



ACT
Government

Environment, Planning and
Sustainable Development

BRIEF

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To: A/g Deputy Director-General

Tracking No.: 23/110119

From: Executive Group Manager, Planning and Urban Policy

Date: 21 May 2024

Subject: National Capital Design Review Panel – Expression of Interest (EOI) to establish a procurement panel

Critical Date: **30 June 2024**

Critical Reason: To support the release of the EOI process in the first half of 2024

Purpose

To seek your agreement to the procurement process and documentation (Attachment 1) to appoint suitably qualified individuals to establish a pool of panel members for the National Capital Design Review Panel (NCDRP).

Recommendations

That you:

1. **Agree to and Sign** the Procurement Plan Minute (Attachment 1);

Agreed

2. **Agree** to the Evaluation Plan (Attachment 1A) that outlines the open tender process to engage suitably qualified individuals as panel members for the NCDRP;

Agreed

3. **Agree** to the Request for Tender at Attachment 2 and associated attachments;

Agreed

4. **Agree** to the Services Panel Deed at Attachment 3;

Agreed

5. **Agree** to the EOI advertisement and proposed advertising plan at Attachments 4 and 5; and

Agreed

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6. **Agree** to the industry briefing document at Attachment 6.

Agreed

Sam Engle 11/06/24

A/g DDG Feedback

Background

1. The NCDRP is a joint initiative led and funded by the ACT Government including the National Capital Authority (NCA) to provide independent and expert design advice to government, designers and developers on particular building, infrastructure and public domain proposals prior to submission of development applications.
2. The NCDRP has been in operation since September 2017. In October 2019, following amendments to the *Planning and Development Act 2007* it became a requirement to engage NCDRP for prescribed developments. This requirement has carried over into the new *Planning Act 2023*.
3. Since September 2017 the NCDRP has reviewed 162 major projects over 242 design review panel sessions to-date.
4. Design review has provided the opportunity for independent and expert peer review of development proposals to help to achieve the best possible design outcomes for buildings, infrastructure and public places across Canberra.
5. The design review process is managed by the NCDRP Secretariat within the Planning and Urban Policy Division.

Issues

Existing panel membership and process

6. The NCDRP is co-chaired by the ACT Government Architect and the Chief Planner of the NCA, currently Catherine Townsend and Andrew Smith respectively.
7. Additional panel members for each project review are selected for their skills, expertise and track record of achievement in one or more fields relevant to planning, design and development and as relevant to proposals. Between 3 and 4 members are selected for each project review and the panel is composed to achieve a balanced representation of skills and experience in professions including: Architecture, Landscape Architecture, Urban Design, Urban Planning and Civil Engineering. Where a specific skill set is required, additional panel members will be called in on an as-needs basis. This may include professionals with experience and expertise in heritage, education, sustainability and environmental services, universal design, structural

engineering and transport.

8. To date the procurement method used to engage panel members has been a single select process following nomination from the ACT Government Architect and the NCA's Chief Planner. This has been managed from a pool of professionals recognised for their relevant expertise in the required fields.

Open tender process to establish a procurement panel

9. With the commencement of the new planning system, and the maturity of the NCDRP process, it is timely to refresh the panel membership, broaden the pool of expertise, and list the panel membership publicly to support transparency.
10. The EOI process also presents an opportunity to promote the ACT's recent planning reforms and the emphasis on design quality in the built environment.
11. This brief seeks your approval to the EOI process to establish a procurement panel of approximately 25 professionals with the required skills and demonstrated expertise.
12. Successful panel members will be engaged under a Services Panel Deed and the secretariat, in conjunction with the chair(s) will select panel members pending the requirements of each proposal and their availability, in accordance with standing procedures.
13. Establishing a procurement panel will allow the ongoing efficient engagement of panel members for each design review session.
14. The proposed advertisement date for the open tender process is expected to be in the first half of 2024 with contracts being executed from August 2024 if possible. An overview of the proposed timeline and milestones is provided on pages 1 and 2 of Attachment 1 and the proposed draft advertisement is at Attachment 4.
15. The request for tender (RFT) seeks to engage individuals with expertise in Architecture, Landscape Architecture, Urban Planning, Urban Design, and areas with specialist expertise. The specialist expertise category includes those professions that fall outside the categories listed above, or that tenderers want separate recognition of, including but not limited to heritage, transport infrastructure, sustainability, civil engineering, master planning, health and education facilities planning and design (pages 4 and 5 of the RFT at Attachment 2). The specialist expertise category also includes nomination for position as a stand-in Chairperson if or when conflicts of interest and the like may apply with the current Chair/s.
16. It is proposed that the panel will be an open procurement panel to allow for the Territory to choose to appoint other persons to the panel within the contract term, as needed.

Procurement Plan and Evaluation Plan

17. The proposed threshold and weighted assessment criteria can be found on pages 5, 6 and 7 of the RFT at Attachment 2. These criteria have been determined in consultation with the ACT Government Architect and the NCA Chief Planner.
18. The evaluation panel will consist of:

Sch 2.2(a)(xvi)

See page 2 of the Evaluation Plan at Attachment 1A.

19. Once assessed by the panel, a recommendation will be provided to you as the delegate for approval.
20. While the procurement process is underway, panel members will continue to be selected for individual projects in the same manner as it has been done to date.

Appointment, insurances and fee for service

21. Successful panel members will be engaged under a Services Panel Deed (draft at Attachment 3) for a period of 3 years with a possible extension of an additional year. The terms of the deed will be drafted in consideration of the requirements of s 97 of the *Planning Act 2023*, with conditions relating to accountability, transparency and independence of panel members and dealing with issues such as disclosure and conflicts of interest. The term of deed is comparable with design review panel contract terms used in Victoria and South Australia.
22. The secretariat, in conjunction with the chairs will select sessional panel members pending the requirements of each development proposal and their availability. The paperwork and procurement of this has been agreed by MPC and is at page 5 of the Panel Management Plan at Attachment 1C.
23. The Services Panel Deed outlines that while a successful tenderer is appointed to the design review panel, there is no guarantee to a minimum financial value or number of times that a panel member may be selected to review individual development proposals. Refer Item 5, Page 6 of the Services Panel Deed at Attachment 3.
24. It is likely that retired professionals may apply as an NCD RP panel member and be accepted due to their extensive and relevant experience. To manage insurance matters, the proposed approach is that professional indemnity insurance (PI) will be requested, except in certain circumstances (retired professionals). Regarding insurance for such instances where retired professionals may apply without currently holding

either Public Liability or Professional Indemnity insurances, EPSDD has consulted with the ACT Insurance Authority (ACTIA) who have confirmed, **Schedule 1.2**

[REDACTED]

25. As the NCDRP membership is being established under contract, the panel member fees are not subject the *Part-Time Public Office Holders Determination 5 of 2019*. However, similar roles under the determination are paid approximately \$450 to \$1000 per day. The proposed fee for service for the NCDRP is closely based on panel member fees for the South Australian Design Review Panel to ensure the NCDRP is competitive in attracting experienced professionals on the panel from around the nation. The proposed fees are provided in the Proposed Fee Schedule at Attachment 2 (to RFT).

Timeline, advertising and promotion

26. An indication of the proposed timeline for this procurement process is at pages 1 and 2 of the Procurement Plan Minute at Attachment 1. It is anticipated that the RFT will be advertised June 2024 and that contracts will be awarded in August 2024.
27. In order to attract suitably qualified members, the tender will be promoted widely though built environment professionals including the Planning Institute of Australia, Australian Institute of Architects, Australian Institute of Landscape Architects and Engineers Australia. The proposed media plan is at Attachment 5.
28. Direct communication with industry (e.g. Property Council, Master Builders Association) will also occur to promote the tender. Industry information will be provided via an addendum to the RFT package and will confirm the tender particulars, NCDRP process and the role of the panel members.

Financial Implications

29. There are no new financial implications arising from this brief.
30. The NCDRP is funded on an ongoing basis to support the annual operations. Additional funding was provided in the 2023-24 Budget to meet expected demand. This is noted in Attachment 1.
31. Funding covers the ongoing operation and management of the NCDRP which includes running industry information sessions, the engagement of panel members, costs associated with the establishment of the procurement panel through the open tender process and the secretariat functions for the design review panel.
32. **Sch 2.2(a)(xvi)** [REDACTED]
[REDACTED]
[REDACTED] These services have been sought due to the team's extensive experience preparing similar procurement panels across government. EPSDD will incur a one-off panel

establishment fee of \$16,000.00 (ex. GST) for MPC to provide the necessary procurement services, noting this is in accordance with Budget Memo 2022/05 that states MPC is to provide 'procurement and set up of panels' on a fee for service basis.

Consultation

Internal

33. Internal consultation was undertaken and is ongoing with EPSDD's Communications branch in relation to the promotion of the request for tender process.
34. Internal consultation has also occurred with ACTIA and EPSDD's Legal Services on the professional indemnity and public liability insurance issue.

Cross Directorate

35. The procurement team in the Infrastructure Delivery Partners Group at MPC has prepared the relevant procurement documentation in extensive consultation with Planning and Urban Policy Division and the ACT Government Architect. Consultation to -date has ensured the templates are current and reflect the ACT Government procurement best practice. The tender documents will be finalised by MPC following any feedback from you.

External

36. Consultation on the procurement process has been undertaken with the National Capital Authority, particularly on the selection criteria (page 5 of Attachment 2).

Benefits/Sensitivities

37. The establishment of a procurement panel will allow for the ongoing efficient engagement of panel members for each design review session. Following the tender to establish the Panel the process for selecting panelists for each design review session will be carried out as it is now with the secretariat, in consultation with the chairs, selecting panelists based on required expertise and availability. Undertaking the tender process provides the opportunity to promote the NCDRP, attract new panelists from across Australia and increase transparency of the NCRDP process.
38. Design review provides the opportunity for independent and expert peer review of development designs to help achieve the best possible outcomes for our buildings, infrastructure and public places.
39. Since the introduction of mandatory design review requirements, the community and industry have generally expressed support for the process acknowledging the benefits. However, some industry organisations, including the Property Council Australia (PCA) have expressed a concern for the potential increase to development application processing times.

Media Implications

40. The announcement of the EOI request for tender process may attract some media attention.

41. A media plan has been development for the promotion of the EOI request for tender process. This includes advertising the EOI through industry organisations, government websites, targeted emails, eNewsletters and social media throughout the tender period.

Signatory Name: Ben Green Phone: 6207 7387
 Action Officer: Adam Azzopardi Phone: 6207 3541

Attachments

Attachment Number	Document
Attachment 1	NCDRP Procurement Plan Minute
Attachment 1A	Procurement Evaluation Plan
Attachment 1B	Procurement Risk Management Plan
Attachment 1C	Panel Management Plan
Attachment 1D	Probity Statement
Attachment 1E	Request to Advertise Approach to Market
Attachment 1.1	Probity Notice
Attachment 1.2	Confidentiality Undertaking
Attachment 1.3	Deed Poll of Confidentiality and Conflict of Interest
Attachment 1.4	Conflict of Interest
Attachment 1.5	Communication Protocol
Attachment 2	Request for Tender (RFT)
Attachment 3	Draft Services Panel Deed
Attachment 4	Draft Expression of Interest Advertisement
Attachment 5	Promotion Media Plan
Attachment 6	NCDRP Industry Briefing



PROCUREMENT OVERVIEW

To:	A/g Deputy Director-General, Environment, Planning and Sustainable Development Directorate						
Name of Project:	National Capital Design Review Consultancy Panel						
EBS Project Number: (Directorate Project Number)	52110						
Directorate Cost Centre Number:	12270						
Tender Number/s:	52110.100						
Subject Type:	Consultancy						
Procurement Methodology:	Public Tender						
Purpose:	<p>This minute seeks your agreement to procure and establish a panel of suppliers who are able to provide independent, expert advice to the Territory as selected members of the National Capital Design Review Panel.</p> <p>This minute also seeks your agreement to the individual engagement of these suppliers in accordance with <u>Attachment C Panel Management Plan</u> for individual engagements less than \$24,900 (GST inclusive).</p>						
Funding:	<p>Funding will be from 'More Services for Our Suburbs' budget initiative.</p> <table border="0"> <tr> <td>2024-24</td> <td>\$247,000 (GST exclusive)</td> </tr> <tr> <td>2024-25</td> <td>\$250,000 (GST exclusive)</td> </tr> <tr> <td>2025-26</td> <td>\$250,000 (GST exclusive)</td> </tr> </table> <p>A total cost of approximately \$407,600 incl GST is initially available including the one off MPC Management fee of \$17,600 (GST inclusive) for the Panel's establishment.</p> <p>Note: EPSDD prepared a budget bid for government consideration to fund the program's expansion noting that the requirement for design review is now legislated within the <i>Planning Act 2023</i>. EPSDD secured additional funding to support increased frequency of design review sessions and two ASO6 FTE positions for two years (2023-24 and 2024-25).</p>	2024-24	\$247,000 (GST exclusive)	2024-25	\$250,000 (GST exclusive)	2025-26	\$250,000 (GST exclusive)
2024-24	\$247,000 (GST exclusive)						
2024-25	\$250,000 (GST exclusive)						
2025-26	\$250,000 (GST exclusive)						
Estimated value (\$) Inclusive of GST:	Up to an aggregate of \$407,600 (GST inclusive) over three years.						

	200 Consultancy / 300 Design / 400 Construction (Select one)	\$375,000 (GST inclusive) with additional funding anticipated for out years.
	407 Work Health & Safety	NA
	700 ACTPS Costs, Audits, Statutory Fees and Charges	\$17,600 (GST inclusive) for MPC management fee.
	800 Contingency (Contract only)	NA
	900 Other (Please identify)	NA
Timing/urgency:	Note: timings are estimates and may change after the Procurement Plan is signed	
	GPB First Pass	N/A
	GPB Second Pass	N/A
	Pre-tender consultation	N/A
	Rfx advertised	End May 2024
	Brief to Industry/Site Inspection	N/A
	Rfx Closes	End June 2024
	Tender Evaluation	July 2024
	Tender Interviews (if required/applicable)	July 2024
	Approval of Procurement Evaluation Report	July/August 2024
	Negotiations (if required)	August 2024
	Contract Awarded	August 2024
	Debrief Unsuccessful Tenderers	August 2024
Is Government Procurement Board sign off required?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

<p>Is ACT Government Solicitor (ACTGS) consultation required?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Consultation has occurred with ACTGS in drafting the required services deed and contract documentation.</p>
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PROCUREMENT REQUIREMENTS

<p>Scope of works or services to be provided:</p>	<p>EPSDD is seeking to establish a pool of expert and independent built environment professionals (Architecture, Landscape Architecture, Urban Planning, Urban Design, Specialist Expertise) that can be utilised for individual Design Review Panel sessions.</p> <p>An individual session will generally be Co-Chaired by the ACT Government Architect and the National Capital Authority’s Chief Planner and will require a number of other panel members for each project. Four to six sessions per month will be held from February to December each year.</p> <p>The consultancy panel will be held over a 3 year term with a possible extension of an additional year. The panel is intended to comprise a pool of consultants, with pre-agreed attendance rates, who may be called upon to form panels appropriate to the development proposals tabled.</p>
<p>Site:</p>	<p>Not applicable.</p>
<p>Consultation (including pre-tender):</p>	<p>Major Projects Canberra, the ACT Government Architect along with the Chief Planner of the National Capital Authority have been consulted in the formation of the tender in their positions of Chair for the National Capital Design Review Panel.</p> <p>Transport Canberra and City Services, City Renewal Authority and Suburban Land Agency were consulted to ensure the panel is suitably established to meet their requirements for future project reviews.</p> <p>Consultation with procurement officers from equivalent design review tenders in Western Australia, New South Wales and South Australia has occurred to inform the tender documentation.</p> <p>EPSDD will provide industry update briefing via a separate document issued as an Appendix to the RFT package.</p>

CHARTER OF PROCUREMENT VALUES

Consideration of the Procurement Values is mandatory to determine which Procurement Value or Values can be achieved for this procurement. At least one of the Procurement Values is to be incorporated in this procurement plan. Indicate which Procurement Value(s) will be achieved, by completing at least one of the following procurement values

<p>Aboriginal and Torres Strait Islander Peoples’ Economic Participation The Aboriginal and Torres Strait Islander Procurement Policy (ATSIPP) encourages engagement with Aboriginal and Torres Strait Islander Enterprises. The ATSIPP</p>	<p>Is there an Aboriginal and Torres Strait Islander Enterprise(s) that has capacity and meets assessment criteria to respond to an approach to market for this procurement?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
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<p>also includes a target of contract spend with Aboriginal and Torres Strait Islander Enterprises. Every contract is an opportunity to contribute to achieving that target.</p> <p>Search Supply Nation (https://supplynation.org.au/) or the Canberra Region Enterprise List (https://www.procurement.act.gov.au/policy-and-resources/procurement-from-aboriginal-and-torres-strait-islander-organisations/atsi-enterprise-search)</p>	<p>If Yes:</p> <p>As the panel will be procured through an open tender process, registered Indigenous suppliers are welcome to tender.</p>
<p>Do you intend to implement other measures to achieve this Procurement Value? (i.e. the procurement encourages employment of Aboriginal and Torres Strait Islander People or will encourage use of an Aboriginal and Torres Strait Islander subcontractors)?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>Business Development and Innovation</p> <p>For procurements with a total estimated value exceeding \$25,000, compliance with the Canberra Region Local Industry Participation Policy (LIPP) applies and encourages responses from contractors and suppliers located in the Canberra Region.</p>	<p>Is this procurement seeking responses from contractors and/or suppliers located in the Canberra Region for an estimated value that exceeds \$25,000 for the following category values?</p> <ol style="list-style-type: none"> 1. For an estimated value of \$25,000 or more and less than \$200,000, one quote must be sought from a respondent located in the Canberra Region and one quote must be sought from an SME. 2. For an estimated value of \$200,000 or more and less than \$5 million, the Procurement must include an Economic Contribution Test in accordance with the LIPP. 3. For an estimated value of \$5 million or more, the Procurement must include a Local Industry Participation Plan in accordance with the LIPP. <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Are there other measures to achieve this Procurement Value? (e.g. does the procurement support an innovative solution to deliver the project or services)</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>Diversity, Equality and Inclusion</p> <p>The Territory must not enter into an agreement with a Supplier not complying with the <i>Workplace Gender Equality Act 2012</i> (Cth) and named by the Workplace Gender Equality Agency non-compliant list (https://www.wgea.gov.au/non-compliant-list), as noted in Conditions</p>	<p>To the extent applicable to tendering entities, Respondents to this procurement that are identified on the Workplace Gender Equality Agency non-compliant list will be non-conforming in accordance with this condition of tender. Non-conforming tender responses will not be evaluated.</p>

<p>of Tender - Construction.</p> <p>The Social Enterprise Multi-Use List has a list of Suppliers prequalified as Social Enterprises (https://www.procurement.act.gov.au/supplying-to-act-government/whole-of-government-arrangements/Social-Enterprises-Panel)</p>	
<p>Do you intend to approach a Social Enterprise(s) in this procurement approach?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Do you intend to implement other measures to achieve this Procurement Value? (i.e. including targets for employment of people from diverse or marginalised backgrounds, or delivery of the project will support diversity, equality or inclusion in the community through sub-contracting opportunities)</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>Environmentally Responsible</p> <p>The Sustainable Procurement Policy requires buyers to identify the key sustainability risks and opportunities that can be addressed through their procurement - (https://www.procurement.act.gov.au/data/assets/pdf_file/0009/1345887/Sustainable-Procurement-Policy.pdf and https://apps.treasury.act.gov.au/infrastructure-finance-and-reform/the-capital-framework)</p>	<p>1. Will the works and/or services for this procurement be undertaken in a manner that are environmentally responsible, or encourage, reuse, recyclable content, waste reduction or lower greenhouse gas emissions and consistent with Capital Framework considerations and Sustainable Procurement Policy? and/or</p> <p>2. Does your project meet the requirements of the ACT Climate Change Strategy? If your project has a budget of more than \$10 million, is it compliant with the requirements of the ACT Climate Change Strategy. The Strategy require you to either seek or to be consistent with an independent sustainability rating such as an Infrastructure Sustainability rating from the Infrastructure Sustainability Council of Australia (ISCA), or a Greenstar rating from the Green Building Council of Australia or equivalent.</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If No, provide reasons why:</p> <p>The procurement is for consultant services and does not have opportunities to reuse or recycle.</p>
<p>Fair and Safe Conditions for Workers</p> <p>With consideration to the Secure Local Jobs Code which applies to procurements <u>construction, cleaning,</u></p>	<p>Does Secure Local Jobs (SLJ) apply to this procurement for Territory funded work as defined in the <i>Government Procurement Act 2001</i>, including identifying as a code certified entity and submission of a Labour Relation,</p>

<p>security or traffic management work, regardless of value and most services over \$200,000 and compliance with WHS Act 2011 and WHS Regulation 2011.</p> <p>The Ethical Treatment of Workers Evaluation (ETWE Evaluation) applies to any procurement undertaken by a Territory Entity:</p> <p>a) to which Part 2B of the Act applies; and b) that has a total estimated value of \$200 000 or more; and c) which is conducted by public tender.</p> <p>This includes a procurement to establish, or add to an existing, standing offer arrangement.</p> <p>The ETWE Evaluation does not apply to:</p> <p>a) procurements advertised on Tenders ACT before 1 February 2022; and b) standing offer contracts as defined in the Government Procurement Regulation; and c) procurements where an exemption from the Secure Local Jobs Code has been granted under section 22H of the Act.</p>	<p>Workplace Training and Equity Plan under threshold assessable criteria?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Respondents to this procurement are to comply fully with the WHS Act 2011 and WHS Regulation 2011?</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Does the Ethical Treatment of Workers Evaluation under procurement as defined in the Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021 (Direction)? If so, you will need to include the Fair and Safe Employment Evaluation Criteria in the tender and ensure that it is evaluated in accordance with the Direction.</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>For infrastructure, works and construction projects, do you intend to implement other measures to achieve this Procurement Value? (e.g. inclusion of WHS assessable criteria in tender documentation and funding for Active Certification worksite safety audits)</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>Transparent and Ethical Engagement</p> <p>An Ethical Suppliers Declaration - Tender is a mandatory returnable Schedule for procurements which are not covered by the ETWE</p>	<p>An Ethical Suppliers Declaration – Tender will be included as a threshold criteria of the tender</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>An ethical supplier declaration is to be included with the approach to market documents for this procurement.</p>
<p>Do you intend to implement other measures to achieve this Procurement Value? (e.g. procurement includes requirements that support elimination of modern slavery or business practices that are objectionable, dishonest, unethical or unsafe.)</p> <p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	

PROCUREMENT RISK

Risk:	Low, refer to Attachment B Risk Register and Appendix B to Attachment D Probity Statement.
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EVALUATION METHODOLOGY

Evaluation Criteria:	Refer to Attachment A Procurement Evaluation Plan including evaluation methodology, evaluation criteria, weightings and LIPP.
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TENDER EVALUATION TEAM

Sch 2.2(a)(xvi)

Statement on team composition	The Tender Evaluation Team (TET) composition comprises experienced representatives who are suitably skilled and experienced to evaluate the requirements of the tender. As the National Capital Design Review Panel is managed jointly between the Territory and the NCA representatives, both organisations are represented on the TET. The external panel member will sign a deed of confidentiality prior to having any tender documentation issued.
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CONTRACT MANAGEMENT

Number and form of contract:	A Services Panel Deed will be executed for each successful panel member.
Contract management:	EPSDD will manage the panel deeds/agreements. Refer to Attachment C Panel Management Plan.
Period of contract(s):	The period of the panel arrangement will be 3 years with 1 x one-year extension.

AUSTRALIAN FREE TRADE AGREEMENTS (FTAs)

<p>Is the procurement covered by any of the following FTAs: World Trade Organisation Agreement on Government Procurement (GPA), Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), or bilateral FTAs with the United States (AUSFTA), Chile (ACIFTA), Korea (KAFTA), Japan (JAEPA), Singapore (SAFTA)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
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AUSTRALIAN GOVERNMENT FUNDING

<p>Is there Australian Government funding attached to this procurement?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
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EXEMPTIONS

<p>Exemption:</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Reason for Exemption:</p>	<p>Not Applicable</p>

MAJOR PROJECTS CANBERRA / INFRASTRUCTURE PROJECT SOLUTIONS RECOMMENDATION

Project Director:	Melissa Reynolds		
Signature:		Date:	8 May 2024
Phone Number:		Email Address:	melissa.reynolds@act.gov.au
Executive Branch Manager:	Matthew O'Rourke		
Signature:		Date:	13 May 2024

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DIRECTORATE ENDORSEMENT

Name:	Ben Green	Phone Number:	62077387
Position:	Executive Group Manager, Planning and Urban Policy, Environment, Planning ment Directorate		
Signature:		Date:	21/05/2024

DIRECTOR GENERAL/DELEGATE APPROVAL

Name:	Sam Engele		
Position:	A/g Deputy Director General, Environment, Planning and Sustainable Development Directorate		
Statement:	The Procurement Plan and attachments are approved.		
Signature:		Date:	11/6/24

ATTACHMENT/S

A. Evaluation Plan
B. Risk Plan
C. Panel Management Plan
D. Probity Statement
E. Request to Advertise Approach to Market

ATTACHMENT 1

PROBITY NOTICE

NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY PANEL – RFX 52110.100 (Procurement)

Introduction

Before approach to market:

Environment Planning and Sustainable Development Directorate intends to release the National Capital Design Review Consultancy Panel – RFX 52110.100 (**Procurement**) on [day] 2024. The procurement process is underway and in the plan phase.

