Request for Tender



New Tug for Avatiu Harbour

|  |  |
| --- | --- |
| Reference No: | CK192004 |
| Date of Release: | 28 September 2019 |

Cook Islands Ports Authority

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

Contact Officer

andre.tuiravakai@cookislands.gov.ck

TENDER CLOSING TIME: 3:00PM (CI Time) Friday 25th October 2019

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Glossary and Definitions

|  |  |
| --- | --- |
| TERM | EXPLANATION |
| BTIB | Business Trade Investment Board |
| Drawings | Drawings for the tug for which Tenders are requested |
| Electronic Tender Account | Asia Pacific Public Electronic Procurement Network e-GP System  <https://in-tendhost.co.uk/adbprocurementnetwork/aspx/Home> |
| Manual | The Cook Islands Government Financial Policies and Procedures manual |
| Policy | The Cook Islands Government Purchase and Sale of Goods and Services Policy |
| Principal | Cook Islands Ports Authority |
| RFT | Request for Tender |
| Tender Team | The group of people responsible for the management of the tender process and includes those people who are specifically responsible to evaluate Tenders. |
| Tug | the Tug for which Tenders are requested |
| Tug Specifications | Tug Specifications for the Tug |

Introduction

# Summary of Requirements

Through this Request for Tender (RFT) the Principal wishes to implement the construction of a new harbour tug boat. This RFT is for a new harbour tug for Avatiu Harbour to assist in berthing larger vessels.

The existing tug boat was constructed in 2001 with 322 horsepower and designed to assist vessels up to 80 meters in length with winds up to 21 knots. Since the redevelopment of the Avatiu harbour in 2012 it has been routinely receiving vessels up to 115 meters in length. These can only be berthed with winds at or below 15 knots. Winds above 15 knots can cause navigational issues in the berthing of ships that the current tug is not equipped to handle and which may thus cause safety issues. The smaller window available for bringing in these larger vessels has resulted in delays as vessels cannot enter the harbour due to this safety factor; the cost of those delays is passed on to consignees, and thus becomes an expense to the general public through higher costs for imported merchandise. There are, therefore, both safety and economic considerations that affect the general public.

A new tug, slightly larger than the existing tug, with twin screws (propellers) and with a total of 800 horsepower will allow the Port of Avatiu to bring in these larger vessel with winds up to 20 knots. With the additional power and enhanced manoeuvrability, the new tug will be therefore deliver operational efficiencies and a higher level of maritime safety in the working of the Avatiu port.

important notes

* Tenders will only be accepted in whole and not in part(s) as per Attachment 2.
* All freight and delivery is to Port Authority Avatiu including onsite sea trials before handover will be accepted.
* Tenderer’s responsibility to carry out any site visits in order to assess the true costs to complete the project where necessary.
* Copies of the tender documentation can be uplifted from the Ports Authority main office, MFEM procurement tender portal, and via emails where electronic copies can be sent out to registered interested Parties.

CONDITIONS OF TENDERING

All tenders should conform to the Conditions of Tendering, but must conform to the Mandatory Conditions as set out in this RFT.

# Contact Officer

The Contact Officer for this tender is:

**Name of Person: Andre Tuiravakai  
Title: Assets/Operations Manager   
Address: PO Box 84, Avarua, Rarotonga, COOK ISLANDS  
Phone: (682) 56772  
E-mail: andre.tuiravakai@cookislands.gov.ck**

# Tender Registration

Prospective Tenderers should register their interest to participate in this RFT process by registering on the Cook Islands Government E-Government Procurement portal at:

<https://in-tendhost.co.uk/adbprocurementnetwork/aspx/Home>

In order to participate in the tender process you will need to register on the Portal as a supplier. As part of registration you will need to specify relevant “Business Categories” for your business. This tender will be listed under the following category:

|  |  |
| --- | --- |
| **Category** | **Title** |
| 24101513 | Tugger |

Prospective Tenderers should include this category when registering on the system.

Should there be any issues registering, please advise the contact officer as soon as possible and an alternative registration process will be advised. The Contact Officer will acknowledge receipt of the registration. Only registered Tenderers will receive notices directly, as those are issued from time to time. It is the responsibility of the Tenderer to ensure they are properly registered for this RFT. The Principal reserves the right to extend the list of registered Tenderers beyond those who register interest in this RFT.

Once the Tender is published on the portal any suppliers registered will receive automatic advice of the tender and a link to access tender documentation via the Electronic Tender Account. Submission of tenders will be through the same account.

Suppliers who register after the tender is published will receive notification of the tender upon registration.

# Tender Closing Time

Tenders must be received by the Ports Authority by the following deadline, or they will not be considered:

**Tender Closing Time and Date: 3.00pm (CI Time) Friday 25th, October 2019**

It is the Tenderer’s responsibility to ensure that its tender reaches the Tender Box located at Ports Authority main office on the Main Road Avatiu or posted to the Electronic Tender Account (<https://in-tendhost.co.uk/adbprocurementnetwork/aspx/Home>), by the specified closing date and time.

Late tenders will not be accepted.

