our financial health and ability to deliver the Contract Works.

The following is attached to this form:

1. A2 Compliance Checklist (and required attachments)

2. A3 Track Record

3. A4 Proposed Delivery Programme

4. A5 Referees

5. A6 Tender Price

6. A7 Schedule of Quantity and Price

................................................................................................................................................................... Name of Tenderer (Print)

.................................................................................................................................................................. Signature of person duly authorized to sign tenders on behalf of the Tenderer

.................................................................................................................................................................. Position (Capacity of Signatory)

................................................................................................................................................................. Service Address of Tenderer (Physical Address, not Postal Address)

|  |  |  |
| --- | --- | --- |
| ............................................. | ................................................... | ............................................. |
| Telephone No. | Facsimile No. | Mobile No. |

...................................................................................................................... Email Address

...................................................................................................................... Signature of Witness of Tenderer

**A2 Compliance Checklist**

Table A2 below shall be filled out by indicating the extent to which the offered product complies with each of the requirements specified. The level of compliance shall be interpreted as follows:

High Fully provides or meets the requirements specified. May even exceed the requirements specified.

Medium Adequately but not fully provides or meets the requirements specified.

Low Partially but not adequately provides or meets the requirement specified. None Does not provide or meet the requirements specified. (Make a comment if an

alternative is proposed).

Use the Comments column to briefly qualify the level of compliance especially if customisation is required to achieve the level of compliance indicated. Entries are only required in the non-shaded areas.

**PRODUCT - Materials**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Functionality & Specifications | | High | Med | Low | None | Comment |
|  | | (v) | (v) | (v) | (v) |  |
| The Product (Materials) must meet all of the following requirements: | |  |  |  |  |  |
| 1.Type | Basalt armour rocks Type 1  (1.0m – 1.5m average  diameter) |  |  |  |  |  |
| 2.Type | Basalt armour rocks Type 2  (0.5m – 0.8m average  diameter) |  |  |  |  |  |
| 3.Type | Backfill materials  (mixture of sand, gravel,  and cobbles) |  |  |  |  |  |
| 4. Type | Geotextile Filter cloth (50m  long and 4m wide rolls) -  >4000G strength, comply  With AS/NZS ISO9001:2008 |  |  |  |  |  |
| 5. Deliver | Max 3 weeks delivery to designated site. |  |  |  |  |  |

**A3 Track Record**

|  |  |
| --- | --- |
| Product (Materials) |  |
| Client |  |
| Completion date |  |
| Project duration |  |
| Activities performed |  |
| Contract value | $ |

|  |  |
| --- | --- |
| Product (Materials) |  |
| Client |  |
| Completion date |  |
| Project duration |  |
| Activities performed |  |
| Contract value | $ |

**A4 Propose Delivery Programme**

|  |  |  |  |
| --- | --- | --- | --- |
| **Output** | **Duration** | **Proposed Start Date** | **Proposed Completion Date** |
| Contract signed | N/A | N/A | N/A |
| Purchase & Supply of Products. |  |  |  |
| Delivery to designated site, checked and acceptance. |  |  |  |

**A5 Referees who may be Contacted**

The Principal will consider relevant references from at least two (2) sources including satisfied clients. Please provide address and contact details of companies/individuals to be contacted.

Referee 1

|  |  |
| --- | --- |
| Client |  |
| Address |  |
| Contact Person |  |
| Contact Phone |  |
| Email Address |  |
| Summary of client relationship /  product and services |  |

Referee 2

|  |  |
| --- | --- |
| Client |  |
| Address |  |
| Contact Person |  |
| Contact Phone |  |
| Email Address |  |
| Summary of client relationship /  product and services |  |

**A6 Tender Price**

To: The Principal

Infrastructure Cook Islands

PO Box 102

Arorangi, Rarotonga

**COOK ISLANDS**

Tender for: **Purchase and Supply of Materials for the RSA Cemetery Foreshore Protection Project - Contract No. C16-08**

Supplier:

I/We, the undersigned, having examined the Request for Tender Documents, hereby offer to carry out part/whole of the Contract Works for the Fixed Price of

Amount NZ$

VAT (15%) NZ$

**Total Includes VAT NZ$**

|  |  |
| --- | --- |
| **Area (refer to B2 General Scope of Works)** | **Amount Exclusive of VAT (NZD)** |
|  |  |
| **Materials per Schedule of Price** |  |
| Freight and Delivery to designated site |  |
| Sub-total |  |
| Plus VAT 15% |  |
|  |  |
| TOTAL |  |

................................................................................................................................................................... Name of Tendere (Print)

..................................................................................................................................................................