Probity Principles

While it is expected and appropriate that business area staff meet with the current supplier in a 'business as usual' capacity while the procurement is underway, it is important to keep in mind the following probity principles:

1. Consideration of an appropriately competitive process
2. Fairness and impartiality
3. Consistency, transparency, and accountability
4. Identification and management of conflicts of interest
5. Appropriate security and confidentiality arrangements

In practice, the above principles mean that:

- > any market research activities or discussions should not provide an advantage to a potential Supplier;
- > contact with potential suppliers should be made only through authorised public officials;
- > any information provided to a potential Supplier is factually accurate and will be communicated to all potential Suppliers;
- > except through certain forums such as briefing sessions or site visits, public officials should not discuss any part of the procurement, including requirements, the evaluation and selection procedures with current or potential Suppliers;
- > any contact with potential Suppliers must be handled in a way which affords all potential Suppliers the same opportunity to acquire information about the procurement. Typical contact points that are likely to arise include unsolicited inquiries, briefing sessions, and site visits;
- > if briefing sessions or site visits are held, all potential Suppliers should be given a reasonable opportunity to attend and be provided with the opportunity to submit questions before, during or following the briefing;
- > appropriate records should be kept, including of all inquiries made by potential Suppliers;
- > actual, potential or perceived conflicts of interest must be identified, documented and dealt with conclusively;
- > gifts and invitations of hospitality from potential Suppliers must not be accepted. Further information can be obtained from: Directorate policy on Receipt of gift, hospitality, other benefit

or inducement; and

- > throughout the Procurement, appropriate measures should be maintained for the security of all information, documents, devices, and systems that contain any confidential information, including Supplier information.

How to handle enquiries about the Procurement

If you are approached about the Procurement from any source, you should not respond, even if you might know the person approaching you or the answer to their query.

Any enquires from any source relating to the Procurement should be recorded in writing and directed to the Communication Officer. The Communication Officer for this process is:

Name: Matthew O'Rourke

Telephone: +61 (02) 6205 1922

E-mail: matthew.o'rourke@act.gov.au

Authorised by Sam Engele, Deputy Director-General, EPSDD

ATTACHMENT 2

CONFIDENTIALITY UNDERTAKING

NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY PANEL – RFX 52110.100 (Procurement)

I, **[Full name]** of **[business address]** am participating in the procurement entitled National Capital Design Review Consultancy Panel (RFX 52110.100 (**Procurement**)) in the role of **[insert role, e.g. member of the Evaluation Team OR as an adviser to the Evaluation Team OR Delegate OR member of a steering committee OR administrative support]**.

I undertake that:

- (a) I will not disclose, discuss or in any way make available or (knowingly) accessible, Confidential Information which is disclosed to me in any forum or communication, to any person who is not already authorised to have the Confidential Information, and
- (b) I will sign any further undertaking as directed by a duly authorised officer of the ACT Government, if I become a decision-maker or participant in the Procurement.

I understand that “Confidential Information” includes information about the Procurement which has not been published by due authorisation, and includes all information that:

- (a) is by its nature confidential,
- (b) is notified to me as being confidential, or I otherwise know or ought reasonably to know is confidential, or
- (c) is considered or likely to be considered confidential by the Cabinet of the Australian Capital Territory,

whether in written, digitised, spoken or in any other form, but does not include information which:

- (d) is or becomes public knowledge other than by an unauthorised disclosure, or
- (f) has been notified to me as being not confidential.

Signature:

Date:

ATTACHMENT 3

DEED POLL OF CONFIDENTIALITY AND CONFLICT OF INTEREST

NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY PANEL – RFX 52110.100 (PROCUREMENT)

THIS DEED is made on 20

BY:

[INSERT FULL NAME] of [INSERT ADDRESS] (Confidant)

IN FAVOUR OF:

AUSTRALIAN CAPITAL TERRITORY, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) represented by Environment, Planning and Sustainable Development Directorate (**Territory**).

BACKGROUND

A. The Territory will engage or has engaged:

- (1) the Confidant; or
- (2) the Confidant's employer, principal, or the Confidant's contractor (as relevant),

to undertake the Services as part of the Procurement, which may require the Confidant to obtain, access or develop certain documents, material, data or other information about the Territory and/or about policies, processes or methodologies employed by the Territory and/or about natural persons.

B. The information to be provided by the Territory or to be made available to the Confidant will include confidential or personal information belonging to, or in the possession of, the Territory.

C. The Territory and the Confidant agree that it is necessary to take all reasonable steps (including the execution of this Deed) to ensure that the Territory's confidential information and any personal information are kept confidential.

IT IS AGREED AS FOLLOWS:

1. Background

The Confidant acknowledges the truth and accuracy of the Background in every particular.

2. Interpretation

2.1 Definitions

The following definitions apply in this Deed unless the context otherwise requires.

- Confidential information** the kind of information that:
- (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory (including in relation to the Procurement) which are by their nature confidential;
 - (2) is notified (whether in writing or not) by the Territory to the Confidant as confidential;
 - (3) the Confidant knows or ought to know is confidential; or
 - (4) is personal information as defined in the *Information Privacy Act 2014*; and
 - (5) any documents listed below:
 - (a) Not Used,
- but does not include information which
- (6) is or becomes public knowledge other than by breach of this Deed;
 - (7) has been independently developed or acquired by the Confidant; or
 - (8) has been notified in writing by the Territory to the Confidant as being not confidential.

Procurement National Capital Design Review Consultancy Panel – RFX 52110.100 (Procurement)

Services	Procurement Evaluation Panel Member.
Tenderer	an organisation which submits tenders, proposals or other material to the Territory in connection with the Procurement.
Territory	when used: (1) in a geographical sense, the Australian Capital Territory; and (2) in any other sense, the body politic established under the <i>Australian Capital Territory (Self-Government) Act 1988</i> (Cth).

2.2 General

In this Deed, unless the context otherwise requires:

- (1) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation;
- (2) headings and any table of contents are for convenience only and do not affect the construction or interpretation of this Deed;
- (3) words in the singular include the plural and vice versa;
- (4) an obligation imposed on this Deed on more than one person binds them jointly and severally;
- (5) the word “include” and any derivation is not to be construed as a word of limitation; and
- (6) a reference to a “person” includes a body corporate.

3. Non-disclosure of confidential information

- (1) The Confidant must not, at any time during or after the completion of the Procurement, without the prior written consent of the Territory, nor at any time after the expiration of this Deed, disclose the Confidential Information to any person nor remove the Confidential Information from the possession or premises of the Territory.
- (2) The Territory may grant or withhold its consent for purposes of **clause 3(1)** in its absolute and unfettered discretion. If the Territory grants its consent, it may impose conditions on that consent and the Confidant must comply with those conditions.

- (3) The Confidant will maintain strict confidentiality regarding the Confidential Information and will divert all attempted unauthorised communications to the person named in **clause 14.2(1)**, where “unauthorised communications” mean communications entered into with the Confidant by a person who is not a Territory employee and who is not directly involved in the conduct of the Procurement.
- (4) The obligations of the Confidant under this Deed will not be taken to have been breached where the Confidential Information is legally required to be disclosed.
- (5) The Confidant must immediately deliver to the Territory all documents in his/her control containing the Confidential Information as soon as they are demanded by the Territory (whether in writing or not).
- (6) Subject to **clause 3(5)**, the Confidant must destroy all Confidential Information n provided to it by the Territory following completion of the performance of the Services.

4. Restrictions on use

- (1) The Confidant will use the Confidential Information only for the purposes of delivering the Services for the Procurement, and as otherwise directed by the Territory.
- (2) The Confidant must not disclose any of the Confidential Information to any person other than those of its employees, consultants and professional advisors who need access to that Confidential Information for the purposes of the Procurement, who are aware of the requirements of this Deed, and who are bound by an enforceable obligation of confidentiality.

5. Conflict of interest

- (1) The Confidant warrants that, at the date of this Deed, no conflict of interest exists or is likely to arise during the course the Confidant’s involvement with the Services or Procurement, including by virtue of any of the following circumstances:
 - (a) neither the Confidant, nor their spouse, have or has any ownership interest in any Tenderer;
 - (b) during the past twelve months neither the Confidant, nor their spouse, have or has been employed by, or engaged to provide services to, or received any payment from, any Tenderer;
 - (c) neither the Confidant, nor their spouse, is a director, secretary, officer or employee of any Tenderer;

- (d) during the past twelve months neither the Confidant, nor their spouse, have or has received any gifts from any Tenderer; and
 - (e) neither the Confidant, nor their spouse, is a debtor or creditor of any Tenderer.
- (2) If a conflict, or risk of conflict, of interest arises or any circumstance which is set out above changes, including in respect of any Tenderers notified to the Confidant after execution of this Deed, the Confidant must immediately notify the person named in **Clause 14(2)(a)** in writing, and comply with any direction in relation thereto.

6. Indemnity

The Confidant will indemnify and keep indemnified the Territory, its employees and agents in the event of all claims, costs and expenses made against any of them in respect of injury, loss or any damage suffered by any person as a consequence of the Confidant breaching this Deed, except to the extent to which a relevant claim arises out of the act or omission of the Territory.

7. Legal proceedings

The Confidant acknowledges that the Territory may take legal proceedings against the Confidant or third parties if there is any actual, threatened or suspected breach of this Deed, including proceedings for an injunction to restrain such breach.

8. No exclusion of law or equity

This Deed must not be construed to exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.

9. Survival

This Deed will survive the expiration or termination of the Procurement and/ or Services.

10. No Waiver

- (1) No waiver by the Territory of a breach of any obligation or provision in this Deed or implied will operate as a waiver of another breach of the same or of any other obligation or provision in or implied in this Deed.
- (2) None of the provisions in this Deed will be taken either at law or in equity to have been varied, waived, discharged or released by either party unless by its express consent in writing.

11. Remedies cumulative

- (1) The rights and remedies provided under this Deed are cumulative and not exclusive of any rights or remedies provided by law or any other such right or remedy.
- (2) Subject to the other covenants of this Deed, the rights and obligations of the parties pursuant to this Deed are in addition to and not in derogation of any other right or obligation between the parties under any other deed or agreement to which they are parties.

12. Variations

No term or provision of this Deed may be amended or varied unless by deed and signed by both parties.

13. Governing law

This Deed is governed and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the Courts of the Territory.

14. Notices

- (1) Any notice, or other communication required or otherwise to be given or sent to the Territory or to the Confidant under this Deed must be in writing and will be deemed to have been received:
 - (a) if delivered by hand, on delivery;
 - (b) if sent by prepaid mail, on the expiration of 2 days after the date on which it was so sent; or
 - (c) if sent by electronic mail, on whichever of the following occurs first:
 - (i) the other party's acknowledgment of receipt by any means,
 - (ii) the sender's electronic mail device recording that the electronic mail has been successfully transmitted to the recipient's address, or
 - (iii) expiration of two business days after the date on which it was sent without receipt of a notification that the delivery failed,

and if given in two or more ways, on the first of paragraphs (1) to (3) occurring.
- (2) Addresses of the Territory and the Confidant are as follows:
 - (1) for the Territory:

ATTACHMENT 4

CONFLICT OF INTEREST DISCLOSURE

NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY PANEL – RFX 52110.100 (Procurement)

I, **[Full name]** of **[business address]** am participating in the procurement entitled National Capital Design Review Consultancy Panel – RFX 52110.100 (**Procurement**)

(**Procurement**) in the role of **member of the Evaluation Team OR as an adviser to the Evaluation Team OR Delegate OR administrative support (delete not applicable)**.

I declare that *[Select the options that apply]*:

I have received notification of tenderers/respondents/proponents for the Procurement.

OR

I have not yet received notification of tenderers/respondents/proponents for the Procurement.

AND

there is no actual, potential, or perceived conflict of interest by virtue of my participation in the Procurement in the above role.

OR

an actual, potential, or perceived conflict of interest arises by virtue of my participation in the Procurement in the above role for the following reason(s) **[Drafting Note: Select as many options as apply]**:

	Reason for conflict of interest	Details – please provide an attachment if space is not sufficient.
<input type="checkbox"/>	Financial and economic interests, such as debts or assets	
<input type="checkbox"/>	Family or private businesses	
<input type="checkbox"/>	Secondary employment commitments	
<input type="checkbox"/>	Affiliations with for-profit and non-profit organisations, sporting bodies, clubs, and/or associations	
<input type="checkbox"/>	Affiliations with political, trade union or professional organisations, and/or other personal interests	
<input type="checkbox"/>	Obligations to professional, community, ethnic, family, or religious groups in a personal or professional capacity, and/or relationships to people living in the same household	
<input type="checkbox"/>	Enmity towards or competition with another individual or group	
<input type="checkbox"/>	Significant family or other relationships with clients, contractors or other staff working in the same (or related) organisation	
<input type="checkbox"/>	Highly specialised skills in an area where demand for the skills frequently exceeds supply	
<input type="checkbox"/>	Specific future employment prospects or plans (i.e. post-separation employment)	
<input type="checkbox"/>	Other	

Attachment 4 - NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY PANEL – RFX 52110.100 – CONFLICT OF INTEREST DISCLOSURE

Signature:

Date:

Name:.....

ATTACHMENT 5

COMMUNICATION PROTOCOL

NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY PANEL – RFX 52110.100 (Procurement)

This Communication Protocol establishes procedures for Procurement Personnel to manage the risk of any improper practice that could impact on the probity of the Procurement. If a Procurement Personnel is not sure whether the Communication Protocol or any other Probity Protocols apply in a particular set of circumstances, the Procurement Personnel should seek clarification from the chief executive officer (or the relevant delegate).

1 Communication Officer

- (1) The chief executive officer (or the relevant delegate) should appoint a **Communication Officer** to undertake this role for the Procurement. The Communication Officer may be the same person as the Evaluation Team Chair.
- (2) All communication in whatever medium from Suppliers should be referred to the Communication Officer.
- (3) All communication to Suppliers should be approved by the Communication Officer and be consistent with this Communication Protocol.

2 Communication Register

- (1) The Communication Officer should maintain a **Communication Register**, which contains the date, details (minutes/file notes) and the parties to all:
 - (a) incoming communication from a Supplier whether in writing, including questions asked during briefing sessions and site visits;
 - (b) outgoing communication from the Territory, including responses made by the Territory to Supplier inquiries;
 - (c) incoming and outgoing communication from media; and
 - (d) complaints from any source.

3 Communication with Supplier – General

- (1) Any update or clarification in relation to the Procurement, including in relation to request documents (including where one Supplier has asked a question), should be communicated formally, in writing, to all Suppliers at the same time, with sufficient time provided to properly address the update or clarification in their tender. This may mean extending the tender closing time for all Suppliers.
- (2) If a Procurement Personnel becomes aware that a Supplier has received any information about the Procurement that is not in the public domain, provided that the receipt of information was otherwise appropriate and approved, the information should also be communicated formally, in writing, to all other potential Suppliers, with sufficient time provided to properly address the information in their tender. This may mean extending the tender closing time for all potential Suppliers.

4 Communication with Supplier – Telephone or face to face

- (1) Procurement Personnel should not initiate or encourage telephone or face to face communication with a Supplier without the approval of the Communication Officer.

- (2) Telephone communication from a potential Supplier which has not been otherwise approved by the Communication Officer should be referred to the Communication Officer in the first instance with an email address obtained from the Supplier. The Communication Officer should contact the Supplier in writing to instruct them to submit their enquiry in accordance with the process in the request document (usually in writing).
- (3) Face to face communications between a Procurement Personnel and a Supplier may occur with the approval of the Communication Officer consistent with the process in the request document. If possible, it is preferable that at least two Procurement Personnel attend such meetings and that any questions at these meetings be taken on notice and referred to the Communication Officer for a formal response.
- (4) Minutes or file notes of the communications should be provided to the Communication Officer.

5 Media Communication

- (1) All communications from the media should be referred to the Communication Officer and dealt with in accordance with any approved agency procedures.

6 Inappropriate or Unauthorised Communication

- (1) If any information is disclosed inappropriately or without the approval of the Communication Officer, the matter should be referred to the Communication Officer. The Communication Officer may need to seek probity advice on options.
- (2) Inappropriate disclosure includes disclosure of information that may prejudice the commercial interests of the Suppliers concerned as well as impact on the bargaining position of the Territory and or disclosure of documents that have a protective marking of “Official Sensitive”, or are otherwise considered “confidential Information”².
- (3) If the Communication Officer discloses information inappropriately, the matter should be referred to the chief executive officer (or the relevant delegate).

7 Complaints

- (1) The Supplier Complaints Management Procedure (**Procedure**) should be followed where a Supplier makes a complaint about the Procurement. The Procedure is available from the Procurement ACT website at <https://www.procurement.act.gov.au/policy-and-resources/supplier-and-tenderer-complaints>
- (2) Complaints other than those received from a Supplier must be immediately notified to the Evaluation Team Chair and if considered necessary to the delegate. The Evaluation Team Chair or the delegate will record the complaint on the Communication Register.

² For a definition of Confidential Information refer to the Probity Statement.



Evaluation Plan for Infrastructure Procurements

NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY PANEL – RFX 52110.100

1. Introduction

This Evaluation Plan relates to the tender process to establish a panel of approximately 25+ individuals with specific experience in the built environment, who are to provide independent and expert design advice to the Territory as a selected member of a National Capital Design Review Panel. The Request for Tender nominates the following categories

Category 1: Architecture

Category 2: Landscape Architecture

Category 3: Urban Planning

Category 4: Urban Design

Category 5: Specialist Expertise

Category 5 comprises areas of expertise that fall outside the above categories, or that tenderers want separate recognition of, including but not limited to Heritage, Transport Infrastructure, Sustainability, Civil Engineering, Master Planning, Health and Education. This category also includes nomination for position as a stand-in Chairperson.

This plan details the evaluation team and its responsibilities, the evaluation methodology and the evaluation criteria by which tenders received will be evaluated. The Request for Tender or other procurement/tender documents must include the evaluation criteria as set out herein (subject to any amendments approved by a relevant Executive Branch Manager or above, noting that the Delegate must approve all changes to an endorsed Evaluation Plan).

The methodology for this procurement will be open tender and the process will be undertaken in accordance with the *Government Procurement Act 2001* and associated regulation and instruments, the endorsed procurement plan minute, the Request for Tender issued and the Standard Conditions of Tender.

2. Evaluation Team

The evaluation team detailed below has been formed to evaluate the responses to the tender.

All members of the evaluation team are aware of their responsibilities and obligation to demonstrate impartiality and equity to all respondents.

If used, the Secure Local Jobs Code Branch of CMTEDD (SLJC Branch) will evaluate the Fair and Safe Employment Evaluation Criteria (**FSEE Criteria**) and the non-weighted criteria for the content of the Labour Relations, Training and Workplace Equity Plan (**LRTWEP**). The SLJC Branch will confirm the conformance of submissions against the SLJC Certificate and LRTWEP threshold criteria.

2.1 Role

The evaluation team will be responsible for:

- a) maintaining probity, including ensuring compliance with the Probity in Procurement Guideline, issued by Procurement ACT;
- b) evaluating the responses in accordance with the criteria and methodology;
- c) following the receipt of the Tender Response Report from Tenders ACT, the **SLJC Branch** will appoint officers to be used for the assessment of responses against the **FSEE Criteria** and the **LRTWEP** non-weighted criteria. Following the receipt of the Confidentiality Undertaking and Conflict of Interest Disclosure for the SLJC officers, the Chair will provide the response to the FSEE Criteria and the LRTWEP to the SLJC Branch, to allow it to make a recommendation to the Delegate in accordance with the Government Procurement (Ethical Treatment of Workers Evaluation) Direction 2021 (**Direction**);
- d) providing the WHS Weighted Criteria tender submissions to the WHS Superintendent of Works (or Delegate) for assessment and scoring in accordance with the MPC Team Work Instruction – Tender Evaluation for the WHS Weighted Criteria;
- e) documenting the evaluation process;
- f) obtaining director-general (or their Delegate) sign-off for confidential text, if applicable;
- g) preparing an evaluation report;
- h) seeking Delegate approval to commence post negotiations with the preferred tenderer;
- i) seeking Delegate approval to proceed with a contract with the preferred tenderer; and
- j) debriefing unsuccessful tenderers (**Note:** the SLJC Branch should be invited to the debrief if the unsuccessful tenderer did not pass the FSEE criteria or the LRTWEP non-weighted criteria was an influencing factor in the assessment).

2.2 Members

Sch 2.2(a)(xvi)

2.3 Specialist Advice and Support

The evaluation team and SLJC Branch may, as required, utilise specialist advice to assist in the evaluation process.

The areas of experience may include:

- a) technical analysis, including advice from Consultants and IDP Branch Managers/Directors;
- b) past performance, including advice from officers within ACT Government;
- c) financial assessment provided by the Contracts and Prequalification team. A tender financial assessment is required for all tenders with a value of \$5 million or greater. The evaluation team Chair is to seek advice from the Contracts and Prequalification team as to the requirement for this tender financial assessment;
- d) assessment of the Work Health and Safety System by the WHS Superintendent of Works as required by Section 2.1;
- e) recommendation by the SLJC Branch in relation to the FSEE Criteria as required by Section 2.1 c);
- f) assessment of the non-weighted criteria - Labour Relations Training and Workplace Equity Plan by the SLJC Branch;
- g) assessment of the Local Industry Participation Plan or Economic Contribution Test;
- h) probity and technical procurement advice, including from the ACT Government Solicitor and Infrastructure Delivery Partners, Senior Directors/Executive Branch Managers (such advice may include, but not be limited to, technical drafting advice and review of draft evaluation reports for clarity and consistency with the *Government Procurement Act 2001* and the RFT); and
- i) legal issues, including advice from the ACT Government Solicitor.

2.4 Probity

- a) The members of the evaluation team, the WHS Superintendent of Works, the officers of the SLJC Branch, advisors and all other personnel involved in the evaluation process (collectively, **Personnel**) are to comply with the [Probity in Procurement Guide](#) which provides guidance on probity, and (if relevant) the Probity Plan (consistent with probity obligations in the *Government Procurement Act 2001*). All Personnel are to disclose any actual or apparent conflicts of interest and to take steps to avoid that conflict. All Personnel must promptly identify and disclose to the Chair or Delegate (as the case may be) any actual, perceived or potential conflicts of interest involving themselves, their immediate family or any other relevant relationship.
- b) All ACT Public Servants are required to sign the Confidentiality Undertaking and Conflict of Interest Disclosure found at Appendices G and H to the Probity in Procurement Guide. All Non ACT Public Servants are to sign the Confidentiality Undertaking and Conflict of Interest Disclosure as found in the Probity in Procurement Guide.
- c) Without limiting the Probity Plan (if any), all disclosures of conflicts of interests will be fully documented in accordance with the Probity in Procurement Guide. Continued membership of the evaluation team will be dependent on the declaration of, and determination of declared, conflicts of interest. If a conflict of interest is identified, the evaluation team member (or other

Personnel such as SLJC Branch officers) in question will be required to comply with the direction of the Chair and/or Delegate. This may include being removed from any involvement in the tender evaluation process and replaced with a Delegate approved officer if the Delegate considers such a change appropriate.

- d) Before considering tender submissions, all Personnel are to sign the disclosure documents referred to in item b).

3. Evaluation Process and Criteria

3.1 Evaluation Process

All tenders will be assessed using the methodology outlined below and in accordance with the published RFT and Standard Conditions of Tender. The methodology takes into consideration the process that will be used to assess value for money. Tenderers will be required to address the Evaluation Criteria listed as part of their Tender Submission and the Evaluation Team will examine each offer received.

3.2 Stage 1 – Conformity check including threshold criteria

- a) Any tender that:
- (i) is submitted after the closing time and date;
 - (ii) is at variance with or does not respond to or does not fully comply with any requirement of the RFT (including Standard Conditions of Tender); or
 - (iii) is incomplete, cannot be read or decrypted; or
 - (iv) has failed to comply with section 13 of the Standard Conditions of Tender (disclosure of conflicts of interest); or
 - (v) does not, when required, hold at the close of tender a Secure Local Jobs Code Certificate (assessed by the SLJC Branch); or
 - (vi) has failed, when required, to submit a fully completed and compliant Labour Relations Training Workplace and Employment Plan (LRTWE) (assessed by the SLJC Branch); or
 - (vii) does not (if required) have a WHS Management System certified as compliant to current AS/NZS standards or a Certificate issued by the Office of the Federal Safety Commissioner; or
 - (viii) does not meet any Threshold Assessment Criterion;
- b) may/will be deemed to be non-conforming. The evaluation team may, in its absolute discretion, in respect of a Tender that is non-conforming or that it deems to be non-conforming decide to:
- (i) reject and not consider the Tender any further;
 - (ii) ignore any non-conformance in the Tender and submit the Tender to further assessment against the Assessment Criteria; or
 - (iii) if it is possible to correct the non-conformance without affecting probity in the process, allow the Tenderer to correct the non-conformance.
- c) The evaluation team must record any non-conformity and, having regard to any probity advice sought from the probity advisor, its decision whether to reject the tender or to allow the tender to be submitted to further evaluation and the reasons.

- d) If applicable, the SLJC Branch will check that tenderers hold a current SLJC Certificate as per the threshold criteria. The SLJC Branch will report back to the Chair after receiving the material with its views as to whether the Response appears to be conforming or non-conforming. If the Response is non-conforming, the Chair will then consult with the evaluation team and make a decision in accordance with item 3.2 b).

NOTE: Special care must be taken before eliminating any tenderer for non-conformity.

Should a tender which is required to hold a Secure Local Jobs Code Certificate at the close of tenders fail to do so – the tender is considered to be a statutory non-conforming tender and cannot be accepted.

Should a tender, which is required to submit a LRTWEP, fail to submit a fully complete and compliant LRTWEP – the tender is considered to be a statutory non-conforming tender and cannot be accepted.

Should a tender which is required to have a WHS Management System certified as compliant to current AS/NZS standards or a Certificate issued by the Office of the Federal Safety Commissioner fail to meet this requirement it will be considered non-conforming and cannot be accepted.