# Submission of Tender

The cost of preparing and submitting the Tender shall be borne by the Tenderer.

The Principal may vary the Tender Tug Specifications described in Attachment 1 at any time, up to and including the closing date, by notice in writing to the Tenderers still involved in the RFT at the time the Tender Tug Specifications are varied. It reserves the right to vary the Tender Tug Specifications in any subsequent negotiations with its preferred Tenderer.

Tenders shall be submitted in either hard copy or electronic copy, as specified below only.

Telefax tenders will not be accepted.

## Hard Copy Submission:

Original hard copy tenders shall be packaged and labelled **“CONFIDENTIAL”** and have the following information clearly exhibited on the outside:

* Agency: **Cook Islands Ports Authority**
* Reference: **New Tug for Avatiu Harbour CK192004**
* Closing Date: **3.00pm (CI Time) Friday 25th, October 2019**

Hard copy tenders must be placed in the Tender Box located at the Ports Authority main office on the Main Road Avatiu and submitted in the format contained in Attachment 2 – Forms to be submitted, by the due date. Failure to do so will result in the tender being disqualified.

## Electronic Copy Submission:

Electronic copy tenders must be submitted through the Electronic Tender Account in the format contained in Attachment 2 – Forms to be submitted, by the due date. Failure to do so will result in the tender being disqualified.

The default portal is the Asia Pacific Public Electronic Procurement Network e-GP System (refer <https://in-tendhost.co.uk/adbprocurementnetwork/aspx/Home>). The title and reference number of this document is the tender identifier.

The tender form shall be submitted in Microsoft Word format. Additional documents should be submitted in PDF format. Tenderers should seek approval for any other alternative electronic formats. If offers do not comply with the approved formats they will be deemed non-compliant and may not be accepted.

If the supplier is not able to access or upload tender documents through the default CIG Procurement Portal they should first seek guidance from the user guide using the following link

<https://in-tendhost.co.uk/adbprocurementnetwork/aspx/BuyerProfiles>

or by clicking the “user guides” tab on the portal. Thereafter further guidance may be available through the Contact Officer.

If still not successful the Contact Officer will arrange a secure email tender account for the upload of documents. The Electronic Tender Account will send a confirmation of receipt email in response to your electronic submission and the time of upload will be used to confirm the date and time of upload. If you do not receive a confirmation of receipt email within five working days please contact the Contact Officer for this tender.

If offers do not comply with the approved formats they will be deemed non-compliant and may not be accepted.

# Conflict of Interest Declaration

Tenderers must complete the Conflict of Interest Declaration form in Attachment 2 to disclose any potential or actual conflicts of interest that they may have or may be perceived to have, in respect of their responsibilities to the Principal and other parties should they be selected as the successful Tenderer. Where potential or actual conflicts of interests are identified, the Tenderer must specify how this will be managed in order to provide assurance that it will not adversely impact the performance of any services.

# Further information or clarifications

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.

Any further information or clarification required by a Tenderer in relation to this RFT must be directed to the **Contact Officer**. Tenderers should note that to ensure no disadvantage to any Tenderers, responses to questions pertaining to this RFT will generally be circulated to all those who have registered their interest.

Where the Principal considers that the competitive advantage of the individual Tenderer may be compromised by the distribution of responses to such requests for information and/or clarification to all Tenderers, the Principal reserves the right to issue such response(s) only to that particular Tenderer.

Any additional information relating to this RFT will be circulated to all registered suppliers via the E-Government Procurement portal and emailed to all registered Tenderers as a Notice to Tenderers.

Details of questions and answers provided during the tender process will be logged in the Electronic Tender Account accessible by all registered Tenderers.

# Probity

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 Agency, or any other member or organisation that may have an involvement with any aspect of the tender process.

# Selection Process

All tenders received in the Tender Box and/or Electronic Tender Account by the closing date and time will be assessed on whether they have conformed to the Mandatory Conditions. Failure to comply with these conditions will result in immediate exclusion from the Evaluation process. All Tenders deemed compliant will then proceed to the evaluation stage.

Evaluation of the responses to this RFT will be in accordance with the Evaluation Criteria described in Attachment 3.

# Notification of Acceptance

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

Unsuccessful Tenderers shall be notified in writing by the Principal or their representative within ten (10) working days of acceptance of the successful tender.

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.

When the preferred Tenderer has been identified, the Principal will invite the Tenderer to enter into negotiations based on the draft contract in Attachment 4 to this RFT. Only when both parties have agreed to the terms of the contract and executed the contract, will the Principal formally issue a Letter of Acceptance to the successful Tenderer

The successful Tenderer will be notified by the Principal or their representative in writing on a date yet to be confirmed, but within sixty (60) working days from the Closing Date of the tender.

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.

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

Tenderers are entitled to the release of their evaluation report on request. Any requests for evaluation reports of other tenders must be processed under the Official Information Act 2008.

Tenderers have the right to make a complaint and may do so under the complaints process of the Cook Islands Government Purchase and Sale of Goods and Services Policy.