Signature of person duly authorized to sign tenders on behalf of the Tenderer

.................................................................................................................................................................. Position (Capacity of Signatory)

................................................................................................................................................................. Service Address of Tenderer (Physical Address, not Postal Address)

|  |  |  |
| --- | --- | --- |
| ............................................. | ................................................... | ............................................. |
| Telephone No. | Facsimile No. | Mobile No. |

...................................................................................................................... Email Address

...................................................................................................................... Signature of Witness of Tenderer

**A7 Schedule of Quantity and Price**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Item | Description | Quantity | Unit | Rate | Amount excl VAT | Amount Incl  VAT |
| **A** | **Materials** |  |  |  |  |  |
| 1 | **Basalt Armour Rocks:** |  |  |  |  |  |
|  | Type 1 – 1.0m – 1.5m average diameter) | 375 | m3 |  | $ | $ |
|  |  |  |  |  |  |  |
| 2 | **Basalt Armour Rocks:** |  |  |  |  |  |
|  | Type 2 – 0.5m – 0.8m average diameter) | 185 | m3 |  | $ | $ |
|  |  |  |  |  |  |  |
| 3 | **Backfill Materials:** |  |  |  |  |  |
|  | Mixture of sand, gravel, and cobbles | 340 | m3 |  | $ | $ |
|  |  |  |  |  |  |  |
| 4 | **Geotextile Filter Cloth** |  |  |  |  |  |
|  | 50m long x 4m wide rolls | 2 | rolls |  | $ | $ |
|  |  |  |  |  |  |  |
| 5 | Freight and Delivery to designated site |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  | Total Cost Excludes VAT |  |  |  | $ | $ |
|  | Plus VAT |  |  |  | $ | $ |
|  | **Total Cost Includes VAT** |  |  |  | **$** | **$** |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |

**APPENDIX B - Tender Specifications**

B1 Product Requirements

B1.1 Overview

Infrastructure Cook Islands ('the Principal') desires for the Purchase and Supply of Product (Materials) that in general will:

1. Be durable and ideal for environmental conditions such as that in the Cook Islands;

2. Be treated to prolong life use.

3. Be readily available locally; and

B1.2 Specific Requirements

The mandatory (or minimum) requirement for the Products (Materials) are provided below in Table 1. Tenderers must ensure that their tendered fixed-price adequately covers the requirements.

**Table 1: Mandatory Requirements**

**PRODUCT - Materials**

|  |  |
| --- | --- |
| 1. Condition | Premium |
| 2. Type | Basalt Armour Rocks (1.0m – 1.5m) and (0.5m – 0.8m) average diameter. |  |  |  |  |  |
|  | Backfill Materials (mix of sand, gravel, and cobbles) |  |  |  |  |  |
|  | Filter Cloth (50m long and 4m wide) rolls - >4000G strength, comply with AS/NZS IS09001:2008 |  |  |  |  |  |
| 3. Delivery | Maximum 3 week delivery to site. |  |  |  |  |  |
|  |  |  |  |  |  |  |

B2 **General Scope of Works**

Under this Contract the Principal wishes to arrange for the purchase and supply of Materials for the RSA Foreshore Protection project.

The work under the Contract generally will involve:

• Purchase and Supply of Materials for the above project.

• Delivery to designated site being at the RSA Cemetery in Panama, Rarotonga.

**APPENDIX C - DRAFT CONTRACT**

**PURCHASE AGREEMENT**

**THIS AGREEMENT** is made on the................. day of .................................................................... 20...................

**BETWEEN** ("the Principal")**Her Majesty the Queen** in the right of the Government of the Cook Islands, acting by and through the Secretary of the Infrastructure Cook Islands (ICI) or any person with authority to act on his behalf.