- e) Statutory non-conforming tenders – the evaluation team is to seek both probity advice and advice from the Secure Local Jobs Code Registrar.
- f) Where a late tender is received, the time and date of receipt shall be noted on the document and endorsed by the recipient. When Tenders ACT receive and process a late tender lodgement, the Tenders ACT Support Team will advise the Chair the time and date of electronic lodgement for a particular tender. Late tenders are considered non-conforming. In deciding whether to admit a late tender for evaluation, the tender evaluation team may take into account any factors it considers relevant, including without limitation:
- (i) whether the late tenderer is likely to have had an opportunity to obtain some unfair advantage from late submission;
 - (ii) how late the tender is, the reasons given for lateness and evidence available;
 - (iii) whether the tender was mishandled by the Territory, by an official postal service or by a reputable delivery service; and
 - (iv) evidence of unfair practices.
- g) Public Sector Offers: Any offers received from Government bodies (Local, State, Territory or Commonwealth) will be evaluated using the principle of ‘competitive neutrality’ as defined by the National Competition Policy, i.e. offers should include all commercial costs that private sector organisations would include in their offers.
- h) Alternative Tenders: An Alternative tender may only be considered if it is submitted together with a conforming tender. If considered, it will initially be evaluated to determine if they provide a product or service which at least equals the project objectives set out in the tender documents. Should such an offer be considered not to provide such benefit it may be excluded from further consideration.
- i) Additional Information and Clarifications: The Evaluation Team may seek in writing additional information for clarification of tenders received at any stage during the evaluation process, in accordance with the Request for Tender.

The SLJC Branch may seek additional information (including through a Show Cause Notice (refer SLJC Branch ETWEP Guide) and clarifications, through the Chair.

If permitted by the Request for Tender, a request for additional information or clarification may be used to allow a tenderer to correct any unintentional error of form (if applicable, as defined in the Request for Tender).

Requests for Information or clarifications must not be permitted to be used by tenderers as an opportunity to materially alter or enhance their tender, including to change their tendered financial offer.

All requests for additional information and clarifications will be fully documented and appropriately filed.

- j) Use of WHS adviser: For Construction Contract tenders the evaluation team is to have the WHS Superintendent of Works (or Delegate) assess the tender responses to the Work Health and Safety criterion. The evaluation team is to include the scoring provided by the Superintendent of Works in their Procurement Evaluation Report.
- k) Post-Tender Presentations: Where provided for in the RFT, tenderers may be requested by the evaluation team chair to provide a presentation of their tender at a suitable date as determined by the evaluation team Chair. To the extent requested, tender presentations will be conducted separately and will be attended by relevant Personnel as deemed appropriate by the Chair. All documentation presented and minutes of the interview may be kept, including for possible inclusion in the Contract should the Tenderer be successful.
- l) External feedback: Tenders ACT will provide tenderer names to the ACT Long Service Leave Authority upon RFT close. If any of the aforementioned organisations wish to provide feedback about any Tenderer involved in the procurement evaluation process, they may request an opportunity to submit feedback. Feedback will be submitted to the Chair, in the form specified by the Chair. The Chair will then forward any factual feedback to the relevant tenderer to provide a response. The evaluation team will consider any feedback and response as part of Stage 5 – Overall Assessment of Value for Money.

3.3 Stage 2 – FSEE Criteria (NOT APPLICABLE)

- a) Based on the assessment of each tenderer against the FSEE Criteria, the SLJC Branch will recommend to the Delegate whether or not a tenderer should remain in consideration in the procurement process. The Chair will be copied into the recommendation to the Delegate. The SLJC Branch will assess the FSEE Criteria in accordance with the Direction and the ETWE Evaluation Plan at the SLJC Branch intranet (though the Direction will take precedence to the extent of any inconsistency).
- b) The Delegate makes a decision based on the available evidence, and in accordance with the ETWE Direction, on whether each tenderer may proceed for consideration in the procurement process.
- c) If the Delegate determines that a tenderer will not proceed for consideration in the procurement process, the Delegate will notify the SLJC Branch and the Chair, who must ensure that the tenderer is not considered for further assessment.
- d) Stage 2 may occur concurrently with Stage 3, though the Chair and SLJC Branch must not confer during the assessment of these stages except in relation to the issue of requests for clarification or additional information (see section 3.2(i)).
- e) The evaluation will not proceed to Stage 4 until both Stage 2 and Stage 2 have been finalised.

3.4 Stage 3 - Weighted Evaluation Criteria

- a) Initially a tender will be scored against the Weighted Evaluation Criteria using the scoring regime in the Risk Rating Table attached to this plan. The evaluation team will reach a consensus score for each response. The overall score is the cumulative total of individual Weighted Evaluation Criteria multiplied by their respective score. It includes the score for WHS as independently provided by the WHS Superintendent of Works (or Delegate).
- b) The tenders will then be initially ranked on the basis of the total technical score for Weighted Evaluation Criteria. This initial ranking will be noted in the evaluation report.
- c) Where any tender receives an unacceptably low score (generally of 3 or below but may vary according to the nature and relative importance of the Assessment Criterion), for any individual criterion, this may be taken into account as a risk when considering overall value for money in Stage 5 of the evaluation, including whether the evaluation team considers the tender represents an unacceptable risk to the Territory.
- d) If at any time during Stage 3 the Delegate notifies the Chair that a tenderer will not proceed for consideration in the procurement process as a result of the FSEE Criteria, the evaluation team must cease assessing that tenderer.

3.5 Stage 4 – Non- Weighted Evaluation Criteria

- a) The evaluation team must assess all conforming Tenders (and any non-conforming Tenders submitted to further evaluation) against the Non-Weighted Assessment Criteria with the exception of the LRTWEP response (refer item b).
- b) The SLJC Branch will assess the non-weighted criteria LRTWEP responses and provide the score and basis for the decision made to the evaluation team.
- c) The evaluation team should outline in the evaluation report its analysis and basis for decisions made. This includes the inclusion of the SLJC Branch LRTWEP assessment and scoring.

3.6 Stage 5 – Overall Assessment of Value for Money

- a) Following assessment of Tenders against the Assessment Criteria, to determine the overall final ranking of Tenderers, the evaluation team may conduct a final qualitative assessment of overall value for money taking into account, for example:
 - (i) risk (which may include, without limitation, financial risk and risk arising as a result of the Tender being assessed as an unacceptably high risk against any Assessment Criteria);
 - (ii) the results of the evaluation against the Assessment Criteria;
 - (iii) any other matter set out in, or relevant to, the *Government Procurement Act 2001*.
- b) To the extent not already taken into account during the assessment of the Assessment Criteria, the evaluation team may also consider such matters as (without limitation):
 - (i) risks associated with:
 - (A) the identification of shortfalls in a Tenderer's response in terms of the offered workforce's capability, capacity (which may be evidenced by the allocation of an unacceptably low score against a relevant criterion);
 - (B) referee reports;
 - (C) financial viability assessment information;
 - (D) offered innovations; or
 - (E) any additional risks and other issues of concern associated with each tender not otherwise dealt with in the evaluation against the Assessment Criteria;

- (ii) any reports or advice from any specialist advisors;
 - (iii) any report or advice from the WHS Superintendent of Works;
 - (iv) other relevant information that may assist the evaluation process, including the outcome of any tender presentations (if pursued);
 - (v) any identified significant differences in relative economic benefits, options, departures, and identified risks; and/or
 - (vi) whole-of-life costs for the project - including submitted prices/rates and their relationship to the approved budget, the meta-data of historical volumes/ estimated volumes and any related or consequential costs (e.g. contract management such as resourcing, equipment, software/hardware, etc.) the implementation of these Services/ Works may have for the Territory.
- c) The evaluation team will reach a consensus on the ranking of each tender at the conclusion of this stage.
- d) The preferred tenderer will be the tenderer offering best value for money having regard to all relevant factors and may not necessarily be the tenderer with the highest score. These relevant factors **must** be disclosed in the TER and must include “the level of risk to which the proposed solution exposes the interests of the ACT”.
- e) If the preferred tenderer is not the tenderer with the highest score, full justification for selection of another tender will be provided.
- f) The risk assessment in the approved Procurement Plan Minute for the project may be utilised to test if reduction in identified risks justifies the selection or otherwise of the tenderer with the highest score.
- g) Once a preferred tenderer has been identified Delegate approval must be sought prior to any post tender negotiations which will take place prior to entering into a Contract.
- h) Negotiations will take place solely with the preferred tenderer until such time as either: (i) a contract is formed; (ii) the preferred tenderer withdraws their offer; (iii) the capacity to negotiate is exhausted; or (iv) the Territory decides to accept no offers and may elect to recall tenders.
- i) On formation of a contract or in the event that no offers are accepted, the unsuccessful tenderers will be notified in writing and offered the opportunity to attend a debriefing session.

3.6 Evaluation Criteria

The table below shows the criteria and weighting that will be used to assess responses.

THRESHOLD CRITERIA		COMPLIES YES/NO
TC1	<p>Qualification</p> <p>Submissions must be made by individuals with qualifications or registrations recognised in Australia in the fields of architecture, urban design, landscape architecture, urban planning or similar as appropriate to the field of expertise.</p>	

	Tenderers are to supply evidence of suitable registration and/or qualification.	
TC2	Ethical Suppliers Declaration - Tender Tenderers are to complete and submit an Ethical Suppliers Declaration – Tender in the form set out at Attachment 4 .	
TC3	Terms of Reference Tenderers are to acknowledge and accept the Terms of Reference provided in Attachment 1A .	

NON-WEIGHTED CRITERIA		
NWC1	<p>Insurance Tenderers are to provide evidence of the following insurances: Tenderers are to provide evidence of the following insurances:</p> <p>Public Liability (PL) \$10 million</p> <p>Professional Liability (PI) \$5 million</p> <p>Tenderers are advised that in the event that a tenderer does not hold a PL and/ or PI policy they are encouraged to submit a tender. If successful, a tenderer who does not hold PL or PI may be considered for certain categories of work commensurate with the risk and nature of the required services and will be covered through the Territory’s self-insurance arrangements under the <i>ACT Insurance Authority Act 2005</i>.</p>	

WEIGHTED ASSESSMENT CRITERIA		WEIGHTING
WC1	<p>Demonstrated Experience</p> <p><u>In no more than 4 single sided A4 pages</u>, provide and describe experience relevant to the nominated category addressing:</p> <p>a) The Tenderer’s experience in critical review of design and providing objective and constructive feedback on complex design issues; and</p> <p>b) The Tenderer’s contribution to industry (by way of project work or other) that supports their capability to be considered for a Panel position; and</p> <p>c) Provide up to three referees that may be contacted with regards to the Tenderer’s suitability for this role.</p>	45

	<p>a. Note: Tenderer’s are to respond to this criteria as outlined above and the submission of resumes or CVs is not required.</p>	
WC2	<p>ACT Planning Framework</p> <p><u>In no more than 3 single sided A4 pages</u>, provide and describe an understanding of the policy framework relevant to planning and project delivery in the ACT, including awareness of the roles of the ACT Environment, Planning, and Sustainable Development Directorate, National Capital Authority, City Renewal Authority and Transport Canberra and City Services.</p>	15
WC3	<p>Communication Skills</p> <p><u>In no more than 3 single sided A4 pages</u>, Provide and describe the following:</p> <ul style="list-style-type: none"> a) demonstrate an ability to engage and communicate complex and detailed design issues; and b) demonstrate an ability to provide constructive guidance in a positive and articulate way. 	20
WC4	<p>Availability</p> <p>Provide a statement of availability allowing for travel (as required) to Canberra, and dedicate sufficient time to preparation, review, and follow up.</p>	15
WC5	<p>Local Industry Participation</p> <p>The Territory will assess the extent to which the Tenderer has demonstrated that it will ensure capable local businesses are given full, fair and reasonable opportunity to participate in the provision of the Services during the term of the proposed contract.</p> <p>Tenderers must complete and submit an Preliminary Economic Contribution Test (ECT) by completing the “<i>Canberra Regional Local Industry Participation Policy Economic Contribution Test (ECT)</i>” form available at https://www.procurement.act.gov.au/canberra-region-lipp</p> <p>For guidance on how to complete a Preliminary Economic Contribution Test refer to</p>	5

4. Evaluation Report & Letters of Decline/Debriefings

4.1 Evaluation Report

The evaluation team will prepare the following information for inclusion with the procurement evaluation report:

- a) background to the process;
- b) advice received from consultants, specialist advisors, technical analysis;
- c) the outcome of a tender financial assessment (if required);
- d) the score for the WHS criterion as provided by the WHS Superintendent of Works (or Delegate);
- e) in relation to the FSEE Criteria, the Delegate's decision on whether each Tenderer would proceed for consideration in the procurement process (attached for completeness only);
- f) the evaluation process, including comments (strengths and weaknesses) and scores against each criteria including any non-weighted criteria;
- g) the weighted score of each tender;
- h) value for money assessment and comparative assessment analysis;
- i) proposed methods for management of tender specific risks;
- j) consideration of confidential text;
- k) identification of any issues which should be resolved by negotiation; and
- l) recommendations to the Director General or approving Delegate.

4.2 Letters of Decline / Debriefings

Letters of decline will be sent to all unsuccessful Tenderers. Letters of decline and debriefings will comply with the requirements outlined in Procurement ACT, Supplier Debriefing factsheet.



Evaluation Plan for Infrastructure Procurements

NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY PANEL – RFX 52110.100

ATTACHMENT A - Risk Rating Table for use in Tender Evaluation

Descriptor	Sample Commentary	Rating
Superior	Highly convincing and credible. Response demonstrates superior capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. Comprehensively documented with all claims fully substantiated. Low risk.	10
Outstanding	Highly convincing and credible. Response demonstrates outstanding capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. Documentation provides complete details. All claims adequately demonstrated and substantiated. Low risk.	9
Excellent	Response complies, is convincing and credible. Response demonstrates excellent capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. Some minor lack of substantiation but the Tenderer’s overall claim is supported. Low risk.	8
Very Good	Response complies, is convincing and credible. Response demonstrates very good capability, capacity and experience, relevant to, or understanding of, the requirements of the Evaluation Criterion. Minor uncertainties and shortcomings in the Tenderer’s claims or documentation. Low risk.	7
Good	Response complies and is credible but not completely convincing. Response demonstrates adequate capability, capacity and experience, relevant to, or understanding of, the requirements of the Evaluation Criterion. Tenderer’s claims have some gaps. Low risk.	6
Adequate	Response has minor omissions. Credible but barely convincing. Response demonstrates only a marginal capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. Medium risk.	5
Reservations	Barely convincing. Response has shortcomings and deficiencies in demonstrating the Tenderer’s capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. Medium risk.	4
Poor	Unconvincing. Response has significant flaws in demonstrating the Tenderer’s capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. High risk.	3
Very Poor	Unconvincing. Response is significantly flawed and fundamental details are lacking. Minimal information has been provided to demonstrate the Tenderer’s capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. High risk.	2

Descriptor	Sample Commentary	Rating
Inadequate	Response is totally unconvincing and requirements have not been met. Response has inadequate information to demonstrate the Tenderer’s capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. High risk.	1
Not Acceptable	Tenderer was not evaluated as it did not provide any requested information and/or contravened nominated restrictions. Extreme risk.	0



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Economic Development

ATTACHMENT B: NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY PANEL – RFX 52110.100 - Procurement Risk Management Plan

Project Details			
Project	National Capital Design Review Consultancy Panel		
Project Objectives	To establish a contractual panel of built environment experts that can be utilised for participation in National Capital Design Review Panels.		
Contact Details:			
Directorate	EPSDD	Business Unit (If applicable)	Planning and Urban Policy Division
Name of Contact	Panama Leaver	Phone no.	6205 5390
Name of Decision Maker / Authority Holder	Executive Branch Manager, Building, Design and Projects, EPSDD		

Created by: John Hawkins

Date: 7 April 2022

Reviewed by: Erica Pilgrim-Day

Date: April 2022

Approved by: Delegate

Date: May 2024

Signature: _____

Internal and External [Name and Agency/Organisation]	Level of Influence [Ability to influence project outcomes]	Level of Interest [Level of interest in the project outcome]
EPSDD, Planning and Urban Policy Division	High -Planning and Urban Policy Division are the project sponsors and are responsible for timely project delivery within the allocated budget.	High
ACT Government Architect	High - Chair of the NCDRP.	High
National Capital Authority	High - Commonwealth agency whose Chief Planner may co-Chair the NCDRP when appropriate.	High
Major Projects Canberra	High -MPC is responsible for the procurement process and establishing the panel management process.	High
Transport Canberra and City Services	Medium – directorate submitting projects to the panel	Low
City Renewal Authority	Medium - directorate submitting projects to the panel	Medium
Suburban Land Agency	Medium - directorate submitting projects to the panel	Low
Consultants	Medium - Consultants will be appointed off the resulting panel contract to sit on a particular NCDRP and therefore may drive some of the contractual requirements.	High



Risk Register

This risk register is consistent with AS/NZS ISO 31000:2009 risk management standard and the CMTEDD Risk Management Framework and Policy Statement; and Risk Management Policy.

Risk Ref. No.	Risk Description (source/ Cause)	Describe the consequence	Risk controls – what is in place to manage the risk.	Risk Owner (person or entity who manages the risk)	Consequence	Likelihood	Current risk rating	Control effectiveness
1	<p>Project Budget Inadequate</p> <ul style="list-style-type: none"> • Consultant expenses claimed are higher than anticipated • Number of respondents to tender is inadequate due to set funding arrangements. 	<p>If what can happen does happen what is the impact or outcome? (In its most 'normal' form – not an extreme form)</p> <ul style="list-style-type: none"> • Additional funding required to continue design review panels for the initial contract period. 	<p>How are risks to be Managed? What ordinary policies, procedures and actions (BAU) are to be taken to manage the risk?</p> <ul style="list-style-type: none"> • Utilised similar panel arrangements as benchmark for member fees. • Established clear guidelines for travel and expenses claims. • Utilise additional funding available through Business Case and request additional funding for Panel contract beyond initial contract period. 	EPSDD / MPC	Minor	Unlikely	Medium	Adequate
2	<p>Insufficient Tender Responses</p> <ul style="list-style-type: none"> • Contractual requirements too great for individual practitioners who therefore don't tender. • Insufficient number of responses to create panel. 	<ul style="list-style-type: none"> • Procurement outcomes do not achieve value for money; • Potential to restart the process with amended requirements, associated costs and delays. 	<ul style="list-style-type: none"> • Consultation with contracts area regarding suitability of requirements eg insurances and panel management process • Broad advertising to reach national candidates through professional associations. • Open panel annually to allow additional submissions subject to demand. 	EPSDD / MPC	Moderate	Unlikely	Medium	Adequate
3	<p>Panel not established within nominated timeframe</p> <ul style="list-style-type: none"> • Delayed approvals process • Protracted contract negotiations 	<ul style="list-style-type: none"> • Consultants not available for required NCDRP. • Reputational damage. • Excessive tender responses. 	<ul style="list-style-type: none"> • Allow suitable tender and evaluation timeframes in reported milestone dates. • Utilise current means for procuring panel via EPSDD as back up. • Extension option built into Initial contract to allow for new procurement process. 	EPSDD	Insignificant	Possible	Low	Adequate

ATTACHMENT B: NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY PANEL – RFX 52110.100 - Procurement Risk Management Plan

4	<p>Unethical Tender Process</p> <ul style="list-style-type: none"> • Inadequate tender and/or evaluation process • Breach of probity 	<ul style="list-style-type: none"> • Poor public perception. • Negative media attention. • Legal challenge to tender process. • Delay in establishing panel. 	<ul style="list-style-type: none"> • Tender Evaluation Team to conduct evaluation in accordance with the approved procurement and tender evaluation plan and probity plan. • Execution of Confidentiality and Conflict of Interest Undertaking. • Appoint experienced representatives on the Tender Evaluation Team. • Probity Advisor to be consulted as required. 	EPSDD / MPC	Moderate	Rare	Medium	Adequate
5	<p>The procurement process fails to adhere to the relevant legislation, policy & procedures</p> <ul style="list-style-type: none"> • Non-Compliance of the Territory with designated legislation and regulation • Failure to follow approved Procurement Plan 	<ul style="list-style-type: none"> • Potential need to issue addenda or restart process • Delays in finalising process • Negative reputational attention. 	<ul style="list-style-type: none"> • Experienced procurement officer assigned to manage procurement process with suitable managerial oversight and approvals. • Appoint experienced representatives on the Tender Evaluation Team. 	EPSDD / MPC	Moderate	Rare	Medium	Adequate
6	<p>RFT or panel deed contains errors, omissions or does not adequately detail requirements.</p>	<ul style="list-style-type: none"> • Process fails to deliver expected outcomes. • Issue of addenda or potential restart of process. • Delays in finalising process. • Negative reputational attention. 	<ul style="list-style-type: none"> • Experienced procurement officer assigned to manage procurement process with suitable managerial oversight and approvals. • Appoint experienced representatives on the Tender Evaluation Team. 	EPSDD / MPC	Moderate	Unlikely	Medium	Adequate

7	<p>Failure to manage Panel Deed</p> <ul style="list-style-type: none"> Poor management processes for Panel Inexperienced staff managing Panel Inappropriate use of Panel 	<ul style="list-style-type: none"> Unable to provide timely reporting, investigation and advice where required for Treasury, IFAD and MPC. Panel Deed budget limit exceeded. Unable to use Panel for full length of agreement. Damage to the reputation of the Territory. Potential for complaints from Panel suppliers. Potential legal action against the Territory. Criticism from industry. 	<ul style="list-style-type: none"> Develop comprehensive management framework for Panel. Ensure Panel is managed by experienced procurement officers, including financial management and adequate support resourcing provided. Include approval process for each engagement in management framework. Include internal review processes in framework. Provide Directorate and project officer training in use of new Panel. Provide clear definitions for use of Panel. Provide project information on intranet for Panel. Monthly reporting to MPC to ensure compliance with Panel procedures. 	MPC/EPSSD	Moderate	Possible	Medium	Adequate
8	<p>Secure Local jobs Code (SLJC) amendment impacts services offered under the Panel</p>	<ul style="list-style-type: none"> Reduced capacity to engage panel suppliers. Additional cost to suppliers to continue to receive work under the panel in gaining a SLJC certificate. 	<ul style="list-style-type: none"> Monitor proposed amendments to ensure adherence to legislation. Consultation with panel members as required. 	EPSSD / MPC	Minor	Unlikely	Medium	Adequate
9	<p>Submissions received from inexperienced or unqualified tenderers.</p>	<ul style="list-style-type: none"> Elongated evaluation time frames. Inexperienced panel members resulting in panel outcomes not met for the Territory. 	<ul style="list-style-type: none"> Tender Threshold criteria to include requirement for registration and qualification. Evaluation criteria to ensure demonstrated experience is provided to assess suitability of tenderer. Performance management included within Panel Deed to be utilised to manage performance and work allocation. 	MPC	Minor	Possible	Medium	Adequate



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Major Projects Canberra



**Panel Management Plan for
National Capital Design Review Consultancy Panel**

Panel Contract Number 52110-RFT-320

**Panel Contract Term
August 2024 to August 2027**

**This User Guide contains Sensitive information.
Not for distribution outside the ACT Government (Territory).**



Panel Management Plan

Purpose

To formalise the engagement of Panel Members from the National Capital Design Review Consultancy Panel through the Panel Deed with consideration to the following requirements:

- Equitable work allocation;
- Delegations / authorisations;
- Integrity of panel management practices;
- Intended purpose of panel; and
- Adherence to procurement principles.

Panel Governance

The National Capital Design Review Consultancy Panel should be effectively managed, through a single point of contact, to ensure objectives and intended benefits are met during the period of the Panel through effective panel governance, which will provide for, for example:

- Initial justification for establishing the panel arrangement;
- Supporting documentation establishing the panel;
- The nature of the services the panel will provide for;
- Ensuring panel member performance;
- Ensuring panel accountability and outcomes are achieved;
- Ensuring work allocation across the panel accords with the originating PPM;
- Ensuring compliance with Territory policies and legislation that are relevant to operation of the panel;
- Ensuring that a single point of contact applies for panel management;
- Panel contract conformance;
- Management of panel spend;
- Reporting obligations are met;
- Monitoring panel supplier selection and contract operation, including panel supplier removal; and
- Monitoring use of panel across directorates/agencies (if applicable).

Scope

This procedure describes when a Design Review Panel is to be convened and the services of selected panel members are required for the purposes of that Design Review Panel. The appointment finishes at completion of all services by the engaged Panel Member in accordance with the Work Order authorizing the services and executed Panel Deed.

This plan is to be used concurrently with other relevant procurement guidelines including the approved Procurement Plan Minute, *Government Procurement Act 2001*, *Government Procurement Regulation 2007*, AS4120 Code of Tendering, and in particular the following policies that impact on service delivery:

- Local Industry Participation Policy applies to all market approaches by Territory entities and supports tendering opportunities for suppliers in the Capital Region;
- ACT Indigenous Procurement Policy which encourages directorates and agencies to seek quotes from relevant Aboriginal and Torres Strait Islander Enterprises to promote



economic participation in Territory tendering opportunities; and

- Adherence to delegation and business protocols in accordance with financial management legislation, public sector management legislation and Public Service Code of Conduct.