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

* Invite all Tenderers to provide additional information; and/or
* Re-advertise the RFT and extend the closing date of the Tender. Tenderers may either resubmit their tender or provide additional information to support their existing Tender already received by the Principal

At the conclusion of the tender process the outcome will be published on the procurement website showing the names of the successful Tenderer.

# Confidentiality

All intellectual property in Drawings, Tug Specifications, Schedules and written technical information supplied to Tenderers is and remains that of the Principal and shall not be used for purposes other than the preparation of a Tender nor disclosed to any third party (except as required by law) without the approval of the Principal. Information submitted by a Tenderer shall be regarded as confidential and shall not be disclosed to a third party except with the prior written agreement of the Tenderer or as otherwise required by law. Nothing in this clause applies to the disclosure to third parties, in the case of a successful tender and signing of contract, as required for proper performance of the contract and achievement of its objectives.

# Non-Resident Tenderer

In order for foreign companies to carry out business in the Cook Islands, an application for, and approval, must be sought from the Business Trade Investment Board (BTIB). Any fees associated with the registration are to be covered by the Tenderer. Tenderers should inform themselves of the registration process and confirm in their Tender that they are willing to register and to engage with the Immigration Division of the Ministry of Foreign Affairs (to the extent needed to qualify personnel from overseas to work in the Cook Islands) once a Letter of Acceptance is issued. Information can be found at [www.btib.gov.ck](http://www.btib.gov.ck).

Mandatory Conditions

All tenders must conform to the Mandatory Conditions below. Any tender that fails to comply with one or more of the mandatory requirements will be deemed non-compliant and will be excluded from the evaluation process. Mandatory Conditions below are also reflected in Attachment 3 – Evaluation Criteria.

1. Tenders must be completed in the format contained in Attachment 2 of this RFT. If offers do not comply with the format contained in Attachment 2, they will be deemed non-compliant and may not be accepted.
2. Tenders must be deposited in the required form in the Tender Box or the Electronic Tender Account by the closing time as specified in this RFT.
3. All tenders and related documentation in respect of this RFT may be presented in the English or Maori language. Tenders presented in Maori or any other language must be provided with an English translation.
4. Tenderers must tender to provide services or supply materials for the whole of the works as specified in this RFT.
5. Tenders must be presented in hard copy format and/or electronic copy format as specified in this RFT. Telefax tenders will not be accepted.
6. All prices quoted must be landed inclusive of freight and relevant charges to the final point of delivery.
7. All prices must be in New Zealand dollars.

Attachment 1 – Tender Requirements

# Tender Tug Specifications

This request for tender is issued in respect of the Drawings and the Tug Specifications; this is not a “design and build” contract; the successful Tenderer must be prepared to contract to construct the Tug in strict conformity to the Drawings and the Tug Specifications and to do so within the required timeline and for the agreed contract price.

The Drawings and Tug Specifications are attached as forming part of this Attachment 1. A tender that proposes any material variation either to the Drawings or the Tug Specifications (or either of them) may be rejected for that reason alone, without consultation with the Tenderer; a Tenderer proposing any sort of material variation must, therefore, ensure that its tender contains full justification and good reason for the proposed variation, along with cost and performance comparisons between the Drawings and Tug Specifications as issued, and those parameters proposed by that Tenderer, providing sufficient detail to allow informed consideration both by the Principal and its naval architect and others concerned in the tender evaluation.

As to timeframe, the construction of the Tug is time sensitive and time will be of the essence; it is the expectation of the Principal that the build time will be complete within a period to be agreed between the Principal and the successful Tenderer. Upon signing of the contract between the parties the successful Tenderer will be able to demonstrate a willingness and capability to comply strictly with the Delivery Programme.

The Supplier must provide “hands on” project and risk management, together with all manpower, machinery, plant, equipment and material to carry out and complete the contract works. This includes full responsibility over the Supplier’s own work personnel, sub-contractors and full responsibility for standard of workmanship. That standard is to be as specified in the Drawings and the Tug Specifications and, so far as not specified, generally in compliance with all codes, regulations and legislation applicable in the Cook Islands. Where those are silent, workmanship is to be to the standard expected for similar works carried out in New Zealand. Those standards will apply to all phases of the contract works.

### DETAILED SCOPE OF WORKS

The contracted works consist of the following main scope:

|  |  |  |
| --- | --- | --- |
| A | Sign Contract | Deposit Payment |
| B | Staged Payments | To be agreed with Supplier |
| C | Delivery to Designated Site | Tug to be delivered to Avatiu Harbour and launched |
| D | Commissioning | To be trialled and tested prior to acceptance |
| E | Defects liability period | Rectification of defects during the Defect Liability Period. The Builder/Supplier for a period of 12 months following acceptance by the Principal of the vessel, guarantees the vessel her hull and machinery which are manufactured, furnished or supplied by the Builder/Supplier against all defects in materials and/or workmanship on the part of the Builder |
| G | Required Completion Date | To be determined with Successful Tenderer. |