Street Address Main Road, Arorangi

Postal Address P.O. Box 102, Arorangi, Rarotonga

Telephone (+682) 20 321

Email

AND ("the Contractor") Street Address:

Postal Address Telephone No.: Email:

IT IS HEREBY AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. **THE** Contractor shall carry out the obligations imposed on the Contractor by the Contract

Documents.

2. **THE** Principal shall pay the Contractor the sum of $..................................................... or such greater or less sum as shall become payable under the Contract Documents shall be inclusive of VAT at the times and in the manner provided in the Contract Documents.

3. **EACH** party shall carry out and fulfil all other obligations imposed on that party by the Contract

Documents.

4. **THE** Contract Documents are this Contract Agreement and the following which form part of this agreement:

(a) The Contractor's tender;

(b) The notification of acceptance of tender; (c) The Schedule of Prices;

(d) Notices to Tenderers give details of numbers and dates;

(e) The Standard Conditions of Contract;

(f) Specifications issued prior to the Date of Acceptance of Tender;

**Products**: Materials which complies with the attached specifications as noted in the request for tenders.

**Delivery**: To designated site within 3 weeks from the signing of this agreement.

**Price**: [amount] to be paid as follows:

|  |  |
| --- | --- |
| Payment Component | %of Contract Price |
| 1. Upon signing of the Contract, the Principal shall pay the Contractor 30% of the  Total Contract price. | 30% |
| 2. Upon delivery of all Products to the designated site, the Principal shall pay the  Contractor 60% of total contract price. The method of measurement adopted shall be  NZS 4224:1983 – “Code of Practice for Measurement of Civil Engineering Quantities”. | 60% |
| 3. Subject to the outcome of product acceptance by the Principal, the Principal shall pay  the Contractor the residual 10% on total contract price.  Atiu  Aitu . | 10% |
| Note: All claims are to be directed to the following: The Engineer  Contract No. C16-08  Infrastructure Cook Islands  PO Box 102, Rarotonga |  |

**Insurance**: The Supplier is to meet all and any insurance requirements for the delivery of the Products.

**Contact Person:**

Government Contact: Solomona Solomona

[Solomona.Solomona@cookislands.gov.ck](mailto:Solomona.Solomona@cookislands.gov.ck)

(+682) 20321

**Supplier Contact:** [insert details]

**TERMS AND CONDITIONS FOR SUPPLY OF PRODUCT**

The Supplier agrees to supply the Product categorized above and more specifically described and detailed in the Purchase Order issued by the Government of the Cook Islands (the “Government”) on the following terms and conditions:

**1. APPLICATION**

These terms and conditions apply to all purchases of Product except where the Government agrees in writing that they be varied or do not apply. These terms and conditions supersede any contrary provisions in the Supplier’s terms and conditions of supply including those terms that the Supplier normally uses. No right under these terms and conditions shall be deemed to be waived except by notice in writing by each party. In the event that any one or more of the provisions contained in these terms and conditions are declared invalid by an order, decree or judgment of any Court of competent jurisdiction, these terms and conditions will be read as if such provision had not been inserted.

**2. PRICES**

2.1. The prices stated on the Government’s Purchase Order are fixed, unless there is a written agreement stipulating the price may be varied, when it may be varied and how the price is to be determined.

2.2. The price includes freight, insurance, packaging, crating, local cartage, customs duty and/or any other services in the delivery of the Product.

2.3. The price is exclusive of VAT.

2.4. The Supplier is not entitled to claim expenses, surcharges or margins or disbursements except if otherwise agreed in advance and in writing by the Government.

**3. SUPPLY AND DELIVERY**

3.1. The time of supply and delivery of the Product is a fundamental element of these terms and conditions.

3.2. The Product shall be delivered and rendered in a prompt and timely manner on or

within the delivery dates specified in the Purchase Order. All Product must be delivered within the Government business hours (normal business hours are 8:00 am to 4:00 pm, Monday to Friday), unless otherwise specified in the Purchase Order.

3.3. The Supplier shall notify the Government in writing immediately when the Supplier becomes aware there may be a delay in the delivery of Product to the Government.

3.4. The Government is entitled to cancel the Purchase Order or change its specification

(without incurring additional charges) if the Product is not supplied on the supply dates or times specified in the Purchase Order.