Abbreviations

MPC	Major Projects Canberra
EBM (MPC)	Infrastructure Delivery Partners Executive Branch Manager Civil, Commercial or Social Branch
PCM	Panel Contract Manager, MPC
PD	Panel Director, PD
CO	Contact Officer, MPC
EBM (EPSDD)	Executive Branch Manager, Building, Design and Projects Branch, EPSDD
DD	Director Design Services and Government Architect Team
DRC	Design Review Coordinator/ Secretariat, EPSDD
GPA	Refers to <i>Government Procurement Act 2001</i>

Actions and responsibilities

No.	Action	Responsibility
1.	<p>Need for panel members is established by DRC.</p> <p>The DRC, in conjunction with the NCDRP Chair/s identifies suitable panel members based on suitability of work type and equitable project distribution and work allocation between panel members, based on the following criteria:</p> <ul style="list-style-type: none"><input type="checkbox"/> Appropriate insurance to undertake the service;<input type="checkbox"/> Value for money;<input type="checkbox"/> The capacity and availability of the panel member;<input type="checkbox"/> The panel members' areas of specialty/category;<input type="checkbox"/> The panel members' ability to respond and complete performance of the work within the required timeframe (including in light of its current workloads);<input type="checkbox"/> Attempt to balance workloads between the panel members; and<input type="checkbox"/> Work allocation is in accordance with the method outlined in the relevant Panel Deed.	DRC/DD
2.	<p>Purchase Order as per Attachment 1 is issued to selected panel members.</p> <p>Ensure all necessary attachments are provided including the terms of reference and insurance requirements.</p>	DRC
3.	<p>The DRC must ensure that the respondent has acknowledged the Territory's fee structure in their submission.</p>	DRC
4.	<p>Obtain necessary approvals from delegate noting that any procurement over \$25,000 including GST will need separate approval and is not covered by the original Panels delegate approval.</p>	DD/MPC



No.	Action	Responsibility
	Seek guidance from MPC for any procurement estimated or valued at or over \$25,000 including GST	
5.	Issue signed Purchase Order at Attachment 1 to selected panel members to engage their services and MPC Contract Officer.	DRC
6.	The panel engagement register is updated for the cumulative panel total expenditure. Register to be provided to MPC Panel Manager/Contracts Team by 5 th of every month. A meeting with the MPC Contract Team representative may be convened monthly to reconcile engagements with the Contracts Register.	DRC /PCM/CO
7.	Contract Register updated.	CO
8.	The contract formed by the written and signed engagement is managed by the DRC for duration of the appointment.	DRC
9.	Executive Branch Manager, Building, Design and Projects, EPSDD and the Executive Branch Manager, MPC may consider a refresh of the Panel in consultation with EPSDD on an as required basis throughout the duration of the Panel to review performance of suppliers. EBM MPC, PCM and DRC may conduct a yearly forum with Panel members to gather feedback on panel performance.	EBM (EPSDD), EBM (MPC), PCM & DRC
10.	The Panel deed rates are fixed until such time that the Territory in its absolute discretion reviews the Pricing Information at which time the Territory may enact a review based on Schedule 3 Item 3 of the Panel Deed. Seek guidance from MPC prior to enacting a price adjustment.	DCP/DD/MPC

Templates

Attachment 1	Draft Purchase Order
Attachment 2	Panel Deed Template

Reference Documents

Panel Contracts – notified on ACT Government Notifiable Contracts Register – see: <https://tenders.act.gov.au/ets/contract/list.do?action=contract-search&sel=contractssearch>

Procurement Circular on Panels – see:

https://www.procurement.act.gov.au/__data/assets/pdf_file/0008/57437/2009_18_Panel_Contracts_Standing_Offer_Arrangements.pdf

Authority

Owner: Senior Manager, Operations & Contracts, Procurement ACT

Version: Version 1

Draft: July 2019



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Attachment 1 – Draft Work Order

The below template is to be used in correspondence to activate the terms of the Panel Deed and constitutes a 'Purchase Order' as described in the Panel Deed.

WORK ORDER (under \$25,000 including GST)

This correspondence constitutes a Purchase Order as defined in the Services Panel Deed.



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Purchase Order

DIRECTORATE NAME
ABN: **DIRECTORATE ABN**

Addressed To

SUPPLIER ADDRESS

Deliver To

SITE ADDRESS

Order Number: **EBS NUMBER-SUB-00x**

Please quote this number on all deliveries and invoices.
Please supply the undermentioned goods/services in accordance with the terms and conditions.

Invoice To

BUSINESS UNIT/AREA NAME
DIRECTORATE NAME
GPO Box 158
Canberra ACT 2601

Supplier: SUPPLIER BUSINESS NAME

Contact: SUPPLIER CONTACT NAME

Phone: SUPPLIER PHONE NUMBER

Created by: PROJECT OFFICER

Quote No: REFERENCE PANEL
DEED CONTRACT & PO
NUMBER

Creation Date: DD/MM/YYYY

Payment Terms: 28 Days

Notes:

Insert scope or reference an attached document that defines the scope

Item	Description	Quantity	Unit	Unit Price	Unit Total
1					
2					
3					
4					

Total Exclusive of GST: \$

Total Inclusive of GST, where applicable: \$

Authorising Delegate

DD/MM/YYYY

Date



ACT GOVERNMENT PURCHASE ORDER (ORDER)

GENERAL TERMS AND CONDITIONS FOR SUPPLY OF GOODS, SERVICES OR WORKS

INVOICE/QUOTE PRICE	The Price of goods or services includes: <ol style="list-style-type: none">1. All taxes, duties and other imposts for which the Supplier is liable; and2. All amounts payable for the use of patents, copyright, registered designs, royalties, trademarks and other intellectual property rights
GOODS	All goods supplied pursuant to this Order shall be new and unused unless otherwise specified.
SERVICES & WORKS	All services provided pursuant to this Order shall be in accordance with the specification. The Supplier shall indemnify the Territory against all suits, claims and actions arising in any way whether directly or indirectly for the performance of the services. The Supplier must establish and maintain a safe working environment.
TERMS OF PAYMENT	Payment will be made only on a correctly rendered invoice (under ATO Guidelines). Payment is due 28 days from receipt of invoice or acceptance of goods, whichever is later. Early settlement will be considered for discounts offered but without prejudice to the standard 28 day payment period. Claims for payment (invoices) shall be submitted through the PMARS Suppliers portal.
PACKAGING & MARKING	All goods must be suitably packed at the Supplier's expense to ensure delivery in good order and condition. Each item shall be marked indicating the Territory order number and full delivery point details.
PRICE VARIATIONS	No price variations will be accepted, unless the Supplier has notified the Contact Officer and that officer has accepted the variation.
SPECIFICATION	All goods, services or works supplied against the Order shall be free from defects in materials and workmanship and at least of merchantable quality and shall conform to any specifications and descriptions set out on the Order.
DELIVERY	All goods, services or works are to be delivered at the time and place detailed in the Order. Delivery will be Free Into Store unless otherwise specified.
INSPECTION & ACCEPTANCE	All goods are subject to check and inspection before acceptance, which shall take place at the Territory's delivery point and the Territory may reject any goods supplied incorrectly, damaged in excess of quantities specified on this order, or otherwise found not to be in accordance with these terms and conditions. If the Territory rejects any goods, the Supplier must, at no expense to the Territory, remove the goods and, at the Territory's sole discretion: <ol style="list-style-type: none">1. Replace the rejected goods;2. Refund any payment for the rejected goods; or3. Repair the goods to the satisfaction of the Territory.
CANCELLATION	The Territory reserves the right to cancel this Order in whole or in part if delivery is not made by the due delivery date specified in the Order or if the Supplier is in breach of any other term or condition of the Order or if the Supplier becomes insolvent or any formal action is taken against the Supplier in respect of insolvency.
TITLE AND RISK	Risk of loss or damage to goods and title shall pass to the Territory on acceptance by the Territory.
INDEMNITY – INTELLECTUAL PROPERTY RIGHTS	The Supplier indemnifies the Territory against all loss, damage or expense arising in respect of any action or claim for alleged infringement of any patent, copyright, registered design, royalty, trade mark or any other intellectual property rights, by reason of the purchase, possession or use of the goods.
HAZARDOUS MATERIALS	The Supplier shall provide material safety data sheets for any hazardous substances to be supplied against this Order.
ASSIGNMENT	The Supplier must not, without consent in writing from the Territory, assign the Supplier's rights under the Contract.
APPLICABLE LAW	The Order will be governed by and construed in accordance with the laws in force in the Australian Capital Territory.
SECURE LOCAL JOBS CODE	If this Order is for Territory-Funded Work as defined in the <i>Government Procurement Act 2001 (GPA)</i> , the model terms determined under clause 22G(4) of the GPA and available at https://www.legislation.act.gov.au/ are incorporated by reference, subject to the name of the party being the Supplier, and the works/services are the Services.
ENTIRE AGREEMENT	These terms & conditions constitute the entire agreement of the parties in relation to purchase of the goods, services or works specified in this Order and all other agreements warranties and representations are excluded, except for:



ACT
Government

Major Projects Canberra

1. Any request for tender issued by the Territory in relation to the goods or services; or
2. Any formal contract executed by both parties prior to the date of this Order.



ACT
Government

Major Projects Canberra

Attachment 2 – Services Panel Deed - Template

PROBITY STATEMENT

NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY PANEL – RFX 52110.100 (Procurement)

1 Purpose and Application of Probity Statement and general considerations

- 1.1 The purpose of this Probity Statement is to set out the probity considerations in relation to the Procurement for any person who is participating in the Procurement (**Procurement Personnel**) including:
- (1) decision-makers, including chief executive officers (or their delegate, if relevant);
 - (2) members of the evaluation team for the Procurement (**Evaluation Team**);
 - (3) internal support or specialist advisors to the Procurement;
 - (4) external support or specialist advisors to the Procurement. This includes employees or subcontractors of each Territory-contracted contractor or consultant (**Contractors**); and
 - (5) members of any steering committee or other governance body for the Procurement.
- 1.2 This Probity Statement applies for the duration of the entirety of the “plan” and “source” phases of the Procurement, as well as the “manage” phase, up to the point the Territory enters into a contract with the preferred Supplier(s)², provides a debriefing to unsuccessful Suppliers and, if applicable, publishes a notifiable contract on the notifiable contracts register.
- 1.3 This Probity Statement is intended for procurements with a **Low Risk** rating. Should the probity risk rating change at any phase of the Procurement, Procurement Personnel who are decision makers should document and address those risks. This may require the Probity Statement to be amended or replaced with a more detailed document such as a Probity Plan.
- 1.4 The *Public Sector Management Act 1994 (PSM Act)* including section 9 (Public sector conduct) and associated standards provide the statutory context within which all ACT Government officers and employees (**Public Officials**) are required to perform their duties with reasonable care and diligence, impartiality and honesty, and in accordance with the best practice principles (i.e. working efficiently, effectively and constructively; being responsive, collaborative and accountable; and making fair and reasonable decisions). Nothing in this Probity Statement limits the obligations of Public Officials to comply with the PSM Act or any other relevant laws.
- 1.5 Although section 9 of the PSM Act applies to, and must be observed by Public Officials, a chief executive officer (or their delegate, if relevant) may require that Procurement Personnel who are Contractors to observe Section 9 of the PSM Act as a condition of their contract with the Territory. Contractual instruments (for example, in relation to confidentiality and conflict interest) should be utilised to set out the legal obligations of conduct of Contractors engaged in the Procurement.

2 Definition of Probity

- 2.1 Probity is defined as the evidence of ethical behaviour, and can be defined as complete and confirmed integrity, uprightness and honesty in a particular process.
- 2.2 Section 22A(3)(a) of the *Government Procurement Act 2001 (Act)* provides that in pursuing value for money, a Territory Entity must have regard, amongst other things, to “probity and ethical behaviour”.

² For the purposes of this Probity Statement, the term “**Supplier**” refers to an entity (including a natural person) that is engaged or will be potentially engaged under the Procurement. Supplier includes (where the context admits) a potential supplier, a tenderer, proponent or other form of respondent to an approach to market in relation to the Procurement.

- 2.3 The Probity in Procurement Guide (**Guide**), provides additional information and context in relation to probity.

3 Probity Principles

- 3.1 The following probity principles apply to the Procurement:

- (1) Consideration of an appropriately competitive process;
- (2) fairness and impartiality;
- (3) consistency, transparency and accountability;
- (4) identification and management of conflicts of interest; and
- (5) appropriate security and confidentiality arrangements.

Compliance with relevant legislation, policy and guidance supports the above probity principles.

- 3.2 Observing the probity principles will assist to:

- (1) facilitate the achievement of value for money;
- (2) reduce the risk of the Territory being exposed to loss;
- (3) provide Suppliers with confidence about fair treatment, with consequential improvements in competition and performance;
- (4) guard against collusion and fraud; and
- (5) ensure that the Procurement can withstand internal and external scrutiny.

- 3.3 Further detail on the probity principles is available in **Appendix A** to the Guide. Observing probity principles is the responsibility of Procurement Personnel who are Public Officials, and ultimately rests with the relevant chief executive officer (or their delegate, if relevant).

4 Specific Probity Considerations

- (1) The following specific probity considerations apply to this Procurement in support of the probity principles. The implementation of these considerations is the responsibility of Procurement Personnel who are Public Officials, and ultimately rests with the relevant chief executive officer (or their delegate, if relevant).
- (2) All Procurement Personnel should receive probity training as soon as possible following their engagement on the Procurement.
- (3) A number of probity principles cover the conduct of Procurement Personnel at meetings and functions where Suppliers are present. During the Procurement, Procurement Personnel must:
 - (a) avoid any meetings, functions or forums where they are aware that a Supplier is present, and if this cannot be avoided or is unforeseen, not discuss any matter related to the Procurement or another Supplier in those meetings, functions or forums;
 - (b) not seek or receive from any person whatsoever whether the person is a Supplier, or any other person potentially connected with the Procurement:
 - (i) any gifts, hospitality, or other benefits (whether ranging from the apparently trivial to the very valuable); or
 - (ii) any inducement, or anything that may reasonably be considered to be an inducement, in relation to the making of a decision to influence (positively or

negatively) the outcome of the Procurement,

- (c) promptly notify the delegate (or a person nominated by the delegate) in writing:
 - (i) of any inappropriate approach or attempt to engage in discussion of any matter related to the Procurement; or
 - (ii) of any offers of gifts, hospitality, or other benefits are received by them, or in their presence and to their knowledge, and the response, if any, given by the recipient; and
- (d) comply with any directions from the delegate in relation to any matters raised to appropriately deal with the matter; and
- (e) otherwise comply with their confidentiality and other obligations under this Probity Statement.

4.1 Consideration of an appropriately competitive process

There should be a sufficient documentation to support a decision as to the relevant process selected for the Procurement, for example, reflected in the approved Procurement planning documents.

4.2 Fairness and impartiality

- (1) Any market research activities or pre-procurement discussions, including any contact with Suppliers, for example, through unsolicited inquiries and proposals, briefing sessions and site visits, should be handled in a way which affords all Suppliers the same opportunity to acquire the same information about the Procurement. None of these activities should provide an advantage to a particular Supplier. Perceptions are significant in considerations are fairness and impartiality.
- (2) Care should be taken to ensure that any information provided to Suppliers is not prejudicial to any forthcoming procurement and cannot be mistaken by a potential Supplier for the request documents.
- (3) In all circumstances, information provided by a Territory Entity to potential Suppliers should accurately represent the Territory Entity's position and be capable of being supported by evidence.
- (4) The Communication Protocol in Attachment 5 to this Probity Statement applies to the Procurement.
- (5) Appropriate records should be kept of all interactions with Suppliers, the Territory's response and reasons for any decisions.

4.3 Consistency, transparency, and accountability

- (1) The request document should be **published** through Tenders ACT.
- (2) Internal process documents, such as this Probity Statement, evaluation plans, should be **consistent** with the published request documents.
- (3) The probity notice in **Attachment 1** to this Probity Statement should be used at various points in the Procurement as noted on that document, to communicate the Procurement and acts as a reminder for those who are not Procurement Personnel.

- (4) Appropriate **governance arrangements**, in addition to financial and other relevant delegations (e.g. steering committee, project control group), should be established as appropriate and adhered to. Records should be kept to demonstrate that an appropriate procurement process was planned and followed, and decisions were in accordance with the documented process. Any departures from process should be approved and recorded with sufficient justification.
- (5) Evaluation criteria and procedures should be finalised and documented in advance of an approach to market and **consistently applied** to all Suppliers. Once communicated to Suppliers, the evaluation criteria and procedures should not be altered unless circumstances change so markedly as to make a revision absolutely crucial. If this occurs, due regard should be given to the matters referred to above under fairness and impartiality to ensure that any new information is communicated formally, in writing, to all Suppliers at the same time, with sufficient time provided to properly address that information.
- (6) **Any notifiable contracts**, as well as notifiable amendments and notifiable invoices should be published in accordance with Part 3 of the Act.
- (7) Procurement records, including minutes of key meetings, any decisions made, and who made the decisions should be kept. Documentation should be sufficient to provide an understanding of why the Procurement was necessary, the process that was followed, and all relevant decisions made and the basis of those decisions. In particular, as noted above, there should be evidence of the reasoning behind any significant decisions made and the rationale for any departure from processes.
- (8) Records should be kept in accordance with the *Territory Records Act 2002*, and MPC Objective filing procedures.

4.4 Identification and management of conflicts of interest

- (1) Actual, potential or perceived conflicts of interest may arise during the Procurement when a Public Official has an affiliation or interest through their associations or circumstances that might prejudice or be perceived to prejudice their impartiality. A conflict of interest could arise if it is likely that the individual with the interest could be influenced by that interest, or that a reasonable individual would believe that they could be so influenced.
- (2) Public Officials should not be decision-makers and should not participate in any decision-making process if at any time a conflict of interest exists or is likely to arise in the course of the decision-making process, unless the conflict has been dealt with conclusively and satisfactorily.
- (3) Internal or external specialist support or advisors to the Procurement (including legal, financial and probity) may have conflicts of interest. Also, the firms they work for will be engaged on a variety of projects with a range of clients. These persons should make a written declaration of any conflicts of interests prior to taking part in the Procurement.
- (4) As soon as a person becomes aware that they may have a conflict of interest, or if any person is concerned about another person's conflict of interest, they should write to the officer noted in a probity plan or other internal document outlining the conflict of interest process to inform them of the details of the matter.
- (5) All Procurement Personnel should complete the **Conflict of Interest Disclosure** in **Attachment 2** to this Probity Statement.
- (6) All Procurement Personnel who are Contractors and/or not a Public Official should complete the **Deed Poll of Confidentiality and Conflict of Interest** in **Attachment 3** to this

Probity Statement.

- (7) The person against whom a concern as to conflict of interest has been raised should suspend their involvement in the Procurement until advised that it is appropriate to resume involvement.
- (8) A Public Official should be nominated to deal with conflict of interest concerns, having regard to advice, as required, from a Probity Advisor. In this Procurement, that role is discharged by Evaluation Team Chair, or Delegate. It is not appropriate to seek advice in relation to one's own conflict of interest. In those circumstances, the matter should be referred to a more senior Procurement Personnel who is a Public Official.
- (9) Appropriate records should be kept of all declared conflicts of interest raised during the Procurement as well as how they were dealt with.

4.5 Appropriate security and confidentiality arrangements

- (1) The disclosure of Procurement information not otherwise in the public domain, including Supplier information, may prejudice the commercial interests of the Suppliers concerned as well as impact on the bargaining position of the Territory. For this reason, documents and proceedings of the Procurement, including records created by the Evaluation Team will generally have a protective marking of "Official Sensitive". Care should be taken to ensure that any protective markings are appropriate for the relevant document and consistent with the ACT Government Protective Security Policy Framework - Protective Marking Standards.
- (2) Information about the Procurement which does not otherwise have a protective marking is generally considered "Confidential Information". Confidential Information includes all information that:
 - (a) is by its nature confidential,
 - (b) is notified to me as being confidential, or I otherwise know or ought reasonably to know is confidential, or
 - (c) is considered or likely to be considered confidential by the Cabinet of the Australian Capital Territory,
whether in written, digitised, spoken or in any other form, but does not include information which:
 - (d) is or becomes public knowledge other than by an unauthorised disclosure, or
 - (f) has been notified to Procurement Personnel as being not confidential.
- (3) Consistent with any notified Territory procedures applicable to the creation, access, storage and dealing with the confidential information, all measures should be taken to safeguard all records containing Confidential Information, including by:
 - (a) allowing only Procurement Personnel to have access to any confidential information and upon any specific terms notified or approved;
 - (b) keeping confidential information in locked offices or locked filing cabinets when the confidential information is not in use by the Public Official and, if electronically stored, with password and physical protection in place;
 - (c) ensuring that confidential information is not accessed or displayed at times or in places where they could be read by persons who are not Public Officials involved in the Procurement;

- (d) maintaining appropriate measures of security of all information, documents, devices, and systems that contain any confidential information, including the confidentiality of any confidential text in any notifiable contract under part 3 of the Act; and
 - (e) storing and disposing of a record (including original hard copies) only with written authority from the chief executive officer (or their delegate, if relevant) in accordance with any internal processes and otherwise consistent with any Territory legislation for the disposal of records or with other Territory security and disposal instructions.
- (4) A debriefing to an unsuccessful Supplier should focus on that Supplier’s performance against the evaluation criteria and avoid comparisons with any other Suppliers. Information provided at a debriefing should not reveal any information that could compromise the commercial interests of any other Supplier or the ACT Government.
- (5) All Procurement Personnel should complete the **Confidentiality Undertaking** in **Attachment 2** to this Probity Statement.
- (6) All Procurement Personnel who are Contractors and/or not a Public Official should complete the **Deed Poll of Confidentiality and Conflict of Interest** in **Attachment 3** to this Probity Statement.

APPENDICES AND ATTACHMENTS:

Appendix A – Probity Principles

Appendix B – Probity Risk Assessment Checklist

Attachment 1 – Probity Notice

Attachment 2 - Confidentiality Undertaking

Attachment 3 - Deed Poll of Confidentiality and Conflict of Interest

Attachment 4 - Conflict of Interest Disclosure

Attachment 5 - Communication Protocol



Request to Advertise Approach to Market

Note: Allow up to **two working days** for the release of Approach to Market (ATM) on Tenders ACT

It is the MPC Project Officer's responsibility to ensure all appropriate checks and authorisations have been obtained before advertising this ATM. This includes, but is not limited to, Government Procurement Board sign off, appropriate Delegate sign off and MPC Operational Protocols. Complete, approved **documents** ready for release must be provided at the time of submitting this form.

Please send this form and all documents, as listed in the Documents for Release table to TendersACT@act.gov.au.

1.0 General Details

ATM Number:	52110-100/NCDRP	Objective ID:	
Project/Tender Title¹:	NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY UNDER A PANEL ARRANGEMENT		
Funding Directorate:	Environment and Planning Directorate		
Request Type:	Request for Tender (RFT)		
Description of Tender²:	The purpose of this RFT is to select one or more preferred Tenderers to be appointed to a panel of suitably qualified suppliers to provide design review advice as a selected member of a National Capital Design Review Panel (the Panel) as requested by the Territory from time to time. Submissions will be accepted from individuals and corporate entities.		
Branch:	Commercial Infrastructure		
Anticipated Value: (Will not be Published)	\$407,000		
Preferred Release Date: (Allow for up to 48 hours processing time)	23/07/2024	Preferred Release Time:	9:00 AM
Closing Date:³	2:00 PM 19/08/2024		
Primary Prequalification Category: (If applicable)			
Secondary Prequalification Category: (If applicable)			
Invitation Process	No, this is not an Invitation Only process		
Confidential Information⁴	N/A		
Invitation List⁵: (If applicable)			

If you identify any opportunities for improvement while following this process, please email your suggestions to MPCPMO@act.gov.au for consideration when the document is next reviewed.

Public Listing Type⁶

Public Listing - Alphabetical

1.1 UNSPSC Codes

UNSPC codes are used for reporting by the Territory and by MPC.

UNSPSC Codes⁷: Please select the UNSPSC Codes most applicable to the process. You can add up to three codes and must assign a weighting to each.	Code 1: Building & Construction & Maintenance Services (72000000)	Weighting: 100 %
	Code 2: Select the appropriate UNSPSC code from list	Weighting: Enter weighting %
	Code 3: Select the appropriate UNSPSC code from list	Weighting: Enter weighting %

2.0 Secure Local Jobs

Does Secure Local Jobs apply to this ATM?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Is this procurement for any of the following categories: <input type="checkbox"/> Construction <input type="checkbox"/> Security <input type="checkbox"/> Traffic Control <input type="checkbox"/> Cleaning If Yes, select the applicable category. Secure Local Jobs applies to the above categories.
Have you ensured this ATM complies with the Secure Local Jobs requirements?	<input type="checkbox"/> Secure Local Jobs Code Certificate <input type="checkbox"/> Labour Relations Training and Workplace Equity Plan attached (applicable template) <input type="checkbox"/> Secure Local Jobs evaluation criteria inserted in ATM <input type="checkbox"/> Secure Local Jobs model contract clauses inserted in Draft Contract <input type="checkbox"/> Understand that quarterly contract reporting to the Secure Local Jobs Registrar will be required <input checked="" type="checkbox"/> Not applicable

3.0 Building Code 2016

Does the Code for Tendering and Performance of Building Work 2016 apply to this ATM?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Advertisement notified tenderers that the Building Code 2016 applies
---	--

4.0 Briefing Details

If addition briefing is required copy and paste the below box

4.1 Primary Briefing

Briefing / Site Visit:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Briefing / Site Visit Type:	<input type="checkbox"/> Briefing <input type="checkbox"/> Site Visit <input type="checkbox"/> Mandatory <input type="checkbox"/> non-Mandatory

Briefing Title:			
Briefing Date:	Select the briefing date	Briefing Time:	Enter the briefing time
Briefing Location⁸:			
Briefing Description⁹:			

5.0 Contact Details

Please complete the below filling in the contact details for your project.

5.1 Contact Officer¹⁰

Name:	Panama Leaver
Position:	Assistant Director, Design Services and Government Architect, EPSDD
Email Address:	panama.leaver@act.gov.au
Phone Number:	6205 5390
Mobile: (If applicable)	

5.2 Alternative Officer¹¹


Name:	Adam Azzopardi
Position:	Director, Design Services and Government Architect, EPSDD
Email Address:	adam.azzopardi@act.gov.au
Phone Number:	6207 3541
Mobile: (If applicable)	

6.0 Evaluation Team

Please fill out the **full names** (as displayed in Outlook) of the evaluation team in the below section to allow the Tenders ACT Team to set up security access to the secure W Drive network folders for use during the evaluation process. Please note when setting up team members for either Education or Health these may take up to one week to process through ICT.

Sch 2.2(a)(xvi)

7.0 Approvals

Officer with Authority signature:	
Officer with Authority Name	Ben Green
Date	22/04/2024 25/6/24

8.0 Documents for Release

List all documents for release in the table below ensuring the title of each document is logical and helpful to potential tenderers. These documents must align with the documents listed in the RFT documentation. The title must also comply with the requirement to include the ATM number. (e.g., 30026-RFT-110, 30026-SOR-110).