### MANAGEMENT OF WORKS BY SUPPLIER

As a lump sum contract the Supplier must provide full project management of the contract works. The following management responsibilities are expected by the Supplier:

|  |  |  |
| --- | --- | --- |
| A | Project Program Planning | The Supplier is responsible for the timely delivery and completion of the Tug.  The Supplier must be in constant communication with the Authority’s appointed project manager at all stages of the project.  A Work Plan is to be submitted by the Supplier in its tender proposal and will be confirmed by the Authority prior to contract execution. |

### ENGAGEMENT BY THE PRINCIPAL

The Authority will provide the Drawings and Tug Specifications which the Supplier confirms are adequate for carrying out the contracted works. The Authority will also designate a Project Supervisor who will provide general contract oversight. The Authority’s Supervisor will also communicate any payment or budget arrangements to the Authority for decision. The Authority’s Supervisor is the point of contact for the Supplier and has the primary role of inspecting works to make sure they are undertaken in accordance with this contract. The Project Manager will coordinate closely with the Supplier during the works.

[ATTACH DRAWINGS AND TUG SPECIFICATIONS]

Attachment 2 – Tender Forms To Be Submitted

Instructions

1. Tenderers must complete and submit all of the following forms, in the formats provided in this Attachment:

* A1 – Tender Form
* A2 – Conflict of Interest Declaration
* A3 – Completed Schedule of Prices
* A4 – Proposed Subcontractors *(if applicable)*
* A5 –Delivery Programme
* A6 – List of Referees you may contact in relation to this offer.

2. Tenderers who fail to supply all of the items listed in above, will be deemed non-compliant and will be excluded from the tender evaluation process.

# A1 – Form of Tender

**The Principal**

Cook Islands Ports Authority

PO Box 84

Avatiu, Rarotonga

**COOK ISLANDS**

|  |  |
| --- | --- |
| **Tender For:** | **New Tug for Avatiu Harbour** |
| **Supplier:** | [Name of supplier] TBC |

Having examined the Tender Documents in relation to Tender Reference No. CK192004 and dated \_\_/\_\_/\_\_ , released by Cook Islands Ports Authority, we submit the following offer.

We offer to complete, handover to the Principal and remedy defects in the Tug, constructed in accordance with the Drawings and the Tug Specifications and in strict conformity with these Tender Documents for the sum of [insert the price offered in text with the value in numbers thus (NZD$\_\_\_\_\_\_\_\_\_\_.\_\_)] stated exclusive of Value Added Tax, together with such other sums as may be ascertained in accordance with the Contract.

We acknowledge receipt of Notices \_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_\_.

We **agree/do not agree** to the Terms and Conditions in Attachment 4 of the said tender. We propose/do not propose any amendments. We note that if amendments are proposed the Tender may be rejected for that reason alone, without consultation with us as the Tenderer and that a Tenderer proposing any sort of material amendment must, therefore, ensure that its tender contains full justification and good reason for the proposed amendment. We note that proposed amendments must be separately submitted in Microsoft Word format; no changes may be made to any of the forms of the Principal under any circumstances.

We undertake to complete and handover of the **whole** of the Contract Works within the period stated in the Conditions of Tendering.

We agree to abide by this Tender for a period of sixty (60) working days from the date fixed for receiving the same and it shall remain binding upon us and may be accepted by you at any time before the expiry of that period. We note that acceptance will occur only when you formally issue a Letter of Acceptance to us as the successful Tenderer.

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.

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

We understand that no contract shall come into 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.

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. Further, during the assessment stage we understand and agree that you may request specific information from all Tenderers in order to assist your assessment. We acknowledge that a failure to provide such information may result in disqualification from the process.

We provide the following information required to be submitted with this Tender:

* A2 – Conflict of Interest Declaration
* A3 – Completed Schedule of Prices
* A4 – Proposed Subcontractors
* A5 – Preliminary Delivery Programme
* A6 – List of Referees you may contact in relation to this offer.

*If the Tenderer is unable to agree to any clauses included in the Conditions to the Contract, it must set out in a table form the clause reference, reason why the Tenderer cannot accept it and proposed alternative wording.*

|  |  |  |  |
| --- | --- | --- | --- |
| **Tenderers details:** |  | | |
| *Tenderers full name:* |  | | |
| *Tenderers trading name (if Company):* |  | | |
| *Contact person (if Company):* |  | | |
| *Postal address:* |  | | |
| *Physical address:* |  | | |
| *Phone number:* |  | | |
| *Mobile:* |  | | |
| *Email address:* |  | | |
|  | | | |
| *Signature* | |  | *Date* |
| *Full Name* | |  | *Position (if Company)* |

# A2 – Conflict of Interest Declaration

A conflict of interest arises if you or a close family member has an interest e.g. is a board or committee member or is employed in a senior position in the Government agency that wants to purchase the goods or services relating to this tender process.