3.5. All Product must be supplied to the address specified in the Purchase Order. The Supplier shall make itself aware of any special requirements when supplying the Product to Government property.

3.6. When Product is delivered to the Government it shall be accompanied by a delivery docket that records the Purchase Order number, the description, quantity with the applicable units of measure, unit rates and dollar values of the Product delivered. The delivery docket must be signed for and retained by a Government officer.

3.7 All Product shall be packed in a manner to prevent damage or deterioration when being delivered to the Government.

3.8. The Government may use other suppliers for the supply of Product, or product of the same nature as the Product, at any time.

**4. IDENTIFICATION**

4.1. The Purchase Order number must be shown on all packages, invoices and correspondence relating to the Product. Product supplied against an invalid Purchase Order or without a Purchase Order, will be returned to the Supplier at the Supplier's expense including the cost of packaging, transportation, insurance and handling of the Product.

4.2. Where applicable, the Supplier grants the Government access to the Supplier’s premises, facilities and staff concerning the delivery and identification of the Product. The Government shall have the right to audit and inspect the Supplier’s records concerning delivery of the Product. These rights are for both the Government and any other party that has the use or benefit of the Product.

**5. QUALITY, INSPECTION AND ACCEPTANCE**

It is a condition of these terms and conditions and the Supplier warrants that:

5.1. All Product shall be in accordance with any requirements set out in these terms and conditions and/or in the Purchase Order and shall be free from defects in workmanship, materials and design. These obligations survive acceptance of the Product and payment.

5.2. The Supplier shall use the highest reasonable standard of skill, care and quality and employ techniques, methods, procedures and materials of a high quality and standard in accordance with best professional practice in providing the Product.

5.3. The Supplier will comply with all relevant (a) Cook Island standards and international standards (if not in conflict) (both general and industry-specific); (b) statutes; (c) regulations; (d) by-laws; (e) ordinances; and (f) Government policies, applicable in respect of the supply of the Product.

5.4. Where the Supplier has the benefit of any warranties or covenants from a third party in

respect of the Product, the Supplier shall disclose and assign the benefit of the warranties and/or covenants to the Government.

5.5. The Product, its material and workmanship, shall be subject to inspection and testing at

all reasonable times and places by the Government (or those parties to whom the

Government supplies the Product) before, during or after delivery.

5.6. If inspection and testing is to be conducted on the premises of the Supplier or the Supplier’s sub-contractors, the Supplier shall provide (without additional charge) all reasonable facilities and assistance for the safe and convenient inspection and testing required by the Government's inspectors in the performance of their duty.

5.7. The Supplier acknowledges that the signing of a delivery note or similar on behalf of the

Government does not constitute acceptance of any Product. The Government may reject any Product, even after they have been accepted, that: (a) are not of merchantable quality; (b) are not fit for purpose as stipulated in the Purchase Order; (c) are in an unsatisfactory condition or not functioning in the way they are designed to

relating to delivery) of these terms and conditions, ("Rejected Product").

5.8. For any Rejected Product the Supplier will, within ten (10) business days of receiving notice of Government's rejection of the Rejected Product, at the Government's sole and absolute discretion and at the Supplier's sole risk and expense: (a) repair the Rejected Product; (b) replace the Rejected Product; (c) remove the Rejected Product for full credit or reimbursement; and in the case of clause 6.8(c), reimburse/credit the Government in full for any amounts paid by the Government in respect of the Rejected Product.

5.9. Title to the Rejected Product will pass back to the Supplier on the earlier of the replacement of the Rejected Product, repair of the Rejected Product or, refund or credit of any amounts paid by the Government as specified in clause 6.8(c).

5.10. Clauses 5.7 and 5.8 do not limit or negate any other rights or remedies that the

Government may have under these terms and conditions or at law.

5.11. The Government’s failure to inspect does not relieve the Supplier of any responsibility to perform its obligations according to these terms and conditions.

**6. OWNERSHIP AND RISK**

6.1. Subject to clauses 5.7 and 5.8:

a. title in the Product passes to the Government when the Product is delivered to the Government or when the Government completes payment for the Product, whichever is the earlier date;

b. the Product remains at the Supplier’s risk until the Product is delivered to the

Government.