Number of documents	Document Title
1.	RFT 52110-100 National Capital Design Review Consultancy
2.	Appendix A – NCDRP - Terms-of-Reference
3.	Appendix B – NCDRP - Design-Principles-for-the-ACT
4.	Appendix C – NCDRP - Practitioners-Guide
5.	Appendix D - NCDRP - Industry Briefing
6.	Appendix E – NCDRP - Draft Services Panel Deed
7.	
8.	
9.	

Issue date	Position	Details
Sep 2019	-	-
Aug 2022	EBM PMO	Removal of references to Infrastructure Delivery Partners and changed to Major Projects Canberra. Addition of Designated Project options in Branch dropdown. Addition of 'no' or 'not applicable' to SLJC and Building Code questions.
Oct 2022	EBM PMO	Removal of technical enquiries table and changed project officer to communications officer under Contact Details. Added documents for release table. Moved form to new template.

¹ Enter a brief but meaningful title for the ATM

² Enter a brief but meaningful description for the ATM

³ All Procurement, Infrastructure ATMs must close on a Tuesday or Thursday. As per Australian Standard Code of tendering AS4120-1994, which states: Section 6.4 Closing of tenders NOT earlier than 2.00 pm. NOT on a Monday or day following a Public Holiday. At least one week after the recognised industry Christmas shut down.

⁴ Does the ATM include sensitive or confidential information that requires the use of a deed of confidentiality

⁵ Enter the details of the invited Tenderers including the contact name, business name, email address and phone number

⁶ If the MPC Project Officer wishes to have the list of tenderers displayed in any format other than Alphabetical, it is the Project Officers responsibility to provide the list and order to the Tenders ACT team for publishing, the Tenders ACT team is not responsible for this.

⁷ 72x includes the construction and associated support services of assets compromised of commercial, transport, public, utility, education, hospital, and sports building. In general, this will cover all capital works delivered by MPC

⁸ Enter the full street address for the briefing

⁹ Enter a brief but meaningful description of the briefing

¹⁰ This could either be the communications officer or the evaluation team facilitator

¹¹ The alternative officer is provided in the circumstance where the contact officer cannot be reached.

¹² Only list members of the evaluation team here

REQUEST FOR TENDER NO. 52110-100



PROJECT MANAGEMENT AGREEMENT SERVICES FOR

NATIONAL CAPITAL DESIGN REVIEW CONSULTANCY UNDER A PANEL ARRANGEMENT ON BEHALF OF THE ENVIRONMENT, PLANNING AND SUSTAINABLE DEVELOPMENT DIRECTORATE

Tenders ACT will direct all enquiries to the contact officer for this procurement.

ISSUE DATE: **XXX MAY 2024**

INDUSTRY BRIEFING/SITE INSPECTION DATE: **NOT APPLICABLE**

CLOSING DATE: **XXX JUNE 2024**

CLOSING TIME: 2:00PM CANBERRA TIME

IMPORTANT NOTICE:

TENDERS MUST BE LODGED ELECTRONICALLY THROUGH TENDERS ACT

All enquiries should be directed to Tenders ACT at TendersACT@act.gov.au

We wish to acknowledge the Ngunnawal people as traditional custodians of the land we are meeting on and recognise any other people or families with connection to the lands of the ACT and region. We wish to acknowledge and respect their continuing culture and the contribution they make to the life of this city and this region.

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1. INFORMATION FOR TENDERERS

1.1 Standard Conditions of Tender

- 1.1.1. Tenderers must read this Request for Tender (RFT) in conjunction with the *Standard Conditions of Tender – Construction*, which Tenderers may download from the *Major Projects Canberra website > Supplying to Government > Construction related documents and supporting information*.
- 1.1.2. To the extent of any inconsistency between this RFT and the Standard Conditions of Tender this RFT prevails.

1.2 Interpretation

- 1.2.1. Returnable schedules and Attachments to this RFT form part of the RFT.
- 1.2.2. In addition to any definitions set out in the Standard Conditions some terms are defined in this RFT by including the defined term in brackets and bolded following the definition.

2. REQUIREMENT

- 2.1.1. The purpose of this RFT is to select one or more preferred Tenderers to be appointed to a panel of suitably qualified suppliers to provide design review advice as a selected member of a National Capital Design Review Panel (the Panel) as requested by the Territory from time to time. Submissions will be accepted from individuals and corporate entities. Submissions by corporate entities are to nominate each individual and address the evaluation criteria based on the nominated individual's experience. Corporate entities will not be able to replace a nominated individual with another representative from their organisation.
- 2.1.2. Panel Categories. The Panel will be broken down into categories of service within the Panel that align to areas of design expertise. The Territory reserves the right to alter the composition of categories based on tender submissions received through this procurement process.
- 2.1.3. Tenderers can respond to one or more of the categories. Each category will require an individual response (further details are available in the attached template).
- 2.1.4. 2.2.3. Five (5) categories are nominated under this RFT:

Category 1: Architecture

Category 2: Landscape Architecture

Category 3: Urban Planning

Category 4: Urban Design

Category 5: Specialist Expertise

- 2.1.5. Category 5 comprises areas of expertise that fall outside the above categories, or that tenderers want separate recognition of, including but not limited to Heritage, Transport Infrastructure, Sustainability, Civil Engineering, Master Planning, Health and Education. This category also includes nomination for position as a stand-in Chairperson.
- 2.1.6. **Further Information.** The purpose of this RFT is not to allocate work or award contracts for specific services.
- 2.1.7. There will be an unspecified number of members of the Panel with a distribution of members across the five categories. During the life of the Panel, this number may be adjusted to reflect the requirements of the Territory.
- 2.1.8. Panel members will be required to maintain any required registrations and qualifications during the life of the Panel.
- 2.1.9. The requirement is as more fully set out in **Attachment 1**

3. ASSESSMENT

3.1 Evaluation methodology

- 3.1.1. In evaluating Tenders the Territory has as its objective the attainment of best value for money and not necessarily the lowest tendered price (if prices are sought under this RFT).
- 3.1.2. Apart from the conformity with the requirements of this RFT, the Territory will evaluate Tenders in accordance with the Assessment Criteria outlined below.
- 3.1.3. Tenderers may be requested by the evaluation team chair to attend a post-tender interview to demonstrate their ability to meet the below criteria at a suitable date as determined by the evaluation team Chair. All documentation presented and minutes of the interview may be kept.

3.2 Threshold Assessment Criteria

No.	Threshold Assessment Criteria	Yes/No
TC1	<p>Qualification</p> <p>Submissions must be made by individuals with qualifications or registrations recognised in Australia in the fields of architecture, urban design, landscape architecture, urban planning or similar as appropriate to the field of expertise.</p> <p>Tenderers are to supply evidence of suitable registration and/or qualification.</p>	
TC2	Ethical Suppliers Declaration - Tender	

No.	Threshold Assessment Criteria	Yes/No
	<p>Tenderers are to complete and submit an Ethical Suppliers Declaration – Tender in the form of ATTACHMENT 4</p> <p>The contents of the Declaration and, without limitation to any other part of the Tender, any other information made available to the Territory referable to the work health and safety and employment and industrial relations performance and record of the Tenderer and any Associated Entity of the Tenderer (as defined in the Declaration) may be considered by the Territory as part of its assessment of Tenders.</p>	
TC3	<p>Terms of Reference</p> <p>Tenderers are to acknowledge and accept the Terms of Reference provided in ATTACHMENT 1.</p>	

3.2.1. Tenderers that do not meet the above threshold Assessment Criteria may be regarded as non-conforming and may not be considered for further assessment against remaining Assessment Criteria.

3.3 Weighted Assessment Criteria

3.3.1 The Territory will assess Tenders against the following weighted Assessment Criteria.

3.3.2 At the conclusion of the assessment of the weighted Assessment Criteria Tenders will be assigned a numerical score based on assessed risk and weighting of each weighted Assessment Criteria.

No.	Weighted Assessment Criteria	Weighting
WC1	<p>Demonstrated Experience</p> <p><u>In no more than 4 singles sided A4 pages</u>, provide and describe experience relevant to the nominated category addressing:</p> <ul style="list-style-type: none"> a) The Tenderer’s experience in critical review of design and providing objective and constructive feedback on complex design issues; and b) The Tenderer’s contribution to industry (by way of project work or other) that supports their capability to be considered for a Panel position; and c) Provide up to three referees that may be contacted with regards to the Tenderer’s suitability for this role. 	45

No.	Weighted Assessment Criteria	Weighting
	Note: Tenderer's are to respond to this criterion as outlined above and the submission of resumes or CVs is not required.	
WC2	<p>ACT Planning Framework</p> <p>In no more than 3 single sided A4 pages, provide and describe an understanding of the policy framework relevant to planning and project delivery in the ACT, including awareness of the roles of the ACT Environment, Planning, and Sustainable Development Directorate, National Capital Authority, City Renewal Authority and Transport Canberra and City Services</p>	15
WC3	<p>Communication Skills</p> <p>In no more than 3 single sided A4 pages, Provide and describe the following:</p> <ul style="list-style-type: none"> a) demonstrate an ability to engage and communicate complex and detailed design issues; and b) demonstrate an ability to provide constructive guidance in a positive and articulate way. 	20
WC4	<p>Availability</p> <p>Provide a statement of availability allowing for travel (as required) to Canberra, and dedicate sufficient time to preparation, review, and follow up.</p>	15
WC4	<p>Local Industry Participation</p> <p>The Territory will assess the extent to which the Tenderer has demonstrated that it will ensure capable local businesses are given full, fair and reasonable opportunity to participate in the provision of the Works during the term of the proposed contract.</p> <p>Tenderers must complete and submit an Economic Contribution Test (ECT). If tenderers are also required to submit a LRTWE the ECT is included in the applicable LRTWE template (projects with a value between \$200,000 and \$5million) referenced in Part A. If Secure Local Jobs does not apply complete the form available at https://www.procurement.act.gov.au/_data/assets/pdf_file/0007/1391974/CBR-Region-LIPP-ECT-\$200k-\$5m.pdf</p>	5

3.3.3 Notwithstanding any other term of this RFT or Standard Conditions, the Territory may make enquiries of referees.

3.4 Non-weighted Assessment Criteria

3.4.1 The Territory will take into account in its assessment the following non-weighted Assessment Criteria.

No.	Non-weighted Assessment Criteria
NWC1	<p>Insurance Tenderers are to provide evidence of the following insurances: Tenderers are to provide evidence of the following insurances:</p> <p>Public Liability (PL) \$10 million</p> <p>Professional Liability (PI) \$5 million</p> <p>Tenderers are advised that in the event that a tenderer does not hold a PL and/ or PI policy they are encouraged to submit a tender. If successful, a tenderer who does not hold PL or PI may be considered for certain categories of work commensurate with the risk and nature of the required services and will be covered through the Territory’s self-insurance arrangements under the <i>ACT Insurance Authority Act 2005</i>.</p>

3.5 Overall Assessment of Value for money

3.5.1 Following the evaluation of Tenders against the Assessment Criteria the Territory may undertake a value for money assessment of all Tenders, including taking into account:

- (1) risk (which may include, without limitation, financial risk and risk arising as a result of the Tender being assessed as an unacceptably high risk against any Assessment Criteria);
- (2) the results of the evaluation against the Assessment Criteria;
- (3) whole of life (WOL) costs; and
- (4) any other matter set out in, or relevant to, the *Government Procurement Act 2001 (ACT)*.

3.6 Assessment timetable

3.6.1 The proposed timetable for the procurement process relating to this RFT is:

RFT advertised	As per front cover
RFT closes	As per front cover
Panel Deeds Awarded	August 2024
Debrief unsuccessful Tenderers	August 2024

4 CONTRACT REQUIREMENTS

4.1 Form of contract

4.1.1 The form of document expected to be used to appoint preferred Tenderers to the Panel is a Work Order from the **Panel Deed at Appendix F**. The Territory reserves the right in its total discretion to alter provisions of the deed and the form of deed if an alternative is determined to be more appropriate.

4.2 Term

4.2.2 Each panel deed is expected to be for an initial period of (3) years, with provision for up to one (1) extension of (1) year. The maximum period of each deed will be (4) years.

4.3 Notifiable Contracts

4.3.1 As the value of work provided by suppliers may exceed \$25,000, the public text of all panel deeds and/or the work orders/contracts entered into under the terms of the panel deeds will be made available on the ACT Government Contracts Register. Refer <https://tenders.act.gov.au/ets/contract/list.do?action=contract-search&sel=contractssearch>.

4.3.2 Tenderers are advised that, from 1 July 2015, the ACT Government will be publishing relevant information about invoices it has paid for goods, services or works it has received. Invoices with a value of \$25,000 or more will be known as “Notifiable Invoices” and information about the invoices will be published on the “Notifiable Invoices Register” located on the procurement website <https://www.procurement.act.gov.au/registers/act-government-notifiable-invoices-register>.

4.4 Insurance

4.4.1 Without limiting the insurance that is required to be held by the successful Tenderer by law (e.g. workers’ compensation insurance) or under contract with the Territory (including any contract entered into pursuant to the panel deed), the successful Tenderer(s) will be required to take out and maintain for the term of the panel deed:

- (1) public liability insurance with coverage in the amount of not less than \$10 million in respect of each occurrence; and
- (2) professional indemnity insurance with coverage in the amount of \$5 million in the annual aggregate;

4.4.2 In the event that a Tenderer does not hold the required insurances for the minimum nominated amounts the Territory requires, they may be considered for certain categories of work commensurate with the risk and nature of the required services and will be covered through the Territory’s self-insurance arrangements under the ACT Insurance Authority Act 2005.

4.4.3 If requested by the Territory, Tenderers must produce evidence of insurance as required by the Territory, including prior to entering into any deed/contract.

4.5 Panel Arrangements

- 4.5.1 The Panel will be solely for the purposes of the National Capital Design Review Panel and accessible by the Environment, Planning and Sustainable Development Directorate or Major Projects Canberra.
- 4.5.2 It is expected the Territory will appoint an unspecified number of members to this Panel with a distribution of members across the five categories. However, the Territory may appoint more or less members at its absolute discretion.
- 4.5.3 The Panel will be non-exclusive. The Territory may, during the term and in its absolute discretion choose to engage third parties to provide services similar to the services.
- 4.5.4 The Panel will be an open panel. The Territory may, during the Term and in its absolute discretion:
- (1) choose to appoint other persons to the Panel; and
 - (2) choose the method or methods by which other persons will be appointed to the Panel.
- 4.5.5 The Territory does not guarantee, warrant or otherwise represent that any:
- (1) business or minimum value of business; or
 - (2) minimum volume of services;
- will be contracted to, earned or received by Panel members.

4.6 Method of work allocation

- 4.6.1 From time to time the Territory may issue to one or more panel members a request detailing Services required. The Territory may (but is not required to) use a competitive process in selecting a Panel member to provide Services.
- 4.6.2 The selection of Panel member(s) to receive a particular request will be at the Territory's discretion.
- 4.6.3 In assessing a Panel member's response to a request, the Territory will take into account any matters set out in the request, and may also take the following considerations into account:
- (1) the quoted price and value for money (noting pricing must not exceed tendered prices)
 - (2) past performance
 - (3) proposed methodology
 - (4) the capacity and availability of Panel member's resources (including availability of any special

- equipment, expertise or products required)
 - (5) areas of speciality
 - (6) an absence or presence of any conflicts of interest
 - (7) the ability to respond and complete performance of the work within the required timeframe (including in light of its current workloads
 - (8) observance of Territory policy
 - (9) evidence of current prequalification, certification and/or registration as required by the Territory.
- 4.6.4 The Territory will notify the relevant Panel member(s) of the form of contract that will be used to document the parties' arrangement in respect of any particular request.

4.7 Subcontractors not approved

Acceptance of a Tender by the Territory does not constitute an approval of a proposed subcontractor or subcontracted work.

4.8 Adjustment

- 4.8.1 The fee structure outlined in **ATTACHMENT 2** will be fixed until such time that the Territory in its absolute discretion reviews the Pricing Information ("Review Date"). The pricing will be adjusted from the relevant Review Date in accordance with CPI and may be further increased at the absolute discretion of the Territory such that the Pricing Information remains consistent with the pricing adopted by other jurisdictions within Australia. Refer Panel Deed Schedule 3 for further details regarding Price Adjustment.

5 ADDITIONAL CONDITIONS OF TENDER

5.1 Local Industry Participation

The ACT Government is committed to ensuring competitive local businesses are given every opportunity to compete for government contracts. The Canberra Region Local Industry Participation Policy (**LIPP**) sets out the process and requirements for ensuring opportunities for local industry participation in Territory procurements. The LIPP aims to promote the development and growth of the broader Canberra Region economy to support local businesses capabilities and ultimately support more local jobs. Tenderers should inform themselves about the requirements of the LIPP by reviewing the policy which can be accessed on the Procurement ACT website <https://www.procurement.act.gov.au/canberra-region-lipp>. refer to the relevant weighted Assessment Criterion, above.

5.2 Secure Local Jobs Code

Secure Local Jobs strengthens the ACT Government’s procurement practices, so its contracts are only awarded to businesses that meet high ethical and labour standards. The requirements create fairer procurement processes for ethical employers whilst holding to account business not meeting their industrial and legal obligations. Tenderers should inform themselves about the requirements of Secure Local Jobs, including the procurements to which it applies, by reviewing the policy which can be accessed on the Procurement ACT website.

5.3 Secure Local Jobs Code Certification

Not Used

5.4 Project Management and Reporting System

The Contractor will be required to utilise the Government’s Project Management and Reporting System (**PMARS**). PMARS will facilitate the transmission of technical and commercial information through an internet interface, including management of documentation and invoicing. The interface does not require the installation of software or electronic integration. The Contractor will be fully supported in transitioning to PMARS and will also have access to a helpline and user support through the life of the contract(s). For further information visit Major Projects Canberra at: <https://www.act.gov.au/majorprojectscanberra/procurement/pmars>

5.5 Financial information

The Territory may at its discretion require the preferred Tenderer(s) (or any subsequently preferred Tenderer(s)) to submit additional information for the purpose of the Territory assessing the preferred Tenderer(s)’ financial capacity and viability.

5.6 Security of documents

Not Used

5.7 Construction Industry Compliance

Not used.

5.8 Industry Briefing

Industry Briefing material can be found at Appendix E - NCDRP - Industry Briefing Material. There will be no separate Territory lead Industry Briefing.

5.9 Prequalification

Not Used.

5.10 Qualifications, Training and Knowledge

The preferred Tenderer will be required to ensure that all employees are adequately supervised to ensure that all services are delivered in accordance with the requirements of the panel deed, relevant Contract, and any relevant legislation and Australian Standards.

5.11 Amendments to the Standard Conditions

5.11.1 Tenders must remain valid for 120 days.

5.11.2 The Territory will receive questions from Tenderers up to 72 hours prior to the close of Tenders.

5.11.3 The Territory will not accept alternative Tenders.

5.11.4 The Territory will not accept Joint Bids.

6 TENDERER DECLARATION

6.1.1 Tenderers must complete and submit with their Tenders the Tenderer Declaration in the form provided at the relevant **ATTACHMENT 3** to this RFT.

6.1.2 The Tenderer must be a legal entity and must provide, if the Tenderer is:

- (1) a corporation, the registered name of the corporation, address of its registered office, address of its principal place of business and its ACN;
- (2) a person, the name in full and address of the person;
- (3) a partnership, the name in full and the address of each member of the partnership, the trading name of the partnership, and its ABN.

6.1.3 Failure to submit the completed Tenderer Declaration or to supply required information (unless information is specified by a Tenderer to be “Not Applicable”) may render a Tender non-conforming.

7 CONFIDENTIAL TEXT

7.1.1 Tenderers are requested to submit with their Tender a form substantially in the form of the relevant **ATTACHMENT 5** if it wishes to specify any information it believes is confidential in accordance with and for the purposes specified in the Standard Conditions.

7.1.2 The Territory will be entitled to assume the Tenderer does not believe any information is confidential for the purposes of the Standard Conditions if the Tenderer does not submit a form substantially in the form of the relevant **ATTACHMENT 5**.

8 LODGEMENT OF TENDERS

- 8.1.1 Tenders must be lodged electronically via Tenders ACT. A Tender lodged by any other means including by hand, facsimile or email will be considered non-conforming.
- 8.1.2 Tenderers must register on Tenders ACT in order to lodge a Tender.
- 8.1.3 Tender files must comply with the requirements (including size and naming conventions) for lodgement set out in the Standard Conditions. It is the responsibility of the Tenderer to familiarise itself with, and comply with, those requirements.
- 8.1.4 Tendered files must not exceed 100MB and must be, as applicable, in the following formats:
- (1) PDF; and/or
 - (2) Microsoft Word; and/or
 - (3) Microsoft Excel; and/or
 - (4) AutoCAD (dwg); and/or
- 8.1.6 All enquiries in relation to this RFT must be directed in writing to Tenders ACT at TendersACT@act.gov.au.
- 8.1.7 All queries and requests for technical or operational support should be directed to:
- Tenders ACT Team
Telephone: 02 6207 7377
- International: +61 2 6207 7377
Email: TendersACT@act.gov.au
- 8.1.8 The Tenders ACT Team is available between 9 am and 5pm ACT local time, Monday to Friday (excluding ACT and national public holidays).
- 8.1.9 Below is a list of actions and/or information that Tenderers should review prior to submitting their Tender. This list may not be complete and Tenderers should rely on their own inspection of the Standard Conditions and this RFT.

<input type="checkbox"/>	Tender submitted on time
<input type="checkbox"/>	All Assessment Criteria addressed
<input type="checkbox"/>	Completed and signed Tenderer Declaration – Attachment 3
<input type="checkbox"/>	Completed Pricing Schedule – Attachment 2

<input type="checkbox"/>	Completed draft program
<input type="checkbox"/>	Completed Confidential Text Schedule (if the Tenderer wishes to specify any confidential text)
<input type="checkbox"/>	Economic Contribution Text or Local Industry Participation Plan (as applicable)
<input type="checkbox"/>	Secure Local Jobs Code Certificate (as applicable)
<input type="checkbox"/>	Labour Relations, Training and Workplace Equity Plan (as applicable)
<input type="checkbox"/>	Completed and signed Ethical Suppliers Declaration – Attachment 4
<input type="checkbox"/>	Insurances

ATTACHMENT 1 – REQUIREMENT

THE FOLLOWING ATTACHED DOCUMENTS OUTLINE THE REQUIREMENTS OF THE NCDRP:

- APPENDIX A - NCDRP – TERMS OF REFERENCE
- APPENDIX B - NCDRP – DESIGN PRINCIPLES OF THE ACT
- APPENDIX C - NCDRP – PRACTITIONERS GUIDE
- APPENDIX D - NCDRP – INDUSTRY BRIEFING MATERIAL

FURTHER INFORMATION ON THE NATIONAL CAPITAL DESIGN REVIEW PANEL, INCLUDING THE DOCUMENTS LISTED ABOVE, CAN BE FOUND AT:

<https://www.planning.act.gov.au/about/national-capital-design-review-panel>

ATTACHMENT 2 – PRICING SCHEDULE

Instructions to Tenderer:

Tenderers are requested to complete and submit with their Tenders this Schedule of Rates by inserting the tendered rates under “**Rate**”, or where Lump Sum appears, by writing the tendered lump sum under “**Amount**”. Where a rate is tendered, insert under “**Amount**” the amount arrived at by multiplying the tendered rate by the quantity. The rates and lump sums tendered shall form part of the panel deed. The correct extended amounts and total shall be used to assess tenders.

All rates and lump sums must include GST.

Item	Fees
TRAVEL	Reimburse for the cost of flights, taxis, public transport and parking (subject to prior agreement). Please note that cost of accommodation is not reimbursed as part of this service unless approved in writing prior to the travel.
PREPARATION	\$137.50* per hour Review of materials prior to the design review panel session. Maximum of 2.5 hours.
HALF DAY	\$660* (1 – 3 hours) Fee includes design review session and comment on the draft Panel’s Advice after the design review panel session/s.
FULL DAY	\$1320* (more than 3 hours) Fee includes review and comment on the draft Panel’s Advice after the design review panel session/s.
ALTERNATIVE CHAIR	\$330* For panel members that are identified as an alternative Chair, the ‘Alternative Chair’ fee can be claimed when performing the role of Chair. The alternative chair fee is additional to the preparation fee and half day or full day fee and travel expenses. This fee includes clearance of a Panel’s Advice.

ATTACHMENT 3 – TENDERER DECLARATION

- (1) I, the undersigned, am authorised on behalf of the Tenderer to provide the information and make the declarations set out in this Tenderer Declaration.
- (2) I/We tender to the Territory for the National Capital Design Review Consultancy panel on behalf of Environment, Planning and Sustainable Development Directorate at the GST-inclusive prices specified in the Tender.
- (3) I/We have provided details of any information I/we wish to be treated as confidential in any resulting contract, in accordance with the Standard Conditions of Tender.
- (4) I/We undertake to provide evidence insurance policies if requested by the Territory.
- (5) I/We undertake to provide financial information if requested by the Territory.
- (6) I/We authorise the Territory to:
 - (a) obtain from any Territory, State or Commonwealth government agency (including any regulatory or law enforcement body, including without limitation WorkSafe ACT) and take into account in the evaluation, information including information about the Tenderer’s performance and/or compliance during any previous or current contracts for similar services as those sought in the RFT;
 - (a) obtain and take into account in its evaluation, information from referees on prior or current projects on which the Tenderer was involved (whether or not the referee was nominated by the Tenderer in its Tender); and
 - (b) provide this Tenderer Declaration to any Commonwealth, State or Territory government agency (including any regulatory or law enforcement body) as evidence of the Tenderer’s consent to allow that agency to release the relevant information, if consent is required.
- (7) I/We have sighted all addenda to this RFT.
- (8) I/We accept (without departure, qualification, amendment, limitation or exclusion) the Contract.
- (9) I/We confirm that I/We have complied with the *National Code of Practice for the Construction Industry* or, if required under this RFT, the *Building Code 2016* in preparing this Tender.
- (10) I/We agree that the Tender is open for acceptance by the Territory for a period of 120 days or such other period as specified in this RFT.
- (11) I/We warrant that in preparing the Tender I/We did not communicate or have any arrangement or arrive at any understanding with any of the other Tenderers to assist Me/Us or another Tenderer prepare a tender, including that we did not engage in any discussion or correspondence concerning the prices included in our Tender, or engage in any collusive tendering with any of the other Tenderers, or any other conduct which in any way reduced or could have the effect of reducing the competitiveness of the tender process for the panel.
- (12) I/We warrant that as at the closing date of Tenders, the Tenderer, its officers, employees, agents, subcontractors, consultants and advisers do not have any actual, potential or perceived conflicts of interest between the interests of the Territory and

the Tenderer other than as specifically disclosed in the Tender and I/We undertake to immediately notify [Tenders ACT](#) of any actual, potential or perceived conflicts of interest that arise before the completion of this procurement process.