In submitting this tender bid I declare:

* I understand that an actual, potential or perceived conflict of interest may arise in participating in this tender process and that I am obliged to declare any such conflict of interest.
* I confirm that in submitting this information that I have either declared any potential conflicts of interest or that I am not aware of any situation or issue that would conflict with the interest of the Principal.
* If a conflict of interest arises at any time before the selected supplier has been awarded, I will advise the Contact Officer or the Principal immediately.
* I have personally completed this declaration on behalf of the Supplier(s) and declare that the submitted tender bid provided are true and correct.

|  |  |  |
| --- | --- | --- |
| **I declare that I have a potential conflict of interest as follows:** | | |
|  | | |
|  | | |
|  | | |
|  | | |
| **I will manage this conflict of interest by:** | | |
|  | | |
|  | | |
|  | | |
| **Declared by:** | | |
| *Signature* |  | *Date* |
| *Full Name* |  | *Position (if Company)* |

# A3 – Completed Schedule of Prices

All tenders must clearly show the VAT exclusive price, the VAT amount and a total inclusive of VAT amount. All values must be shown in New Zealand Dollar (NZD) currency.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Item | Description | Quantity | Rate | Amount excl VAT |
| **A** | **New Tug** |  |  |  |
| 1 | Construction of Tug | 1 |  | $ |
|  | Subtotal: |  |  | $ |
|  |  |  |  |  |
|  |  |  |  |  |
| **B** | **Insurance & Freight –** to Avatiu Harbour, Rarotonga, Cook Islands |  |  |  |
| 1 | Insurance cover Rarotonga, Cook Islands | 1 |  | $ |
| 2 | Freight cost to Rarotonga, Cook Islands | 1 |  | $ |
| 3 | Assembly, testing (including onsite sea trials)and handover | 1 |  | $ |
|  | Subtotal: |  |  | $ |
|  |  |  |  |  |
|  |  |  |  |  |
|  | Total Cost Excludes Import VAT |  |  | $ |
|  | Plus Import VAT |  |  | $ |
|  | **Total Cost Includes VAT** |  |  | **$** |
|  |  |  |  |  |
|  |  |  |  |  |

# A4 – Proposed Subcontractors (if applicable)

|  |  |
| --- | --- |
| **Subcontractor details:** |  |
| *Subcontractors* *full name:* |  |
| *Subcontractor’s trading name (if Company):* |  |
| *Contact person (if Company):* |  |
| *Postal address:* |  |
| *Physical address:* |  |
| *Phone number:* |  |
| *Mobile:* |  |
| *Email address:* |  |
| *Works/Skills to be performed:* |  |
| *Educational/Technical Qualifications:* |  |
| *Work Experience:* |  |
| *Potential or Actual Conflicts of Interest:* |  |

# A5 –Delivery Programme

Note that the tenderer may submit in their own format.

|  |  |  |  |
| --- | --- | --- | --- |
| **Output** | **Duration** | **Proposed Start Date** | **Proposed Completion Date** |
| Contract signed | N/A | N/A | N/A |
| Construction of Tug |  |  |  |
| Delivery to Avatiu Harbour, Rarotonga, Cook Islands, launched |  |  |  |
| Commissioning and final sign off |  |  |  |

# 

# A6 – List of Referees who may be Contacted

|  |  |
| --- | --- |
| *Name:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| *Company:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| *Address:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| *E-mail Address:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| *Phone No.:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| *Facsimile No.:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| *Nature of Relationship with Tenderer:* |  |

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| --- | --- |
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| *E-mail Address:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| *Phone No.:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| *Facsimile No.:* | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| *Nature of Relationship with Tenderer:* |  |

Attachment 3 – Evaluation Criteria

The Mandatory Conditions have been drawn from the Conditions of Tendering in this RFT. Tenders that do not meet the Mandatory Conditions are deemed non-compliant, and will not proceed into Evaluation.

# Mandatory Conditions

Tenders must pass all of the following requirements. Tenders that do not meet one or more of these conditions are deemed non-compliant and will not be considered.

|  |  |
| --- | --- |
| Criterion | Complies Yes or No |
| 1. Tender must be completed in the format contained in Attachment 2 of the RFT. |  |
| 1. Tenders must be deposited in the required form in the Tender Box and/or the Electronic Tender Account by the closing time specified in the RFT |  |
| 1. Proposal and related documentation must be in the English language or translated into English. |  |
| 1. Tenderers must tender to provide the whole of the works specified in the RFT. |  |
| 1. Tenders must be presented in hard copy and/or electronic copy format as specified in this RFT only. |  |
| 1. All prices quoted must be landed inclusive of freight and relevant charges to final point of delivery. |  |
| 1. All prices must be in NZ dollars |  |

# Evaluation Criteria

A Weighted Criteria methodology will apply to the evaluation of this RFT as follows:

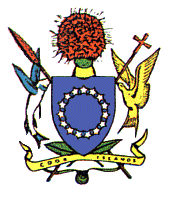
|  |  |
| --- | --- |
| Criteria | Weight % |
| **Non-Price Criteria** |  |
| 1. Locally established company Locally supplied resources (labour and/or materials) | 5 |
| 1. Acceptance of the contract terms | 5 |
| 1. Relevant skills | 10 |
| 1. Past Performance | 5 |
| 1. Technical Skills | 10 |
| 1. Resources | 5 |
| **Total Non-Price Elements** | **40** |
| Price | 60 |
| **TOTAL WEIGHTING** | **100** |

# Risk

The 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.