6.2. Where the Product is delivered to the Government to be installed and/or commissioned, the Product remains at the Supplier’s risk until the completion of installation and commissioning.

**7. PAYMENT**

7.1. The Supplier shall provide to the Government’s Contact Person, within five (5) business days of the end of the month following delivery of the Product, a VAT tax invoice for each delivery of the Product, stating Purchase Order number, date of delivery and full description of the Product and quantity delivered. Invoices received without all of these details will be returned to the Supplier, unpaid.

7.2. If monthly charges are applicable, the Supplier shall supply to the Contact Person specified in the Purchase Order a monthly statement of that month’s deliveries not later than the tenth business day of the month following delivery.

7.3. Invoices and statements are to be addressed to the address specified in the Purchase

Order.

7.4. Subject to clause 5, payment for Product delivered, once approved, will be effected on the first Wednesday on or after the 20th of the month following the date of the Supplier’s VAT tax invoice or receipt of the delivery of the Product, whichever is the later.

Payment clause will not be affected.

7.6. Payment will be effected by Electronic Funds Transfer (EFT) (direct credit).

**8. CONFLICT**

8.1. The Supplier confirms it has no knowledge of any conflict of interest in providing the

Product.

8.2. If any conflict arises or has the potential to arise during the supply of the Product, the Supplier shall immediately inform the Government in writing and the Government will decide on the appropriate steps to be followed in such event, which may include the right of the Government to terminate the Purchase Order with immediate effect.

**9. ASSIGNMENT**

The Supplier shall not assign or sub-contract any rights or obligations applicable under these terms and conditions without the prior written consent of the Government given in its discretion.

**10. NOTICES**

10.1. All correspondence shall include the Purchase Order number and addressed to the

Government’s Contact Person named on the Purchase Order form.

10.2. All correspondence shall be in writing sent by email, mail with postage prepaid or by hand delivery to the address for notices as set out above or such other address as a party has notified in writing.

10.3. Subject to clause 10.4, notice given in person is deemed to be served upon delivery or by post three (3) business days after the date of posting. Any notice served on a non- business day is deemed to have been served on the first business day after that day. Any notice by email shall be deemed to be received on the first business day after such email has reached the receiver’s designated information system for receiving emails or, in all other situations, when the email comes to the receiver’s attention.

10.4. The Government shall only be deemed to have received delivery of a notice upon the

Government acknowledging in writing receipt of the notice.

**11. INDEMNITY**

The Supplier indemnifies the Government in respect of all costs (including legal costs), claims, liabilities, losses, damage and expenses suffered or incurred by the Government and any other person claiming through the Government as a direct or indirect consequence of any unlawful, negligent, tortious, criminal, reckless or dishonest errors, acts or omission of the Supplier in the performance of its obligations under these terms and conditions. This indemnity survives the termination of these terms and conditions.

**12. REMEDIES**

The Supplier shall not be entitled to anticipatory profits or to special (including multiple or punitive), incidental or consequential damages or losses.

**13. INSURANCES**

13.1. The Supplier shall take out and maintain at its own cost, at all times during the continuance of these terms and conditions, such insurances as specified in the Purchase Order. All such insurance shall be on such terms and with such insurers as the Government may reasonably require.

13.2. The Supplier shall, if requested by the Government, provide the Government with written evidence that all insurances are in force and shall produce, whenever reasonably required by the Government, the relevant policies and evidence of payment of the current premiums. If the Supplier fails to provide such evidence the Government may, after notifying the Supplier in writing, arrange or keep in force that insurance and may, for the purpose of doing so, pay the relevant premiums and deduct a corresponding amount from any moneys payable by Government to the Supplier under these terms

and conditions.

**14. LAW**

These terms and conditions are governed by the laws of the Cook Islands. The parties agree to submit to the non-exclusive jurisdiction of the High Court of the Cook Islands.

**15. TERMINATION FOR CONVENIENCE**

Notwithstanding anything to the contrary contained in these terms and conditions, the Government shall be entitled to cancel any applicable Purchase Order, at its convenience, on 10 business days' written notice to the Supplier; provided the Government will pay for all Product delivered to the satisfaction of the Government in respect of any Purchase Order, prior to the date of notice of cancellation.