<hr/>		AND	<hr/>	
Full Name and / or Name of Company			Trading Name (<i>Business Name</i>) (if different)	
<hr/>		AND	<hr/>	
ACN (Australian Companies Number)			ABN (Australian Business Number)	
<hr/>			<hr/>	
Registered Business Address			Postal Address	
<hr/>			<hr/>	
State	P/Code		State	P/Code
<hr/>	<hr/>		<hr/>	<hr/>
Telephone No	Mobile No	Facsimile No	Email address	
<hr/>	<hr/>	<hr/>	<hr/>	
Name of ACT Professional Standards Scheme (if any)		Upper Limit of capped Professional Indemnity Liability Insurance (if any)		
<hr/>		<hr/>		
Tenderer's Representative		(include telephone number)		
<hr/>		<hr/>		
Position Held by Tenderer's Representative				
<hr/>		<hr/>		
Signature of Director if corporation else Tenderer		Printed Name		
<hr/>		<hr/>		
Date				
<hr/>		<hr/>		
Signature of 2nd Director if corporation else Witness		Printed Name		
<hr/>		<hr/>		

ATTACHMENT 4 – ETHICAL SUPPLIERS DECLARATION - TENDER

STATUTORY DECLARATION

Statutory Declarations Act 1959 (Cth)

I, **[Name, address and occupation of person making declaration]** make the following declaration under the Statutory Declarations Act 1959 (Cth),

1. In this declaration a reference to:
 - a. **“Adverse Ruling”** means a ruling, order, notice (including without limitation any improvement notice or prohibition notice), conviction or finding made or issued by any Authorised Entity.
 - b. **“Authorised Entity”** means any court, tribunal, board, commission, regulatory agency (including without limitation the director-general, commissioner, regulator or any inspector referred to in the Prescribed Legislation) or other entity with jurisdiction to determine employee and industrial relations matters or work health and safety matters to the effect that the Tenderer has contravened the Prescribed Legislation.
 - c. **“Employee”** means a natural person who is employed under a contract of service (excluding professional or information technology services) to provide the Tenderer with his or her labour.
 - d. **“Full Details”** means the details of:
 - (i) the nature of the Adverse Ruling, breach or offence;
 - (ii) the name of the relevant Authorised Entity;
 - (iii) the State or Territory in which the proceeding or prosecution was brought;
 - (iv) the date of the Adverse Ruling was made, or the proceeding or prosecution was commenced and the number or description assigned to the proceeding or prosecution;

- (v) the entity against which the Adverse Ruling, breach or offence was made or issued;
 - (vi) any document setting out the Adverse Ruling, breach or offence (including provision of a copy of the same);
 - (vii) any conviction recorded or adverse finding made in respect of the Adverse Ruling, breach or offence;
 - (viii) any penalty, fine or order imposed by an Authorised Entity in respect of the Adverse Ruling, breach or offence and the maximum penalty, fine or order that could have been imposed under the Prescribed Legislation;
 - (ix) any remedial measures or other actions proposed or recommended by the Authorised Entity and details of steps taken by the Tenderer to comply with those remedial measures or other actions; and
 - (x) the status of the Adverse Ruling, breach or offence as at the date of the declaration.
- e. **“Industrial Instruments”** means an award or agreement, however designated, that is made under or recognised by the Prescribed Legislation.
- f. **“Prescribed Legislation”** means all applicable Acts and subordinate instruments of the Commonwealth and the Territory, which deal with matters relating to industrial relations, employment and/or workplace safety obligations that apply to an entity including (as amended or replaced from time to time) but not limited to:
- (i) *Fair Work Act 2009* (Cth);
 - (ii) *Fair Work (Building Industry) Act 2012* (Cth);
 - (iii) *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth);
 - (iv) *Income Tax Assessment Act 1997* (Cth);
 - (v) *Independent Contractors Act 2006* (Cth);
 - (vi) *Industry Research and Development Act 1986* (Cth);
 - (vii) *Long Service Leave Act 1976* (ACT);
 - (viii) *Long Service Leave (Portable Schemes) Act 2009* (ACT);
 - (ix) *Migration Act 1958* (Cth);
 - (x) *Paid Parental Leave Act 2010* (Cth);
 - (xi) *Payroll Tax Act 2011* (ACT);

- (xii) *Safety, Rehabilitation and Compensation Act 1988* (Cth);
- (xiii) *Superannuation Guarantee (Administration) Act 1992* (Cth);
- (xiv) *Superannuation Guarantee Charge Act 1992* (Cth);
- (xv) *Work Health and Safety Act 2011* (ACT);
- (xvi) *Workers' Compensation Act 1951* (ACT);
- (xvii) *Workplace Gender Equality Act 2012* (Cth).

- g. **“Prescribed Works or Services”** means works or services that require the exertion of labour by Employees.
 - h. **“Secure Local Jobs Code Certificate”** has the meaning given by the *Government Procurement Act 2001*.
 - i. **“Secure Local Jobs Code”** has the meaning given by the *Government Procurement Act 2001*.
 - j. **“Tenderer”** means **[insert full legal name of Tenderer including the ACN/ABN as per that identified in the Tender]**.
 - k. **“Territory-Funded Work”** has the meaning given by the *Government Procurement Act 2001*.
2. I am authorised on behalf of the Tenderer to make this declaration.
 3. The information supplied by the Tenderer with and in its Tender is true and correct. Any further information to be supplied by the Tenderer to enable assessment of its Tender will be true and correct.
 4. The Tenderer is aware that tenderers for Territory-Funded Work must hold a Secure Local Jobs Code Certificate and that once certified tenderers must comply with the Secure Local Jobs Code.
 5. The Tenderer agrees to comply with all applicable Territory policies and legislation referable to Territory-Funded Work and, if the Tenderer is prequalified under a prequalification scheme in the Territory, the WHS Active Certification Policy, if it is the preferred Tenderer.
 6. By submitting a Tender the Tenderer authorises the Territory to:
 - a. obtain from any Territory, State or Commonwealth government agency (including for the avoidance of doubt, any

- regulatory or law enforcement body) and take into account in its evaluation, information, including information about the Tenderer's performance under contracts (whether or not those contracts were with the Territory, State or Commonwealth or another entity and whether or not those contracts were identified by the Tenderer in its Tender);
- b. obtain and take into account in its evaluation, information from referees or other reputable sources on the performance of the Tenderer on projects (whether or not they are identified by the Tenderer in their Tender);
 - c. use any information obtained from any Territory, State or Commonwealth government agency (including for the avoidance of doubt, any regulatory or law enforcement body), referee or other reputable source for any government purposes including, without limitation, assessment of suitability for award of contract;
 - d. provide information about the Tenderer to any Territory, State or Commonwealth government agency, including information provided by the Tenderer and information related to the Tenderer's performance at any time and for any reason;
 - e. provide the name of the Tenderer and this declaration to Unions ACT; and
 - f. provide this declaration to any Territory, State or Commonwealth government agency (including any regulatory or law enforcement body, which includes, without limitation WorkSafe ACT) as evidence of the Tenderer's consent to allow that agency to release information as requested by the Territory to the Territory.
7. The following Industrial Instruments made pursuant to any Prescribed Legislation specifically applies to the Employees of the Tenderer and are binding on it or them.
- [Insert details of Industrial Instruments (this is the award you pay your employees under). If no Employees write "N/A"]**
8. The Tenderer has in the preceding 36 months of the date of this declaration complied with all applicable Industrial

Instruments.

True (delete 8A and initial) Not true (answer 8A) N/A No
Employees (delete 8A)

- 8A. The Tenderer has not complied with the following Industrial Instruments in the following respects.

[Insert full details]

9. The Tenderer has in the preceding 36 months of the date of this declaration complied with all Prescribed Legislation

True (delete 9A and initial) Not true (answer 9A)

- 9A. The Tenderer has not complied with the following Prescribed Legislation.

[Insert Full Details of the failure to comply with Prescribed Legislation]

10. The Tenderer has in the preceding 36 months of the date of this declaration recognised the rights of its Employees to union membership and representation.

True (delete 10A and initial) Not true (answer 10A) N/A No
Employees (delete 10A)

- 10A. The Tenderer has not recognised the rights of Employees to union membership and representation in the following respects.

[Insert Full Details of how the Tenderer has not recognised the rights of Employees to union membership and representation]

11. The Tenderer has in the preceding 36 months of the date of this declaration complied with all amendments to wages and conditions of employment for their Employees as decided by any authorised industrial or wage-setting agency.

True (delete 11A and initial) Not true (answer 11A) N/A No
Employees (delete 11A)

- 11A. The Tenderer has not complied with all amendments to wages and conditions of employment for their Employees as decided by any authorised industrial or wage-setting agency in the following respects:

[Insert Full Details of how the Tenderer has failed to comply with all amendments to wages and conditions of employment]

12. In the preceding 36 months of the date of this declaration there have been no findings against the Tenderer by an Authorised Entity, including a finding of a breach in a non-confidential consent order.

True (delete 12A and initial) Not true (answer 12A)

- 12A. There have been the following findings (Full Details of which are provided) against the Tenderer by an Authorised Entity:

[Set out Full Details of findings]

13. In the preceding 36 months of the date of this declaration there have been no Adverse Rulings under the Prescribed Legislation against the Tenderer.

True (delete 13A and initial) Not true (answer 13A)

- 13A. There have been the following Adverse Rulings under the Prescribed Legislation against the Tenderer:

[Set out Full Details of Adverse Rulings]

14. There are currently no proceedings or prosecutions against the Tenderer in respect of a breach of any Prescribed Legislation.

True (delete 14A and initial) Not true (answer 14A)

- 14A. There are currently the following proceedings or prosecutions against the Tenderer in respect of a breach of Prescribed Legislation.

[Set out Full Details of proceedings or prosecutions]

15. The Tenderer has not been required to implement any remedial measures to ensure future compliance with the Prescribed Legislation.

True (delete 15A and initial)

Not true (answer 15A)

- 15A. The Tenderer has been required to implement the following remedial measures to ensure future compliance with the Prescribed Legislation:

[Set out Full Details of the remedial measures implemented]

16. Below is a complete list of all projects (both completed and current) in the Australian Capital Territory where the Tenderer has had management or control of a project site and on which an audit into any aspect of work health and safety performance or compliance has been conducted in the 36 months prior to the date of this declaration.

[Set out list of projects, or is none "n/a"]

17. I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the Statutory Declarations Act 1959, and I believe that the statements in this declaration are true in every particular.

[Signature of person making the declaration]]

[Print name of person making the declaration]

Declared at [place] on [day] of [month] [year]

Before me:

[Signature of person before whom the declaration is made]

[Full name, qualification and address of person before whom the
declaration is made (in printed letters)]

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years – see section 11 of the Statutory Declarations Act 1959.

Note 2 Chapter 2 of the Criminal Code applies to all offences against the Statutory Declarations Act 1959 – see section 5A of the Statutory Declarations Act 1959.

A statutory declaration under the Statutory Declarations Act 1959 may be made before–

- (1) A person who is currently licensed or registered under a law to practise in one of the following occupations:
- | | | |
|----------------------|----------------------|--------------------|
| Chiropractor | Dentist | Legal practitioner |
| Medical practitioner | Nurse | Optometrist |
| Patent attorney | Pharmacist | Physiotherapist |
| Psychologist | Trade marks attorney | Veterinary surgeon |
- (2) A person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or
- (3) A person who is in the following list:

Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public
Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the Consular Fees Act 1955)
Bailiff

Bank officer with 5 or more continuous years of service

Building society officer with 5 or more years of continuous service

Chief executive officer of a Commonwealth court

Clerk of a court

Commissioner for Affidavits

Commissioner for Declarations

Credit union officer with 5 or more years of continuous service

Employee of the Australian Trade Commission who is:

- (a) in a country or place outside Australia; and
- (b) authorised under paragraph 3 (d) of the Consular Fees Act 1955; and
- (c) exercising his or her function in that place

Employee of the Commonwealth who is:

- (a) in a country or place outside Australia; and
- (b) authorised under paragraph 3 (c) of the Consular Fees Act 1955; and
- (c) exercising his or her function in that place

Fellow of the National Tax Accountants' Association

Finance company officer with 5 or more years of continuous service

Holder of a statutory office not specified in another item in this list

Judge of a court

Justice of the Peace

Magistrate

Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the Marriage Act 1961

Master of a court

Member of Chartered Secretaries Australia

Member of Engineers Australia, other than at the grade of student

Member of the Association of Taxation and Management Accountants

Member of the Australasian Institute of Mining and Metallurgy

RFT 52110-RFP-100 on behalf of the Environment, Planning and Sustainable Development Directorate –
PMA Request for Tender-MPC-PDF

Member of the Australian Defence Force who is:

- (a) an officer; or
- (b) a non-commissioned officer within the meaning of the Defence Force Discipline Act 1982 with 5 or more years of continuous service; or
- (c) a warrant officer within the meaning of that Act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of:

- (a) the Parliament of the Commonwealth; or
- (b) the Parliament of a State; or
- (c) a Territory legislature; or
- (d) a local government authority of a State or Territory

Minister of religion registered under Subdivision A of Division 1 of Part IV of the Marriage Act 1961

Notary public

Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public

Permanent employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority; or
- (c) a local government authority;

with 5 or more years of continuous service who is not specified in another item in this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police officer

Registrar, or Deputy Registrar, of a court

Senior Executive Service employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority

Sheriff

Sheriff's officer

Teacher employed on a full-time basis at a school or tertiary education institution.

ATTACHMENT 5 – CONFIDENTIAL TEXT

The Tenderer is requested to identify in the following format any information provided in the Tender in relation to which the Tenderer would, if that information were included in the Contract, request be confidential text for the purposes of the *Government Procurement Act 2001* (ACT).

Tender Reference	Description of Text	Basis for Tenderer’s Claim (per <i>Government Procurement Act 2001</i> , Section 35)							Reasoning
		35(1)(a)(i)	35(1)(a)(ii)	35(1)(a)(iii)	35(1)(a)(iv)	35(1)(a)(v)	35(1)(a)(v)	35(1)(b)	

ATTACHMENT 6 – SPECIAL CONDITIONS

Item 1. Payment Claims

Payment claims are:

1. To be submitted through PMARS.
2. To be made in favour of the represented Directorate of the Principal being (Environment, Planning and Sustainable Development Directorate, ABN 31 432 729 493) and is to be provided to the Contract Officer. Payment Claims are to be addressed as follows:

Directorate: Environment, Planning and Sustainable Development Directorate

Directorate Representative: Panama Leaver

Directorate Address: GPO Box 158, Canberra City ACT 2601

ATTACHMENT 7 - CONFIDENTIALITY DEED

Not Used



SERVICES PANEL DEED

Date

Parties

AUSTRALIAN CAPITAL TERRITORY

**[INSERT FULL NAME OF
PANEL MEMBER INCLUDING ACN IF
COMPANY OR ABN]**

**NATIONAL CAPITAL DESIGN REVIEW
CONSULTANCY PANEL**

Prepared by

[Insert Directorate]
[Insert Address 1]
[Insert Address 2]
[Insert Address 3]
Ph: [Insert]
Fax: [Insert]
Ref: [INITIALS]:[FILE NO]

Version

[Draft/Final INSERT DATE]
[Template: Services Panel Deed – client version – September 2019]

Note to Respondents:

While this draft comprises the essential terms and conditions under which the Territory anticipates entering into an agreement with the selected respondent, the Territory reserves the right to amend the agreement (including the addition of special conditions) before the agreement is signed.

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PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Territory**) represented by the Environment, Planning and Sustainable Development Directorate

[INSERT FULL NAME, INCLUDING ACN FOR A COMPANY OR ABN FOR OTHER ORGANISATION AND CHECK IT IS A LEGAL ENTITY] of **[INSERT address (of registered office if for a company)]** (**Contractor**).

BACKGROUND

- A. The Territory has undertaken a procurement process to establish a panel of potential contractors which it may invite to respond to requests to deliver Services from time to time.
- B. The Contractor is a member of the panel. The parties are entering into this Deed to acknowledge the appointment of the Contractor to the panel and to set out the terms and conditions of that appointment and for the provision of Services.
- C. From time to time the Territory may purchase and, if selected to provide Services, the Contractor has agreed to provide the Services in accordance with the provisions of this Deed and the relevant work order.

IT IS AGREED by the parties as follows.

1. Interpretation

1.1 Definitions

The following definitions apply in this Deed, unless the context otherwise requires.

- | | |
|--------------------------|--|
| Confidential Text | any text of this Deed that, for the purposes of the Procurement Act, either party proposes should not be published and which is specified in Item 6 Schedule 1 . |
| Contract Material | all material created, written or otherwise brought into existence as part of, or for the purpose of performing the Services including all reports (whether in draft or final form), documents, information and data stored by any means. |
| Contract Officers | in relation to each party, the representatives whose names and contact details are specified in Item 1 Schedule 1 , or as notified from time to time by one party to the other. |

Contract Price	the amount payable to the Contractor for the provision of Services in accordance with this Deed and the relevant Work Order, as specified in, or calculated in accordance with, the relevant Work Order.
Contractor Material	all material owned by the Contractor and used for the purpose of providing the Services, including documents, information and data stored by any means.
Information Privacy Act	the <i>Information Privacy Act 2014</i> (ACT).
Insolvency Event	<p>(1) in respect of a natural person:</p> <ul style="list-style-type: none"> (a) any orders, agreements or arrangements are made in respect of the affairs of the person in accordance with the <i>Bankruptcy Act 1966</i> (Cth); or (b) in the reasonable opinion of the Territory the person is likely to be declared bankrupt or lose control of the management of their financial affairs; or <p>(2) in respect of all other entities:</p> <ul style="list-style-type: none"> (a) any of the events listed in sub-sections 459C(2)(a) to (f) of the <i>Corporations Act 2001</i> (Cth) occur in respect of the entity; or (b) any other event occurs which, in the reasonable opinion of the Territory is likely to result, or has resulted, in the: <ul style="list-style-type: none"> (i) insolvency; (ii) winding up; or (iii) appointment of a controller (as that term is defined in the <i>Corporations Act 2001</i> (Cth)) in respect of part or all of the property, <p style="text-align: center;">of the entity.</p>

For the purposes of subparagraph 2(b), subsections 459C(2)(a) to (f) *Corporations Act 2001*(Cth) are to be read as if applying to all incorporated entities.

Invoice	<p>an invoice that:</p> <ol style="list-style-type: none"> (1) references this Deed and the relevant Work Order; (2) if GST is payable in respect of the provision of the Services, is a valid tax invoice for the purposes of the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth); (3) clearly sets out details of the Services provided and of the amount that is due for payment, is correctly calculated and is in respect of Services that have been performed in accordance with this Deed and the relevant Work Order; (4) is accompanied by any other details or reports required under this Deed or the relevant Work Order; and (5) is rendered at the times specified in the relevant Work Order.
Personal Information	is personal information as defined in section 8 of the Information Privacy Act.
Prescribed Insurer	an insurer that is authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia and rated at AA or better by Standard & Poor's.
Pricing Information	the rates and prices set out in Attachment 2 (if any).
Procurement Act	the <i>Government Procurement Act 2001</i> (ACT).
Services	the services described in Schedule 2 , and the relevant Work Order.
Special Condition	any provision set out in Schedule 3 .
Specified Personnel	any person named in Item 3 Schedule 1 , or any other employee or agent of the Contractor, who is approved by the Territory under clause 9 .
Term	the term specified in Item 2 Schedule 1 , and if extended, the initial term and the extended term.

Territory	<p>when used:</p> <ol style="list-style-type: none"> (1) in a geographical sense, the Australian Capital Territory; and (2) in any other sense, the body politic established by section 7 of the <i>Australian Capital Territory (Self-Government) Act 1988</i> (Cth).
Territory Information	<p>the kind of information that:</p> <ol style="list-style-type: none"> (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential; (2) is notified (whether in writing or not) by the Territory to the Contractor as being confidential; (3) is specified in Item 5 Schedule 1; or (4) is Personal Information, <p>but does not include information that:</p> <ol style="list-style-type: none"> (5) is or becomes public knowledge other than by breach of this Deed; (6) has been independently developed or acquired by the Contractor; or (7) has been notified by the Territory to the Contractor as not being confidential.
Territory Material	any material provided by the Territory to the Contractor for the purposes of this Deed including documents, equipment, information and data stored by any means.
TPPs	the Territory Privacy Principles provided for in section 13 and set out in Schedule 1 of the Information Privacy Act.
TPP Code	a code of practice about information privacy which, having regard to section 21(1) and (3) of the Information Privacy Act, binds an agency that engages the Contractor in the provision of the Services.
Work Order	a written agreement (howsoever named) substantially in the form of Attachment 1 (or such other form as notified by the Territory from time to time) that is

signed by both parties, the terms of which are read with this Deed.

1.2 General

In this Deed, unless a contrary intention is expressed:

- (1) references to “Contractor” include any employees, agents or subcontractors of the Contractor and a reference to “panel” means the panel referred to in the recitals of this Deed;
- (2) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation;
- (3) words in the singular include the plural and vice versa;
- (4) headings are for convenience only and do not affect the construction or interpretation of this Deed;
- (5) an obligation imposed on more than one person binds them jointly and severally; and
- (6) the word “include” and any derivation is not to be construed as a word of limitation.

2. Services

The Contractor must perform the Services in accordance with the provisions of this Deed and the relevant Work Order and to a standard of care, skill and diligence expected of a person who regularly acts in the capacity in which the Contractor is engaged.

3. Term

- (1) This Deed is for the Term unless terminated under the provisions of this Deed or extended for a further period in accordance with clause 3(2).
- (2) The Territory may in its absolute discretion extend the Term by the period specified in Item 2 of Schedule 1. The Territory may provide the Contractor with a notice in writing three (3) months prior to the expiry of the Term of its intention to extend the Term.

4. Appointment to panel

Subject to complying with the terms of this Deed and any Work Orders, the Contractor is appointed to the panel for the Term.

5. No guarantee of business

The Territory does not guarantee, warrant or otherwise represent that any:

- (1) business or minimum value of business; or
- (2) minimum volume of Services,

will be contracted to, earned or received by, the Contractor under this Deed.

6. Panel matters

6.1 Process for provision of Services

From time to time and in accordance with **Schedule 4**, the Territory may invite the Contractor to respond to requests to deliver Services.

6.2 Engagement outside the panel

The Territory may, during the Term and in its absolute discretion, choose to engage third parties to provide services similar to any of the Services.

6.3 Open panel

The Territory may, during the Term and in its absolute discretion:

- (1) choose to appoint other persons to the panel; and
- (2) choose the method or methods by which other persons will be appointed to the panel.

7. Contract Price

7.1 Invoice

The Territory must pay the Contractor the Contract Price following its receipt of an Invoice and otherwise in accordance with the relevant Work Order.

7.2 Incorrect payments

If, after payment, an invoice is found to have been incorrectly rendered, any underpayment or overpayment will be recoverable by or from the Contractor, as the case may be, and, without limiting recourse to other available remedies, may be offset against any amount subsequently due by the Territory to the Contractor under this Deed.

7.3 Right of set-off

If the Territory claims a sum under or arising out of this Deed, or any other agreement between the parties or between the Contractor and any other Territory entity as defined in section 3(1) of the Procurement Act, the Territory may withhold, deduct or set-off the claimed sum against any sum to which the Contractor is otherwise entitled under or arising out of this Deed.

7.4 Effect of payment

Payment, in part or in total, of the Contract Price does not constitute an acceptance by the Territory of the Services and does not amount to a waiver of any right or action which the Territory may have at any time against the Contractor.

8. Ownership and use of material

8.1 Ownership of material

Ownership of:

- (1) all Contract Material, including any intellectual property rights, vests on its creation in the Territory;
- (2) all Territory Material, including any intellectual property rights, remains with the Territory; and
- (3) all Contractor Material, including any intellectual property rights, remains with the Contractor.

8.2 Licence of material

- (1) The Territory grants to the Contractor a royalty-free, limited licence to use the Contract Material and Territory Material for the Term.
- (2) The Contractor grants to the Territory a royalty-free, perpetual, limited licence to use the Contractor Material.
- (3) For the purpose of this clause, “use” includes:
 - (a) such uses as are reasonably necessary for the Territory to obtain the full benefit of the Services, including use of the Contract Material; and
 - (b) such uses as are reasonably necessary for the Contractor to undertake the Services or as otherwise agreed by the Territory,and may include supply, reproduce, publish, perform, communicate, broadcast, adapt and copy as the context requires.

8.3 Third party rights

The Contractor must ensure:

- (1) the use of any Contract Material or Contractor Material will not infringe the intellectual property rights of any third party; and
- (2) no fees, royalties or other payments are payable in respect of any third party rights as a result of the Territory’s (or its agents’) use of any Contract Material or Contractor Material.

8.4 Moral rights

The Contractor must, in relation to the authors of any work that comprises or forms part of the Contract Material:

- (1) use its best endeavours to include in the Contract Material an attribution of those authors; and
- (2) procure from those authors their genuine written consent for the Territory to:
 - (a) attribute the authorship of the work to the Territory or a third party where that attribution was inadvertent;
 - (b) not attribute the authorship of the author when using the work (including exhibiting or performing the work in or to the public); and/or
 - (c) materially alter the work in any way.