Attachment 4 – Contract Conditions



**PURCHASE ORDER PRODUCT AND SERVICES**

**Authority: Cook Islands Ports Authority a body corporate established by the Ports Authority Act 1994-95**

Signed:

Name:

Position:

Date:

**Supplier**: [Insert Supplier details]

Signed:

Name:

Position:

Date:

**Product and Services**: To construct, commission and deliver the Tug in accordance with the Drawings and Tug Specifications at Attachment 1 – Tender Requirements, and the Authority’s Request for Tender.

**Delivery**: Delivery to Cook Islands Ports Authority in Rarotonga.

**Price**:

1. Payments will be made in New Zealand Dollars and will be made progressively over the course of the project based on the completion of each stage of the project outlined in the Completed Schedule of Prices at A3 of the Request for Tender.
2. All payments must be signed off by the Chief Executive Officer before disbursement to the Supplier.

**Insurance**: The Suppliers:

1. must take out and maintain at its own cost Third Party Liability insurance in a sum of not less than NZD$1 million, together with Public Liability insurance for NZD$1 million, and
2. must disclose the terms of that insurance in accordance with the provisions of the RFT and the terms and conditions.

**Contact Person**:

**Authority Contact:** Andre Tuiravakai, Project Manager

**Contact:** [authorised contract representative], [title], [company]

The Key Personnel and their respective focus areas for the provision of the Services of this contract are listed as follows:

| Full Name | Position | Role | Focus areas | Location |
| --- | --- | --- | --- | --- |
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**Additional Terms**:

1. The Supplier is responsible for all its tax filings and liabilities arising out of the agreement.
2. The Supplier is responsible for all foreign enterprise approvals and fees to provide their service in the Cook Islands.
3. For the avoidance of doubt the Supplier is not an employee of the Authority.

TERMS AND CONDITIONS FOR THE ENGAGEMENT OF A CONTRACTOR PROVIDING SERVICES AND MATERIALS TO PLANS AND SPECIFICATIONS PROVIDED BY AUTHORITY

The Ports Authority (“the Authority”) agrees to engage the Contractor and the Contractor agrees to construct, commission and deliver the Tug described in the Schedule, in accordance with the Drawings and Tug Specifications, and the Authority’s Request for Tender on the basis of the following terms and conditions:

**TERMS AND CONDITIONS**

1. **Application**: These terms and conditions supersede any contrary provisions in any previous agreements between parties, written or otherwise. They and the Schedule are to be read together with the appended tender documents (the Authority’s Request for Tender Document and the Contractor’s response). If there is an inconsistency between those tender documents and these terms and conditions, these terms and conditions prevail over those tender documents. A right under these terms and conditions must not be treated as 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 order, decree or judgment of any Court of competent jurisdiction, these terms and conditions are to be read as if such provision had not been inserted.
2. **High level expectations of Contractor**: The Contractor must provide “hands on” project and risk management, together with all manpower, machinery, plant, equipment and material to carry out and complete the contract works. This includes full responsibility over the Contractor’s own work personnel, sub-contractors and full responsibility for standard of workmanship. That standard is to be as specified in the Drawings and the Tug Specifications and, so far as not specified, generally in compliance with all codes, regulations and legislation applicable in the Cook Islands. Where those are silent, workmanship is to be to the standard expected for similar works carried out in New Zealand. Those standards will apply to all phases of the contract works.
3. **General warranties of Contractor**: The Contractor represents, warrants and undertakes that:
   1. it has full power, capacity and authority to execute, deliver and perform its obligations under these terms and conditions or any Purchase Order;
   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;
   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;
   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;
   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.
4. **Contract obligations**: The Contractor must, and represents and warrants that it will, carry out the contracted works as described in the attached Schedule in accordance with all requirements set out in these terms and conditions and/or in the Schedule. **The time allocated for performance by the Contractor of the contract works is of critical importance to the Authority and therefore time is of the essence in this Contract**. Where the Contractor has the benefit of any warranties or covenants from a third party in respect of any element of the contract works, the Contractor must disclose and use all reasonable endeavours to obtain the consent of that third party to assign the benefit of the warranties and/or covenants to the Authority. To avoid doubt, all goods and materials must be supplied by the Contractor at its own cost in all things.
5. **Materials**
   1. This clause applies to all raw or manufactured material, goods or things required for use in the Contract Works (collectively “Materials”), and if there is a conflict between this clause and the Specifications, then the higher of the two standards imposed applies.
   2. It is a condition of these terms and conditions and the Contractor warrants that:
      1. All Materials shall be in accordance with any requirements set out in the Contract Documents and shall be free from defects in workmanship, materials and design. These obligations survive acceptance of the Materials and payment.
      2. The Contractor 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 and installing the Materials.
   3. The Contractor 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) Principal policies, applicable in respect of the supply and installation of the Materials.
   4. Where the Contractor has the benefit of any warranties or covenants from a third party in respect of the Materials, the Contractor shall disclose and assign the benefit of the warranties and/or covenants to the Principal.
   5. The Materials, and all associated workmanship, shall be subject to inspection and testing at all reasonable times and places by the Principal (or those parties who supply the Materials) before, during or after delivery and installation.
   6. If inspection and testing is to be conducted on the premises of the Contractor or the Contractor’s sub-contractors, the Contractor shall provide (without additional charge) all reasonable facilities and assistance for the safe and convenient inspection and testing required by the Principal's inspectors in the performance of their duty.
   7. The Contractor acknowledges that the signing of a delivery note or similar on behalf of the Principal does not constitute acceptance of any Materials. The Principal may reject any Materials, even after they have been accepted, that: (a) are not of merchantable quality; (b) are not fit for purpose; (c) are in an unsatisfactory condition or not functioning in the way they are designed to function; or (d) do not otherwise meet the requirements (including requirements relating to delivery) of these terms and conditions, ("Rejected Materials").
   8. For any Rejected Materials the Contractor will, within ten (10) business days of receiving notice of Principal's rejection of the Rejected Materials, at the Principal's sole and absolute discretion and at the Contractor's sole risk and expense: (a) repair the Rejected Materials; (b) replace the Rejected Materials; (c) remove the Rejected Materials for full credit or reimbursement; and in the case of removal, reimburse/credit the Principal in full for any amounts paid by the Principal in respect of the Rejected Materials. Title to the Rejected Materials will pass back to the Contractor on the earlier of the replacement of the Rejected Materials, repair of the Rejected Materials or, refund or credit of any amounts paid by the Principal.
   9. The Principal’s failure to inspect does not relieve the Contractor of any responsibility to perform its obligations according to these terms and conditions.
   10. This clause 5 does not limit or negate any other rights or remedies that the Principal may have under these terms and conditions or at law.
6. **Skill**: The Contractor must use the highest reasonable standard of skill, care and quality and employ techniques, methods, procedures, goods and materials of a high quality and standard in accordance with best professional practice in rendering the contract works. The Contractor will acquaint itself, and 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; and (e) ordinances. The Contractor will also comply with all Authority policies, applicable in respect of the supply of the contract works, as may be notified to it in writing by the Authority from time to time.
7. **Independent Judgment**: Where the contract works require the Contractor to certify, decide or use discretion under a contract between the Authority and a third party, the Contractor must act independently, and with professional skill and judgment, and according to the terms of the contract between the Authority and the third party.
8. **Delay**: This contract is time-critical. If at any time the Contractor’s performance falls behind the programme set out in the Schedule or if the Contractor believes that is likely to occur for any reason then the Contractor must notify the Authority and, where the delays are due to matters within the control of the Contractor, must urgently take all practicable steps to remedy such delay. If the matter is beyond the control of the Contractor, the Authority and the Contractor must negotiate in good faith to reach agreement on measures to mitigate the risks and hazards posed by the delay and to identify strategies to minimize that delay.
9. **Liquidated Damages for Delay**: In addition to the obligations in clause 5 above, the Contractor shall pay liquidated damages to the Authority at the rate of 0.1% of the Total Contract Price for each day that the completion of the contract services is later than the [Required Completion Date TBC with Successful Tenderer]. The total amount of liquidated damages shall not exceed 10% of the Total Contract Price. The Authority may deduct liquidated damages from payments due to the Contractor. Payment by the Contractor of liquidated damages shall not affect the Authority’s other rights and remedies in respect of Contractor delay.
10. **Variations:** The Authority may order variations to the contract works in writing or may request the Contractor to submit proposals for variation to the contract works. Where the Contractor considers a direction from the Authority or any other circumstance is or may give rise to a variation the Contractor must notify the Authority as soon as practicable.