**16. GENERAL WARRANTIES**

The Supplier represents, warrants and undertakes that:

16.1. it has full power, capacity and authority to execute, deliver and perform its obligations under these terms and conditions or any Purchase Order;

16.2. it has and will continue to have, all necessary consents, permissions, licences and rights

to enter into and perform its obligations under these terms and conditions or any

Purchase Order;

16.3. there are no existing agreements, undertakings or arrangements which prevent it from entering into these terms and conditions or which would impede the performance of its obligations under these terms and conditions or any Purchase Order;

16.4. it has not offered any inducement in connection with the entering into or negotiation of

these terms and conditions or any Purchase Order and;

16.5. it has not (nor is any of its representative directors or employees) a party to any litigation, proceedings or disputes which could adversely affect its ability to perform its obligations under these terms and conditions or any Purchase Order.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed in accordance with the laws of the Cook Islands.

**SIGNED by HER MAJESTY THE QUEEN IN RIGHT OF THE GOVERNMENT OF THE COOK ISLANDS,** acting by and through the Secretary of Infrastructure

.................................................................. Ngametua College Pokino, Secretary

Cook Islands in the presence of:

***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

Name of Director (Supplier)

*THE COMMON SEAL* ***of the Supplier***

as Contractor was duly affixed in the presence of:

**WITNESS** to the Signatures of the Principal and Supplier:

.............................................................................. Signature of Witness

.............................................................. Name of Witness (Print)

............................................................................. Occupation of Witness (Print)

Date-…………../……………./…………….

**APPENDIX D - EVALUATION CRITERIA**

The Evaluation Criteria has been drawn from the Statement of Requirements, Standard Conditions and Special Conditions as articulated in the RFT. In accordance with clause 24.5 of the Manual, Tenders that did not meet the Standard Conditions are deemed non-compliant.

**D1 Standard Conditions**

|  |  |
| --- | --- |
| **Criteria** | **Compliant**  **(Yes/No)** |
| 1. Tender was deposited in the Tender Box by the closing time specified in the  RFT. |  |
| 2. Tender is complete: contents and format contained in Appendix A (Forms A1  to A7) of the RFT has been followed. |  |
| 3. Proposal and related documentation was submitted in the English  language. |  |
| 4. Tenderers must tender on all parts of the tender, i.e. to supply materials for the whole of the contract works as specified in the RFT. |  |
| 5. Tenders must be presented in hard copy format only as specified in this RFT |  |
| 6. All prices must be in NZ dollars inclusive of freight and delivery charges to the site at RSA Cemetery in Panama, Rarotonga. |  |

**D2 Special Conditions**

A Weighted Criteria methodology will be applied to this RFT to identify the Tenderer who is offering the greatest value for money.

Only fully compliant Tenders will be evaluated. An Evaluation Committee will be established to evaluate the Tenders. Expert advisors may be used to support and advise the Committee during the evaluation process. In some instances, Tenderers may be required to provide additional information during this time.

The Evaluation Committee will make recommendations to the CI Government Tender Committee consisting of the MFEM Financial Secretary and the Solicitor General) for approval.

Evaluations will be conducted against the attributes outlined in the table below.

|  |  |
| --- | --- |
| **Criteria** | **Weight (%)** |
| **Non-Price Attributes** |  |
| 1. Compliance with contract terms | 5 |
| 2. Relevant Experience | 15 |
| 3. Implementation - can deliver the Products (Materials) within reasonable  timeframe.  timeframe (12 weeks) | 10 |
| 4. Locally based company and resources | 15 |

|  |  |
| --- | --- |
| **5. Price** | 55 |
| **TOTAL WEIGHTING** | **100** |

**D3 Risk Evaluation**

Evaluation Committee will conduct a Risk Assessment for each Tender submitted. This will identify the most significant risks presented by the Tender and consider the likelihood of the risk occurring; the consequence of that risk; and a risk mitigation strategy. In conclusion, the mitigated risk will be determined to form an overall measure of the risk represented by each Tender.

The Risk Mitigation Strategy may include the inclusion of specific clauses in the executed contract. Therefore, a Tender considered to be High Risk might still be selected subject to the Tenderer’s willingness to accept the proposed contract amendments.