8.5 Safekeeping and preservation of material

The Contractor must ensure the safe-keeping and proper preservation of Contract Material and Territory Material in its possession or control and deliver to the Territory all Contract Material and Territory Material on the expiration or termination of this Deed (other than copies of material that the Territory has authorised the Contractor to retain).

8.6 Territory access to records relating to Services

Without limiting the powers of the Territory's Auditor-General under the *Auditor-General Act 1996* (ACT) the Territory (or its nominated representative) may, at its cost, inspect records kept by the Contractor and conduct audits and other checks, to monitor the Contractor's:

- (1) delivery of the Services and compliance with this Deed or any Work Order; and
- (2) financial position, resources and their ability to otherwise continue to deliver the Services for the Term,

and the Contractor must act reasonably to cooperate with persons authorised to conduct an audit or checks and allow the Territory (at the Territory's expense) to take copies of all relevant records.

9. Contractor's personnel

The Contractor must:

- (1) in performing the Services, engage only persons who have the skills, training and expertise appropriate for the Services;

- (2) comply with all reasonable requirements notified by the Territory regarding the suitability and fitness of persons engaged by the Contractor for the performance of Services;
- (3) ensure the Services are performed by Specified Personnel (if any) and provide replacement personnel acceptable to the Territory at no additional charge and at the earliest opportunity if the Specified Personnel are unable to perform any of the Services;
- (4) if the Territory requires, ensure that each person engaged in the performance of the Services executes a deed of confidentiality in a form acceptable to the Territory (including with respect to not accessing or otherwise safeguarding Personal Information as applicable), and provide those executed deeds to the Territory in accordance with any requirements that the Territory notifies; and
- (5) otherwise comply with any requirements in the Work Order in relation to the Contractor's personnel.

10. Non-disclosure of Territory Information

10.1 Contractor's use of Territory Information

The Contractor must:

- (1) use Territory Information held in connection with this Deed only for the purposes of fulfilling its obligations under this Deed or a Work Order;
- (2) not transfer Territory Information held in connection with this Deed outside of Australia or allow any person (other than its authorised personnel) outside of Australia to have access to it, without the prior approval of the Territory;
- (3) notify the Territory immediately if the Contractor becomes aware that a disclosure of Territory Information is required by law, or an unauthorised disclosure of Territory Information has occurred; and
- (4) in respect of any Personal Information held in connection with the Deed:
 - (a) comply with the TPPs and any applicable TPP Code and must not (and must ensure that any subcontractor engaged by the Contractor under this Deed does not) act or engage in a practice that breaches a TPP or a TPP Code; and
 - (b) co-operate with any reasonable requests or directions of the Territory arising directly from, or in connection with, the exercise of the functions of the information privacy commissioner under the Information Privacy Act.

10.2 Contractor to protect Territory Information

- (1) Except as provided in this Deed or a Work Order, the Contractor must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:
 - (a) required or authorised to be disclosed by law,
 - (b) disclosed to the Contractor's solicitors, auditors, insurers or advisers,
 - (c) generally available to the public, or
 - (d) in the possession of the Contractor without restriction in relation to disclosure before the date of receipt from the Territory.
- (2) The Contractor must take all reasonable measures to ensure that Territory Information accessed or held by it in connection with this Deed is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose and that only its authorised personnel have access to Territory Information.
- (3) The Contractor must do all things necessary to ensure that Territory Information accessible to the Contractor and the Contractor's personnel by virtue of the performance of this Deed is not accessed, published or communicated in any way, including imposing upon the Contractor's personnel obligations of confidentiality with respect to Territory Information.

10.3 Acknowledgement of effect of Crimes Act

The Contractor acknowledges that the publication or communication of any fact or document by a person which has come to its knowledge or into its possession or custody by virtue of the performance of this Deed (other than to a person to whom the Contractor is authorised to publish or disclose the fact or document) may be an offence under section 153 of the *Crimes Act 1900* (ACT).

11. Confidential Text under Procurement Act

11.1 Territory may make Deed publicly available

In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Deed and/or a Work Order may be a notifiable contract under the Procurement Act and, if so, the Territory will be required to make the text of this Deed and/or the relevant Work Orders available to the public, including by publication on a public contracts register.

11.2 Confidential Text

- (1) If **Item 6 Schedule 1** states that this Deed is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in **Item 7 Schedule 1**, and **clause 11.3** applies.
- (2) If a Work Order states that the Work Order is a notifiable contract under the Procurement Act and specifies Confidential Text, the grounds on which the text is confidential are set out in the Work Order and **clause 11.3** applies.

11.3 Territory must not disclose Confidential Text

Except as provided in this Deed or a Work Order, the Territory must not disclose Confidential Text to any person without the prior written consent of the Contractor (which consent will not be unreasonably withheld) except to the extent that Confidential Text:

- (1) is required or authorised to be disclosed under law;
- (2) is reasonably necessary for the enforcement of the criminal law;
- (3) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- (4) is generally available to the public;
- (5) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;
- (6) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- (7) is disclosed to the ombudsman or for a purpose in relation to the protection of public revenue.

12. Secure Local Jobs

Not Used

13. Insurance and indemnity

13.1 Contractor's insurance

The Contractor must effect and maintain for the Term all insurance coverage required to be effected by it by law, public liability insurance and professional indemnity insurance in amounts not less than the amounts (if any) specified by **Item 4 Schedule 1**, and any other insurance specified in **Item 4 Schedule 1**, with a Prescribed Insurer.

13.2 Indemnity

The Contractor indemnifies the Territory, its employees and agents against liability in respect of all claims, costs and expenses in relation to all loss, damage, injury or death to persons or property caused by the Contractor, in connection with the provision of the Services, except to the extent that the Territory caused the relevant loss, damage or injury.

13.3 Claims to be made good

The Contractor must, at its expense, make good the amount of all claims, loss, damage, costs and expenses the subject of the indemnity in **clause 13.2** and the Territory may deduct the amount, or any part of it, from any moneys due or becoming due to the Contractor under this Deed.

14. Termination

14.1 Default

- (1) The Territory may terminate this Deed and/or any Work Order, or suspend the Contractor's status as a member of the panel at any time by notice to the Contractor, if the Contractor:
 - (a) is the subject of an Insolvency Event;
 - (b) fails to commence regular and timely provision of the Services under this Deed or under a Work Order, or fails to meet any prescribed timeframes; or
 - (c) is in breach of a provision of this Deed or of a Work Order, where that breach:
 - (i) if capable of being remedied, is not remedied within the period specified in a notice by the Territory, or
 - (ii) is not capable of being remedied, or
 - (iii) in the Territory's absolute opinion is a serious breach.
- (2) In the event the Contractor is suspended from the panel the Contractor:
 - (a) is ineligible to receive draft Work Orders for the period of the suspension; and
 - (b) must continue providing Services under any current Work Order, unless otherwise terminated in accordance with this Deed or the relevant Work Order.
- (3) In the event this Deed is terminated or the Contractor is suspended from the panel by the Territory under this **clause 14.1**, any then current Work Order may be terminated by the Territory in its absolute discretion, by written notice to the Contractor. For the purposes of the relevant Work Order, the Territory's right to terminate is deemed to arise on the basis

of the Contractor's default.

- (4) When determining whether a serious breach has occurred the Territory may, but is not limited to, consider such matters as:
 - (a) the number of instances of failure or breach;
 - (b) whether remedial measures taken by the Contractor are commensurate with the failure or breach and in the reasonable opinion of the Territory, can be expected to prevent such failure or breach from recurring; and
 - (c) whether the Territory is otherwise satisfied that the Contractor has shown good cause why panel status should not be suspended or this Deed terminated (as the case may be).
- (5) If the Contractor is suspended from the Panel, the Territory may place such condition on its reinstatement to the Panel as it considers appropriate in the circumstances.

14.2 Termination of Deed for any reason

The Territory may, at any time by notice to the Contractor, terminate this Deed for any reason and in that event:

- (1) any then current Work Order may also be terminated by the Territory, in its absolute discretion, by written notice to the Contractor;
- (2) the Territory will be liable only for:
 - (a) payments for Services rendered before the date of termination; and
 - (b) subject to **clause 14.2(3)** any reasonable costs incurred by the Contractor and directly attributable to the termination of Services, but not in respect of loss of prospective profits; and
- (3) the Contractor must:
 - (a) stop work as specified in the notice; and
 - (b) take all available steps to minimise loss resulting from that termination.

14.3 Termination of Work Order for any reason or reduction of Services

The Territory may, at any time by notice to the Contractor, terminate a Work Order or reduce the Services under a Work Order for any reason, and in that event:

- (1) the Territory will be liable only for:
 - (a) payments for Services under this Deed and the relevant Work

Order rendered before the date of termination; and

- (b) subject to **clauses 14.3(2) and 14.3(3)**, any reasonable costs incurred by the Contractor and directly attributable to the termination or reduction of Services, but not in respect of loss of prospective profits;
- (2) on receipt of a notice of termination or reduction, the Contractor must:
- (a) stop work as specified in the notice;
 - (b) take all available steps to minimise loss resulting from that termination or reduction of Services; and
 - (c) continue to perform any part of the Services not affected by the notice; and
- (3) in the event of a reduction of the Services, the Territory's liability to pay the Contract Price will, in the absence of agreement to the contrary, abate proportionately to the reduction in the Services.

14.4 Expiration of Deed

If a Work Order held by the Contractor is not complete at the expiration of this Deed, the Contractor must complete the Work Order in accordance with the terms and conditions of this Deed, and the relevant Work Order, and the Territory will continue to pay the Contractor in accordance with this Deed and the relevant Work Order until the relevant Work Order expires or is earlier terminated. This **clause 14.4** survives the expiration of this Deed.

14.5 No prejudice

Nothing in this **clause 14** prejudices any other rights or remedies of the Territory in respect of any breach of this Deed.

15. Dispute resolution

- (1) If a difference or dispute (**Dispute**) arises in relation to this Deed either party may give notice to the other that a Dispute exists, which specifies details of the Dispute, and the parties agree that they will endeavour to resolve the Dispute by negotiations, or, if the Dispute has not been resolved within 28 days of the issue of the notice, refer to matter to appropriate senior executives with authority to finally resolve the matter.
- (2) Nothing in this **clause 15** will prejudice the rights of either party to institute proceedings to enforce this Deed or to seek injunctive or urgent declaratory relief in respect of any Dispute.

16. General

16.1 Cooperation

Each party will fully cooperate with each other to ensure timely progress and fulfilment of this Deed and any Work Order.

16.2 Conflict of interest

The Contractor warrants that no conflict of interest exists or is likely to arise in the performance of the Services and its other obligations under this Deed and must, if a conflict or risk of conflict arises, notify the Territory and comply with any requirement of the Territory to eliminate or deal with that conflict or risk.

16.3 No employment, partnership or agency relationship

Nothing in this Deed constitutes the Contractor, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose and the Contractor must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory.

16.4 No assignment or subcontracting

- (1) The Contractor must not subcontract the performance of the Services or assign the whole or part of this Deed or a Work Order without the prior written consent of the Territory. If the Territory gives its consent, the Territory may impose any conditions.
- (2) A change in the control of the Contractor or a company that controls the Contractor (except a company listed on an Australian stock exchange) is taken to be an assignment, the term "control" including the direct or indirect holding of more than 50% of the share capital of a corporation.
- (3) If the Contractor breaches **clause 16.4(1)**, the Territory reserves its rights, including requiring the Contractor to provide information regarding the proposed subcontractor's or assignee's capability to continue performing this Deed or to provide security to ensure the proper performance of this Deed.

16.5 Entire agreement

This Deed and each Work Order comprises the entire agreement between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements.

16.6 Severability

Any provision of this Deed that is illegal, void or unenforceable will not form part of this Deed to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Deed will not be invalidated by an illegal, void

or unenforceable provision.

16.7 Variation

This Deed may be varied or the Term extended only by the written agreement of the parties prior to the expiration of this Deed.

16.8 No waiver

Failure or omission by the Territory at any time to enforce or require strict or timely compliance with any provision of this Deed will not affect or impair that provision in any way or the rights and remedies that the Territory may have in respect of that provision.

16.9 Governing law and compliance with the law

This Deed is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory. The Contractor must comply with the laws from time to time in force in the Territory in performing the Services.

16.10 Notices

Any notice, including any other communication, required to be given or sent to either party under this Deed or a Work Order must be in writing and given to the relevant Contract Officer. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address; or
- (4) if sent by electronic mail, on whichever of the following occurs first:
 - (a) the other party's acknowledgement of receipt by any means;
 - (b) the sender's electronic mail device recording that the electronic mail has been successfully transmitted to the recipient's address; or
 - (c) the expiration of two business days after the date on which it was sent without receipt of a notification that the delivery failed,

and, if given in two or more ways, on the first of paragraphs (1) to (4) occurring.

16.11 Special Conditions

In the event of any inconsistency between:

- (1) any Special Condition and any other provision of this Deed then, to the extent of any inconsistency, the Special Condition will prevail; and
- (2) a Work Order and this Deed, the Work Order will prevail.

16.12 Survival of clauses

Clauses 7.2, 10, 13.2 and 13.3 will survive the expiration or earlier termination of this Deed.

SCHEDULE 1

CONTRACT DETAILS

Item 1. Contract Officers

See clauses 1.1 and 16.10

For the Territory:

[INSERT name of Contract Officer]
[INSERT contact details – address and facsimile]

For the Contractor:

[INSERT name of Contract Officer]
[INSERT contact details – address and facsimile]

Item 2. Term

See clauses 1.1 and 3

From [INSERT start date, eg. the date of this Deed] until [INSERT end date].

The Territory may, in its absolute discretion, extend the Deed for up to 1 period of 1 year.

Item 3. Specified Personnel

See clauses 1.1 and 9

INSERT both the individual’s name and position, eg “John Smith – Practice Lead

Item 4. Other amounts and insurance

See clause 13.1

- (1) Public liability insurance: \$10 million (in respect of each claim).
- (2) Professional indemnity insurance: \$5 million (in respect of each claim and in the annual aggregate).

NOTE: In the event that a Tenderer does not hold the required insurances for the minimum nominated amounts the Territory requires, as part of the tender submission, a declaration that in the event the Tenderer is awarded a Panel Deed and is subsequently offered work sourced from the Panel, that they will provide evidence demonstrating that they hold the required insurances as a condition precedent to the Territory accepting their quotation.

Item 5. Territory Information

See clauses 1.1 and 10

Any information received by the Contractor in undertaking its role in completing a National Capital Design Review.

Item 6. Confidential Text

See clause 11

This Deed is a “notifiable contract” under the Procurement Act and the following is Confidential Text:

Clause No.

INSERT specific clause or item number in the Agreement that either party requires the Territory to keep confidential.
eg. “Item 3(2) Schedule 1” or “Names of persons where they appear in Item 4 Schedule 1”

DO NOT include general statements such as “contractor pricing” or “contractor methodology”, as it will not be clear to either party which specific clauses are agreed to be redacted from the public text version.

Item 7. Grounds for confidentiality of Confidential Text

See clause 11

The Procurement Act, part 3 (Notifiable Contracts) applies to this Deed. The Territory is satisfied that the Confidential Text is “confidential information” for the purposes of that Act because disclosure of the text would:

EXAMPLE ONLY

- (1) be an unreasonable disclosure of Personal Information about a person; or
- (2) be an unreasonable disclosure of information about the business affairs of a person.”]

SCHEDULE 2

THE SERVICES

If engaged under a Work Order to provide Services, subject to that Work Order, and within any timeframes specified in that Work Order, the Contractor will provide the Services or categories of Services as follows.

Item Number	Details of Services
1	Category 1: Architecture
2	Category 2: Landscape Architecture
3	Category 3: Urban Planning
4	Category 4: Urban Design
5	Category 5: Specialist Expertise

SCHEDULE 3

SPECIAL CONDITIONS

See clause 16.11

Item 1. Changes in control of Contractor

(1) In addition to the circumstances set out in clause 16.4(2), for the purposes of clause 16.4, “control” includes the direct or indirect possession of the power (whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights) to:

- (a) directly or indirectly control the membership of the board of directors of the corporation; or
- (b) otherwise directly or indirectly direct or cause the direction of the management and policies of that corporation,

whether by means of trusts, agreements, arrangements, understandings, practices, greater industry experience, the ownership of any interest in shares or stock of that corporation or otherwise.

Item 2. Price Adjustment

(1) The parties agree that the Contractor’s rates set out in the Pricing Information at **Attachment 2** and are fixed for - [insert timeframe] of this Deed (“**Review Date**”). On, or within 30 days following the Review Date, and on, or within 30 days following each anniversary of the Review Date (which will also be a Review Date), the Contractor may submit a request (“**Review Request**”) for review of its Pricing Information.

(2) If:

- (a) the Contractor does not submit a Review Request within 30 days of the Review Date; or
- (b) the Territory determines that a revision of the Pricing Information is not reasonable in accordance with paragraph (3),

the Contractor’s rates subsisting immediately prior to the relevant Review Date will continue to apply.

(3) If the Territory in its absolute discretion determines that a revision of the Pricing Information is fair or reasonable in the circumstances prevailing at the time, the Pricing Information will be adjusted from the relevant Review Date in accordance with the following paragraphs.

$$NR = OR \times \underline{NCPI}$$

OCPI

Where:

- “NR” is the new rate for the referable Services in the referable year.
- “OR” is the rate which applied immediately preceding the last Review Date.
- “NCPI” is the last published Consumer Price Index prior to the most recent Review Date.
- “OCPI” is the Consumer Price Index as published prior to the date upon which the Pricing Information was most recently reviewed, varied or set pursuant to the terms of this Deed. Note that rates may or may not be reviewed on each Review Date during the Term.

For the purpose of this Item **Consumer Price Index (CPI)** means the Consumer Price Index for Canberra (All Groups) as published by the Australian Statistician (or such person or office which fulfils the relevant function fulfilled by the Australian Statistician at the commencement of the Deed). In the event that the Consumer Price Index is adjusted (for example by changing the base index number or changing the year of the base index number), or there is any suspension or discontinuance of the Consumer Price Index by the Australian Statistician, then the Consumer Price Index will mean such index figure or statistic published at the relevant dates in the Australian Statistician’s summary of Australian statistics which reflects fluctuations in the cost of living in Canberra and which the parties may mutually agree upon, and if they are unable to agree then such index figure or statistic as may be determined by the President for the time being of the Australian Property Institute or some person nominated by the President whose decision will be conclusive and binding. This definition will apply notwithstanding that there may be significant changes over time in the composition and weighting of the items by reference to which the Consumer Price Index is calculated.

(4) If the Contractor’s Pricing Information is adjusted:

- (a) with respect to any Contracts entered into after the relevant Review Date, the new rates will apply; and
- (b) with respect to any Contracts entered into before the relevant Review Date, the rates that applied at the time of execution of that Contract will continue to apply to that Contract.

Item 3. Work Health and Safety

(1) The following definitions apply in this Item 4:

- WHS Legislation** a) the *Work Health and Safety Act 2011* (ACT);

- b) the *Work Health and Safety Regulation 2011* (ACT);
 - c) all instruments issued under the *Work Health and Safety Act 2011* or the *Work Health and Safety Regulation 2011*;
 - d) all laws that replace the above laws; and
 - e) all other laws applicable in the State or Territory in which the Services are carried out dealing with work health and safety matters.
- (2) The obligations set out in this Deed including a Work Order do not detract from the Contractor's obligations under the WHS Legislation. If there is an inconsistency between this Deed including a Work Order and the WHS Legislation, the Contractor must comply with the WHS Legislation and inform the Territory of the inconsistency.
- (3) The Contractor must comply with the WHS Legislation and ensure all Services are carried out safely and in a manner that does not put the health and safety of persons at risk.
- (4) The Contractor must comply with its duty under the WHS Legislation to consult, cooperate and coordinate activities with all persons who have a work health and safety duty in relation to the same matter.
- (5) The Contractor must institute and maintain systems to obtain regular written assurances from all subcontractors and other entities engaged to perform Services about their ongoing compliance with the WHS Legislation including the due diligence obligation contained in the WHS Legislation.
- (6) The Contractor must provide the written assurances obtained under Item 3(5), together with written assurances from the Contractor about the Contractor's ongoing compliance with WHS Legislation, to the Territory when requested.
- (7) The Contractor must provide the Territory with a written report on all work health and safety matters referable to the conduct of the Services, or any other relevant matters required by the Territory including a summary of the Contractor's compliance with WHS Legislation as requested.
- (8) The Contractor must exercise a duty of utmost good faith to the Territory in carrying out the work under this Agreement to enable the Territory to discharge the Territory's duties under the WHS Legislation.
- (9) The Contractor must ensure that if any law requires that a person:

- (a) be authorised or licensed (in accordance with WHS Legislation) to carry out any work at a workplace, the person is so authorised or licensed and complies with any conditions of such authorisation or licence; or
 - (b) has prescribed qualifications or experience, or if not, is supervised by a person who has prescribed qualifications or experience (as defined in the WHS Legislation), that person has the required qualifications or experience or is so supervised.
- (10) The Contractor must ensure that if any law requires that a workplace, plant or substance, design, or work (or class of work) be authorised or licensed, that workplace, plant or substance, design or work is so authorised or licensed.
- (11) The Contractor must not direct or allow a person to carry out work, or use plant or a substance at a workplace unless the authorisation, licensing, prescribed qualifications or experience required by any law and Items 3(9)(a) and (b) are met.
- (12) If requested by the Territory or required by WHS Legislation, the Contractor must produce evidence of any approvals including any authorisations, licences, prescribed qualifications or experience, or any other information relevant to work health and safety (as the case may be) to the satisfaction of the Territory before the Contractor or any subcontractor commences such work.
- (13) If the Territory reasonably considers that a risk of injury to people or damage to property is arising or likely to arise from the activities of the Contractor (or any of its subcontractors) the Territory may direct the Contractor (or the relevant subcontractor) to change its manner of working or cease working and the Contractor or subcontractor must comply.
- (14) The Territory may take any action necessary to protect property or to prevent or minimise risk to health and safety of persons, which the Contractor must take but does not and the Territory may recover any costs associated with such action from the Contractor.
- (15) The Contractor must systematically manage its work health and management processes in accordance with the systems, plans, standards and codes specified in this Agreement and the WHS Legislation.
- (16) The Contractor must demonstrate to the Territory, whenever requested, that the Contractor has met and is meeting at all times, its obligations under this Item but such demonstration does not relieve the Contractor of its primary obligation to perform work safely

Item 4. Terms of Reference

- (1) The Contractor must comply with the National Capital Design Review Panel Terms of Reference, which may be amended from time to time and can be found at: <https://www.planning.act.gov.au/talk-with-us/boards->

councils-committees-panels-and-other-bodies/national-capital-design-review-panel.

Item 5. Design review obligations

- (1) The Contractor must ensure that its review of the design documentation or any other documentation provided by the Territory:
 - (a) is conducted in a professional manner, without error, omission or defects;
 - (b) complies with any standards for the performance of the Services set out in this Contract, or to the extent that the standard is not prescribed, a standard consistent with best industry practice for design review of a similar nature to that required under this Contract; and
 - (c) is fit for all purposes for which it might reasonably be used.
- (2) The Contractor must furnish a **Placeholder: design report** that meets the requirements of the Territory in this Contract.

Item 6. Warranties

- (1) The Contractor represents and warrants, in addition to any other applicable representation or warranty in this Contract or implied by Law:
 - (a) the Services will be performed in a proper and professional manner in accordance with all requirements set out in Schedule 2 and this Contract;
 - (b) it has all necessary resources available to it to undertake its obligations under this Contract;
 - (c) the Services will be performed with due diligence and expedition and within the times frames stated in the Contract.
- (2) The Contractor acknowledges that the Territory has entered into this contract in reliance on the representations and warranties given in this item 7.

Item 8. Payment Claims

Payment claims are:

- (1) To be submitted through PMARS.
- (2) To be made in favour of the represented Directorate of the Principal being (Environment, Planning and Sustainable Development Directorate, ABN 31 432 729 493) and is to be provided to the Contract Officer and addressed as follows:

Directorate: Environment, Planning and Sustainable Development Directorate
Directorate Representative: Panama Leaver
Directorate Address: GPO Box 158, Canberra City ACT 2601

SCHEDULE 4

Request to Provide Services

See clause 6.1

For the purposes of **Schedule 4**, the following definitions apply unless the context indicates otherwise.

Draft Work Order means a written request substantially in the form of **Attachment 1** by the Territory for the Contractor to provide a response in relation to an opportunity to provide Services under this Deed.

Item 1. Process for provision of Services

1.1 Request for Services

- (1) From time to time the Territory may issue to one or more panel members a Draft Work Order detailing Services required.
- (2) The Contractor acknowledges that the Territory may, in its absolute discretion, use a competitive process in selecting a panel member to provide Services.
- (3) The Territory will send Draft Work Orders, if any, to the Contractor in a manner determined by the Territory.

1.2 Response to a Draft Work Order

- (1) The Territory may specify in a Draft Work Order that the Contractor must acknowledge receipt of the Draft Work Order within a particular period, prior to the Contractor submitting its response to that Draft Work Order.
- (2) If an acknowledgment is not received by the Territory as required in the Draft Work Order, the Territory may, in its absolute discretion, not consider the Contractor further in relation to that Draft Work Order.
- (3) Upon receipt of a Draft Work Order, the Contractor must:
 - (a) respond in accordance with the process and within the timeframes specified in the Draft Work Order, or in any correspondence provided with the Draft Work Order; or
 - (b) if no process for response is specified in the Draft Work Order, make any amendments it requests to the Draft Work Order, have an authorised representative sign the Draft Work Order, and return the Draft Work Order to the Territory together with a document clearly and accurately detailing the changes made to the Draft Work Order; or

- (c) reject the Draft Work Order, in which case the Territory and the Contractor will have no further obligations in respect of the Draft Work Order.
- (4) Any prices quoted by the Contractor for requested Services in the Draft Work Order must not exceed the Contractor's Pricing Information, if any.
- (5) In the event a Contractor fails to submit its response within the time required, or submits a response that cannot be read, is at variance with or does not respond fully to, or does not comply with the requirements specified in relation to the Draft Work Order or this Deed, the response will be considered non-conforming and the Territory may, in its absolute discretion:
 - (a) reject the response and not consider it further; or
 - (b) ignore the non-conformance and assess the response; or
 - (c) if it is possible to correct the non-conformance without affecting the probity of any competitive process, permit the Contractor to do so.
- (6) The Territory is under no obligation to select any Contractor. A Draft Work Order may be amended (including the closing time extended), or the process varied or discontinued upon the Territory giving written notice to the participating Contractors.