1. **No variation in price:** A variation will not attract any variation to the Contract Price unless the parties agree to that. If the Contractor stipulates a price for additional goods and/or services that the Authority considers unreasonable, the Authority may make separate arrangements with a third party contractor to provide those goods and services and the Contractor must cooperate with the Authority and that third party contractor to coordinate its work with that of the third party contractor.
2. **Variations to be pre-approved:** Each variation must be signed off by the Chief Executive Officer of the Authority before the relevant goods and/or services are supplied. Signoff must be as to the nature and extent of those goods and services and as to both the amount and timing of payment for that variation.
3. **Ownership and risk;** Subject to clauses 5(g) and (h):
   1. title in the Tug passes to the Authority when the Tug is delivered to the Authority or when the Authority completes payment for the Tug, whichever is the earlier date;
   2. the Tug remains at the Contractor’s risk until the Tug is delivered to the Authority.
   3. Where the Tug is delivered to the Authority to be installed and/or commissioned, the Tug remains at the Contractor’s risk until the completion of installation and commissioning.
4. **Payment**: the Authority must pay the Contractor for contract works the fees and expenses at the times and in the manner set out in the Schedule. The prices stated in the Schedule 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. The price is exclusive of VAT. The Contractor is not entitled to claim expenses, surcharges, margins or disbursements except if otherwise agreed in advance and in writing by the Authority.
5. **Contribution to Loss**: If either Party is found liable to the other (whether in contract, tort or otherwise), and the claiming Party and/or a Third Party has contributed to the loss or damage, the liable Party is liable only to the proportional extent of its own contribution.
6. **Indemnity**: Subject to clause 15, the Contractor indemnifies the Authority in respect of all costs (including legal costs), claims, liabilities, losses, damage and expenses suffered or incurred by the Authority and any other person claiming through the Authority as a direct or indirect consequence of any unlawful, negligent, tortious, criminal, reckless or dishonest errors, acts or omission of the Contractor in the performance, or any breach by the Contractor, of its obligations under these terms and conditions and the Schedule or generally under this Contract. This indemnity survives the termination of this Contract.
7. **Remedies:** The Contractor is not be entitled to anticipatory profits or to special (including multiple or punitive), incidental or consequential damages or losses.
8. **Insurance**: The Contractor must take out and maintain at its own cost, at all times during the continuance of this Contract, such insurances as specified in the Schedule. It must disclose the terms of that insurance to the Authority before starting work and if those terms are unacceptable to the Authority, then the Authority may terminate this agreement without any liability or cost. The Contractor must, if requested by the Authority, provide the Authority with written evidence that all insurances are and remain in force and must produce, whenever reasonably required by the Authority, the relevant certificates of currency and evidence of payment of the current premiums. If the Contractor fails to provide such evidence the Authority may, after notifying the Contractor 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 Authority to the Contractor under this Contract.
9. **Intellectual Property**: Nothing in this Contract authorises the Contractor to use any of the intellectual property of the Authority for purposes other than the performance of this contract.
10. **Termination**: the Authority may, at its discretion, terminate all or part of the contract works by 10 days’ written notice to the Contractor who must immediately make arrangements to stop the contract works and minimise further expenditure; the Contractor will be entitled, in that event, to a pro-rated proportion of the Contract Price that fairly reflects the proportion of the total contract works completed, while also taking into account any matters of Contractor breach or default. Without affecting that general right, if there is a material delay in the delivery of the contract works, the Authority may cancel this Contract or change its specification (without incurring additional charges). The Contractor may, in the event the Authority is in material default, terminate this Contract by 10 days’ written notice to the Authority. Any suspension or termination does not prejudice or affect the accrued rights or claims and liabilities of the parties. Further, the Authority may terminate this Contract immediately where, in the opinion of the Authority, there has been serious misconduct by the Contractor. Serious misconduct includes, but is not limited to: bringing the Authority into disrepute, where the Contractor, in the judgment of the Authority, has engaged in corrupt or fraudulent practices in competing for or executing this Contract, theft of property, offensive behaviour towards Authority personnel, members of the public or contractors.
11. **Confidentiality**:
    1. Except as required by law, each party must keep confidential all Confidential Information provided the other in relation to this Contract and the provisions of the contract works and not disclose the same without the written consent the other.
    2. In this clause 17:

“Confidential Information” means information that

is made available by or on behalf of one party to the other party, or is otherwise obtained from one party by or on behalf of the other party; and

is by its nature confidential or the receiving party knows, or ought to know, is confidential.

1. **Public Statements**: The Contractor must not make any public statements about this Contract or its subject matter without the Authority’s written approval.
2. **Conflict**: The Contractor confirms it has no knowledge of any conflict of interest in providing the contract works other than those (if any) disclosed at the time of submitting its Tender. If any conflict arises or has the potential to arise during the supply of the contract works, the Contractor must immediately inform the Authority in writing and the Authority will decide on the appropriate steps to be followed in such event, which may include the right of the Authority to terminate this Contract with immediate effect.
3. **Key Personnel**

The Key Personnel for the provision of the contract works are as listed in the Schedule. Any change to the Contractor’s Key Personnel requires the written consent of the Authority.

1. **Assignment**:
   1. The Contractor must not assign, transfer or subcontract all or part of its rights or obligations under this Contract without the prior written consent of the Authority, such consent may be given or withheld at the Authority’s absolute discretion.
   2. Nothing in the previous paragraph affects the right of the Contractor to assign to, transfer to or subcontract with an affiliate of the Contractor, where the Contractor remains as fully bound to the Authority under this Agreement after that dealing as it did before the dealing.
   3. For the purpose of this clause, “affiliate” means an entity that the Contractor, directly or indirectly, controls, or an entity that is under common control of the Contractor, or a joint venture entity in which the Contractor is involved
2. **Notices:** 
   1. All correspondence must include the Purchase Order number and be addressed to the Authority’s Contact Person named on the Purchase Order form.
   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.
   3. Subject to subclause (d), 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.
   4. The Authority shall only be deemed to have received delivery of a notice upon the Authority acknowledging in writing receipt of the notice.
3. **Dispute Resolution**; In the event of a dispute arising between the parties in respect of any matter in relation to this Agreement, the authorised representatives of each party will negotiate a resolution. If the dispute cannot be resolved by negotiation within five days of service by one party to the other of the written notice of a dispute arising, the dispute will be referred to arbitration under the Arbitration Act 2014.
4. **Law**: These terms and conditions are governed by the laws of the Cook Islands. The parties agree to submit to the exclusive jurisdiction of the High Court of the Cook Islands.