1.3 Assessment of responses to a Draft Work Order

- (1) In assessing a panel member's response to a Draft Work Order, the Territory will take into account any matters set out in, or provided with, the Draft Work Order, and may also take the following considerations into account:
 - (a) the quoted price (if relevant) and value for money;
 - (b) the Contractor's past performance if it has previously provided Services to the Territory;
 - (c) the Contractor's proposed methodology;
 - (d) the capacity and availability of Contractor's resources;
 - (e) the Contractor's areas of speciality;
 - (f) an absence or presence of any conflicts of interest;
 - (g) the Contractor's ability to perform the work within the necessary timeframe; and

- (h) the Contractor's observance of Territory policy.
- (2) Upon receipt of response(s) to Draft Work Order(s) from panel member(s), the Territory may select a preferred panel member and then:
 - (a) commence contract negotiations with the preferred panel member; or
 - (b) if a competitive process was used, commence negotiations with another respondent if contract negotiations with the preferred panel member are not concluded in a manner satisfactory to the Territory (including within a time specified by the Territory); or
 - (c) cease negotiations with any panel member (in which case, without limiting the actions the Territory may take, the Territory may, in its absolute discretion, issue a further Services Request to one or more panel members, or source the services from outside the panel).

1.2 Agreement to provide Services

- (1) A final Work Order must be agreed by the parties and must be signed by both the Contractor and the Territory prior to the commencement of the Services specified in that Work Order.
- (2) The parties' agreement with respect to the provision of Services is set out in the final executed Work Order and this Deed.
- (3) The Contractor acknowledges that in performing the Services under a Work Order it will supply the Services to the Territory in accordance with the provisions of this Deed and any additional terms and conditions specified in the Work Order.

SIGNED AS A DEED.....

SIGNED, SEALED AND DELIVERED)
for and on behalf of the)
AUSTRALIAN CAPITAL TERRITORY) Signature of Territory delegate
in the presence of:

.....
Signature of witness)
.....
Print name

.....
Print name

SIGNED, SEALED AND DELIVERED)
by or for and on behalf of)
[NAME OF CONTRACTOR]) Signature of director/ authorised
in the presence of: officer/ individual*
*DELETE whichever is not applicable (see note below)

.....
Signature of director/ secretary/ witness*)
*DELETE whichever is not applicable (see note below))
.....
Print name

.....
Signature of second authorised officer*)
*only use if Incorporated Association (see note below))
.....
Print name

.....
Print name



Note:

- Date: Must be dated on the date the last party signs the Deed or, if signed counterparts of the Deed are exchanged, the date of exchange. Also date the cover page.
- Company: Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the Contractor's constitution.
- Individual: Must be signed by the individual Contractor and witnessed.
- Incorporated Association: Must be signed in accordance with the Contractor's constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.

ATTACHMENT 1

Draft Work Order Template

WORK ORDER (under \$25,000 including GST)

This correspondence constitutes a Work Order as defined in the Services Panel Deed.

Prior to <day> <date> <month><year> by return correspondence please confirm and provide:

- your availability and willingness to undertake this work by returning the below signed work order;
- Insurance certificate (if not already provided); and
- Any anticipated disbursement costs (NOTE: to be substantiated with receipts and reimbursed at cost).

<i>Design Review Panel (DRP) Reference Name</i>	<i>Inserted by Territory Representative</i>
<i>DRP Reference Number</i>	<i>Inserted by Territory Representative</i>
<i>Date of Service</i>	<i>Inserted by Territory Representative</i>

<i>Panel Member</i>	<i>Inserted by Territory Representative</i>
<i>Panel Deed Number</i>	<i>Inserted by Territory Representative</i>
<i>Category</i>	<i>Inserted by Territory Representative</i>

<i>Scope of Service</i>	Refer Terms of Reference Attached <i>Territory Representative to insert any contract specifics.</i>
<i>Agreed Rate</i>	<i>Inserted by Territory Representative</i>
<i>Disbursement Allowance</i>	<i>Panel Member to insert</i> <i>NOTE: to be substantiated with receipts and reimbursed at cost</i>
<i>Panel Member Signature and Date</i>	<i>Panel Member to print, sign and return</i>
<i>Delegate's Signature and Date</i>	

ATTACHMENT 2

Pricing Information

FEE STRUCTURE

Panel members will be remunerated in accordance with the rates outlined below:

	Fees
TRAVEL	Reimburse for the cost of flights, taxis, public transport and parking. Please note that cost of accommodation is not reimbursed as part of this service unless approved in writing prior to the travel.
PREPARATION	\$125* Review of materials prior to the design review panel session.
HALF DAY	\$600* (1 – 3 hours) Fee includes design review session and comment on the draft Panel's Advice after the design review panel session/s.
FULL DAY	\$1200* (more than 3 hours) Fee includes review and comment on the draft Panel's Advice after the design review panel session/s.
ALTERNATIVE CHAIR	\$300* For panel members that are identified as an alternative Chair, the 'Alternative Chair' fee can be claimed when performing the role of Chair. The alternative chair fee is additional to the preparation fee and half day or full day fee and travel expenses. This fee includes clearance of a Panel's Advice.

*All fees shown are GST exclusive.

Call for Expressions of Interest – National Capital Design Review Panel

Do you have expertise to contribute to good planning and design for the National Capital?

The ACT Government leads design review through the National Capital Design Review Panel, working in collaboration with the National Capital Authority. The ACT in late 2023 introduced a new planning system that emphasises the importance of good planning and design to deliver a sustainable, equitable and diverse city for the future. The ACT Government, in partnership with the National Capital Authority, is seeking expressions of interest from planning and design related professionals with qualifications and demonstrated experience in the areas of, architecture, landscape architecture, urban planning and urban design to become members of the National Capital Design Review Panel (NCDRP). Expressions of interest are also welcomed from other built environment professions including heritage, transport infrastructure, sustainability, civil engineering, master planning, health and education.

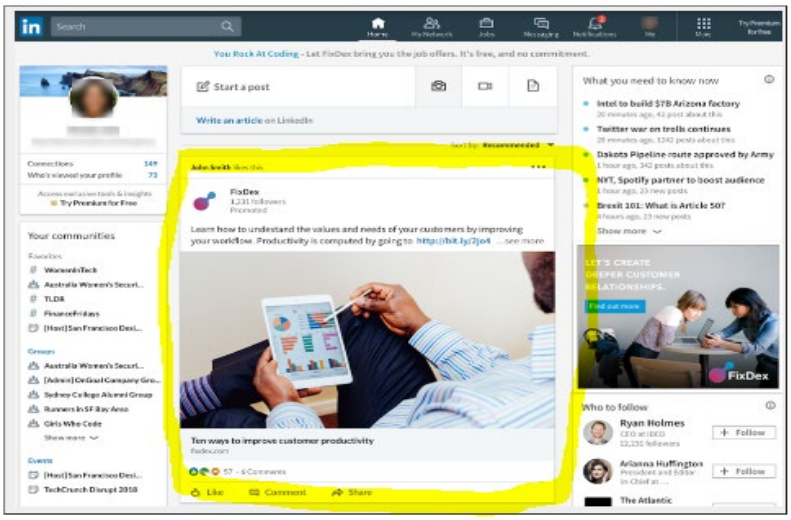
The design review panel process in the ACT has provides the opportunity to review and raise important design issues early in the development process, through structured peer review sessions. It also brings an added value of expertise that supports the skills of the proponent's design team and the pre-application advice provided by government.

Operating since late 2017, the NCDRP has shown the value in independent design review of proposals prior to application for development or works approval. We're excited to be able to offer positions on the panel to individuals who are interested in further enhancing the quality of design of the built environment in the ACT.

The NCDRP will comprise a pool of members who can be called upon to form panels with relevant expertise to review development proposals across the ACT. Successful applicants will be invited to be a member for a three-year term with the option to extend.

- Evaluation criteria and process to apply [LINK](#)
- Terms of Reference [LINK](#)
- More information about the NCDRP [LINK](#)

APPLICATIONS ARE OPEN UNTIL [INSERT DATE] 2024

Material / Creative Specs				
Channels	Format	Specs	Material Deadlines	Example
PIA (Planning Institute Australia)	Text Ad - Employment Directory	Text Ad with URL link & logo with instructions to apply for Panel. Please provide this in a Word Document.	7 business days prior	Not Available
	eNewsletter Banner (ACT)	300px H x 600px W		
	eNewsletter Banner (National)			
	Email Blast	Text Ad with URL link & logo with instructions to apply for Panel. Please provide this in a Word Document.		
	eDM - Jobs Bulletin	Logo and 3 dot point highlighting the opportunity		
AILA (Australian Institute of Landscape Australia)	National eNewsletter	600px X 600px image + 50 to 75 words blurb with URL to apply. Please provide blurb in Word Document.	7 business days prior	Not Available
LinkedIn	Sponsored Content	Introductory text: Use up to 150 characters to avoid truncation (desktop max of 600 characters). URLs in this field that are longer than 23 characters will be converted to a short link. Important: Insert any legally required language in the introductory text.	7 business days prior	<p>Example of a single image ad on desktop</p> 
		Destination URL: URLs must have the "http://" or "https://" prefix. You may use up to 2,000 characters for the destination link.		
		Ad image: Upload a JPG or PNG file 5MB or smaller.		
		Headline: Use up to 70 characters to avoid truncation (200 max characters).		
		Description: Use approximately 100 characters to avoid truncation (300 max characters). This character limit may vary for ads that appear on third-party sites served through the LinkedIn Audience Network.		
Architecture AU	eNewsletter	Headline: Up to 50 characters.	7 business days prior	Not Available
		Copy: up to 180 characters		
		Image: 315px W X 237px H (clean image) + URL to link to		

National Capital Design Review Panel

Expression of Interest for NCDRP Panel Members
May 2024



Australian Government
National Capital Authority



ACT
Government

OVERVIEW

Design review in Australia

Design review is recognised across Australia and internationally as an effective way to collaboratively raise the design quality of the built environment.

It offers the opportunity for peer review of development proposals by independent design professionals with the aim of achieving the best possible outcome for significant development proposals and public spaces.

Design review is most effective at the pre-development application stage to provide guidance on large scale/significant private sector and government projects ahead of detailed planning proposals.

Design review in the ACT

The National Capital Design Review Panel (NCDRP) is a joint initiative between the ACT Government and the National Capital Authority that seeks to increase design quality for significant development proposals in the ACT.

Commencing in 2017 and forming a legislated requirement from 1 October 2019, the NCDRP has been established provide independent advice on the design quality matters for significant development proposals across Canberra.



ESTABLISHING A POOL OF PANEL MEMBERS

Who are we looking for?

Design review panel members are selected from a pool of experts identified for their skills, expertise and record of achievement in one or more professional fields relevant to planning, design and development.

Skills and experience

The current EOI seeks to establish a permanent pool of panel members for the NCDRP, comprised to achieve a balanced representation of skills and experience in professions including **Architecture, Landscape Architecture, Planning, Urban Design and Civil Engineering**.

Depending on proposal particulars, additional specialist panel members will be called in on an as-needs basis. Those with expert skills and experience in areas such as **heritage, education, sustainability and environmental services, universal design, structural engineering and transport** are also encouraged to apply to this EOI.

Engagement terms

Panel members will serve for a term of 3 years, with a possible extension of 1 year.

Members will be remunerated according to the NCDRP Fee Structure that is based on Half-day or Full-day set rates. Please refer to the Fee Structure included in the EOI package for details.

Members will be bound by their respective professional codes of conduct and the **ACT Public Sector Code of Conduct 2022**.

Members are also expected to abide by the NCDRP's Terms of Reference.

WHY THE ACT NEEDS DESIGN REVIEW

- Design review is a well-established approach to enhance the design outcomes of buildings, public spaces and infrastructure outcomes in other jurisdictions -nationally and internationally.
- Feedback from the community wishing to see improved design outcomes for the built environment across the ACT.
- Information gathered through design review may inform planning changes over time.
- Provides consistent advice by government on design quality matters.
- The NCDRP enables the ACT Government to ensure provision of consistent advice on design quality matters.



BENEFITS OF DESIGN REVIEW

The key benefits of the Panel lie in its independent, expert and impartial advice to the proponent and Government's development approval bodies.

The benefits of design review are more likely to be realised early in the design phase of a project, which is why design review is focussed on the pre-development application stages.

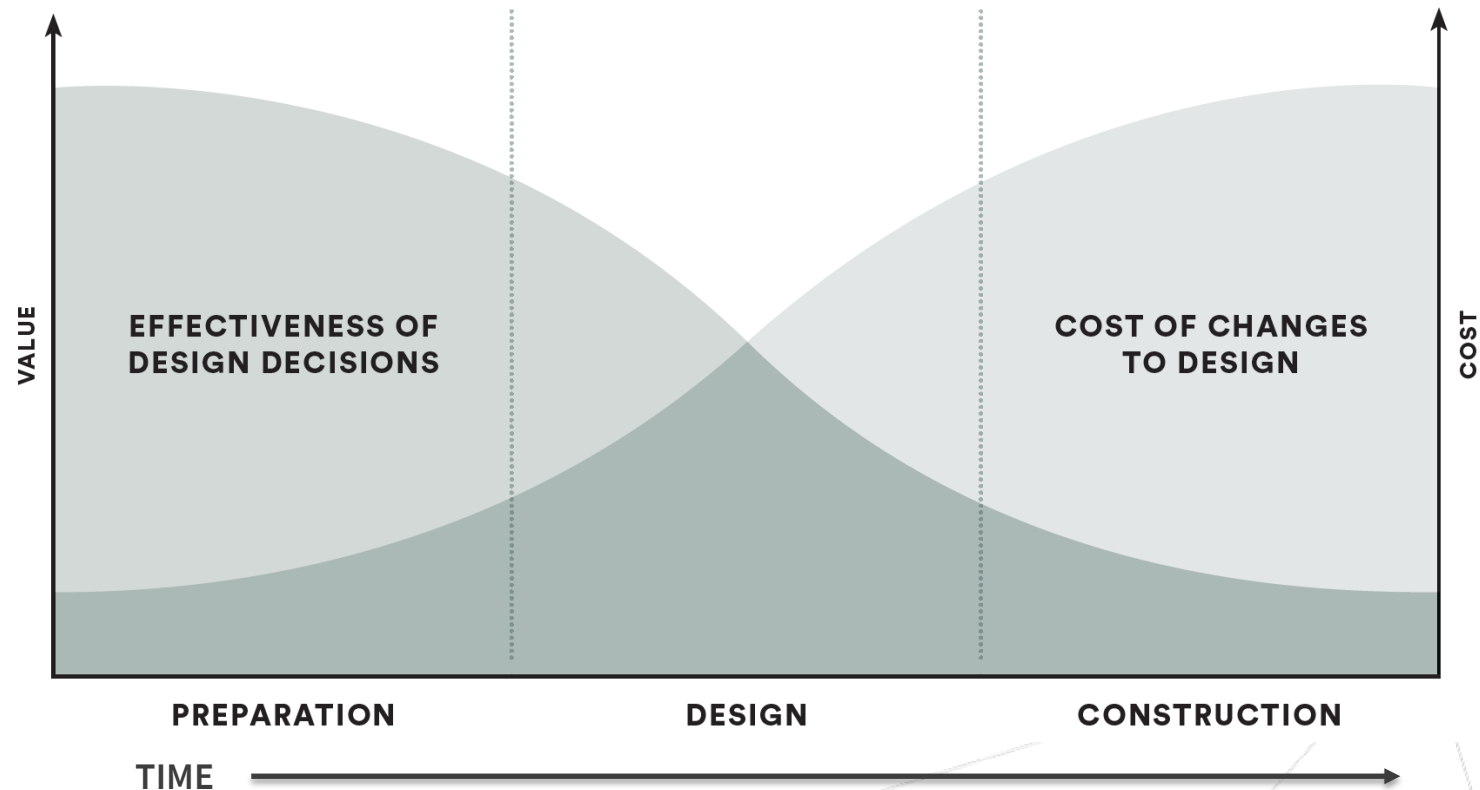


Figure adapted from NSW State Design Review Panel, March 2018, page 11.

BENEFITS OF DESIGN REVIEW

The benefits of design review are diverse, extending beyond developers to encompass the broader ACT community. Such benefits can be experienced in the following ways;

Community

Design review assists proposals to achieve enhanced design quality that results in increased amenity for occupants, neighbours and the broader community and provides further confidence in the development assessment process.

Developers

Design review is provided as a free service that can be of benefit through a reduction in risk, time and potential costs by identifying issues early in the design process to gain a level of certainty with a proposal before investing in detail design and development application.

Design Professionals

Through design review, professionals can receive early recommendations for change when it is most useful and more easily implemented. Design review is also an opportunity to gain support for innovative design by the proponent design teams.

Government

Through independent expert advice for development proposals, design review is effective in elevating the importance of design quality for development in the ACT. Ultimately, design review panels help to enrich the design industry with fresh perspectives and advice arising from the professional examination of projects through peer review.

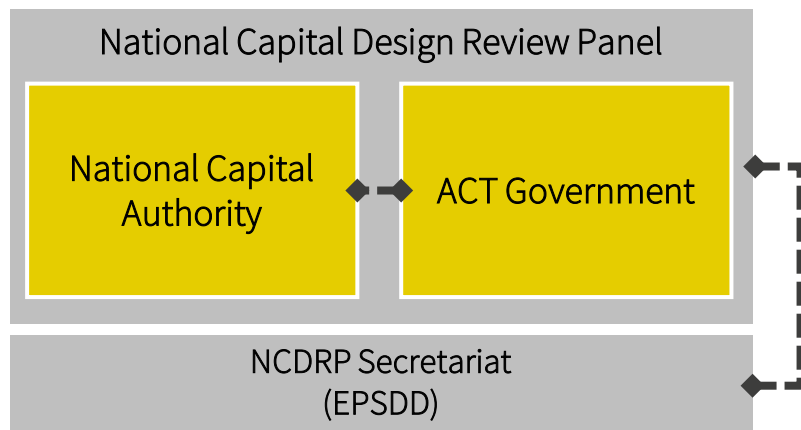
GOVERNANCE

NCDRP Co-chairs – Role and responsibilities

- The National Capital Design Review Panel (NCDRP) is co-chaired between the ACT Government Architect and the Chief Planner of the National Capital Authority.
- The Chairs are responsible for selection of the panellists for individual proposals and are assisted by the Secretariat.
- The Chairs manage the design review sessions, facilitating the running of the agenda and moderating discussion between panellists and between the panel and the proponent.

NCDRP Secretariat – Role and responsibilities

- The NCDRP Secretariat is provided by the Design Services and Government Architect team within EPSDD.
- The NCDRP Secretariat is responsible for delivering design review, including arranging sessions, external and internal consultation regarding proposals. Activities and functions include;
 - serving as the point-of-contact for proponents
 - working with proponents to arrange sessions, coordinate the provision of project information and presentation materials to the Panel
 - facilitating internal government inputs/commentary on proponent proposals, with comments sought from entities (e.g. ACT Heritage Council, Transport Canberra and City Services) ahead of the session and provided to the Panel as part of their preparation for design review.



LEGISLATION

ACT Planning Act and triggers for design review

Planning Act 2023 and the Planning (General) Regulation 2023

- Consultation with the NCDRP is a legislated requirement for prescribed development proposals within the ACT. Prescribed development proposals must consult NCDRP before lodging a Development Application (DA). The proponent must also provide a written response to the Panel's Advice with the lodged DA.
- Prescribed developments includes;
 - a building of five or more storeys; or
 - where there is an increase in floorspace of a shop by more than 2000m², located in a residential, commercial, community facility or parks and recreation zone.

National Capital Plan

- The following development thresholds apply to proposals that must be considered by the NCDRP:
 - National Capital Plan Part 4.28 - City and Gateway Corridor
 - Development Control Plan 17/01 Manuka Circle Precinct, Canberra Avenue
- The NCA may refer proposals determined to be of significance within Designated Areas that warrant design review.

HOW DOES THE NCDRP CONSIDER PROPOSALS

Design Principles for the ACT

The *Design Principles for the ACT* have been developed to support consideration of projects by the NCDRP and to provide guidance for proponents when preparing for review.

The *Design Principles for the ACT* are benchmarked against best practice from design review panel documentation across Australia and New Zealand, including the principles outlined in the NSW Government's State Environment Planning Policy (SEPP 65) and WA's Design Review Manual.

Planning Framework

The design review process is also informed by the National Capital Plan, the Territory Plan 2023 and associated design guides where applicable, including but not limited to the following:

- **Housing Design Guide** - outlines ways developers can incorporate good design into denser housing developments. This includes elements such as apartment size and layout, ceiling heights, solar access, natural ventilation and private open spaces like balconies.
- **Urban Design Guide** - looks at the ways developers can incorporate good design into public spaces and places. Examples include the outside public areas around the building, improved pedestrian access, and designing for active travel, trees and landscaping and inclusive public spaces.
- **Biodiversity Sensitive Urban Design Guide** - looks at how new developments can work in harmony with the natural environment. They will help protect and improve biodiversity and ecological connectivity. This will be done throughout the development's design.

THE PANEL'S ADVICE

The Panel's Advice is a written recommendation that is issued to the proponent within approximately 10 working days of the design review session.

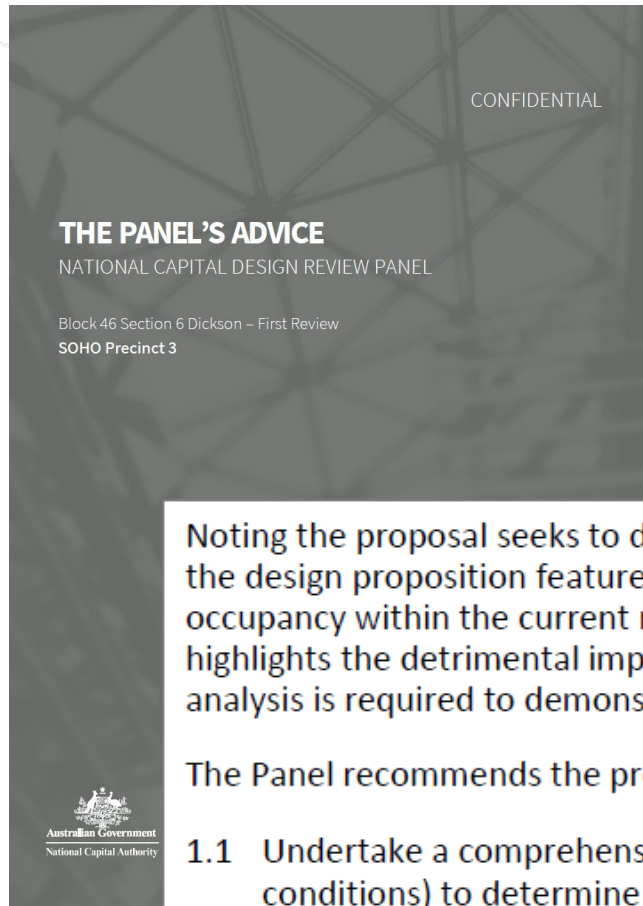
The Advice is informed by the views of the panel that evaluates the design quality of the development proposal. Where appropriate, other key stakeholders may be copied into the Panel's Advice, such as the development approval agencies.

The Panel's Advice is not a minute of the design review session discussion, rather it expresses the view of the panel as informed by their deliberations.

It contains:

- A summary of the proposal
- A summary of the proponent presentation
- A high-level summary of the panel's recommendations
- A section containing specific advice relating to various aspects of the proposal, delivered in bullet point form.
- Clarity around identified issues
- Specific, relevant and actionable advice
- Affirmative language in keeping with the collaborative spirit of the NCDRP
- Advice that provides guidance and avoids being prescriptive (i.e. the Panel does not seek to design on behalf of the proponent).

PANEL'S ADVICE EXAMPLE



Importantly, the advice is drafted to achieve;

- Clarity around identified issues.
- Specific, relevant and actionable advice.
- Affirmative language in keeping with the collaborative spirit of the NCDRP.
- Advice that provides guidance and avoids being prescriptive (i.e. the Panel does not seek to design on behalf of the proponent).

Noting the proposal seeks to deliver a highly activated public domain, the Panel is concerned that the design proposition features extensive frontages that may prove challenging to ensure occupancy within the current retail/commercial context of Dickson Group Centre. The Panel highlights the detrimental impact of tenant vacancies on urban vitality and considers further analysis is required to demonstrate viability of the proposed retail.

The Panel recommends the proponent to:

- 1.1 Undertake a comprehensive retail analysis (including current and projected future conditions) to determine the optimal amount of active frontage and retail hierarchy. Develop a retail strategy that incorporates adaptability, and considers alternative uses (e.g. community uses, 'pop ups') to ensure consistently high levels of tenant occupancy that support a vibrant public domain.

Above: Example structure

A TYPICAL DESIGN REVIEW SESSION

Location

Design review are typically facilitated online, run via Microsoft Teams. Where required, the Secretariat may schedule in person face to face sessions to be held in ACT Government offices, located within the ACT.

Agenda

- Agendas typically follow the general sequence below. Importantly, the ‘Briefing to panel’, otherwise referred to as the ‘pre-briefing’ provides opportunity for government entities (such as TCCS, CRA, NCA) to provide comment to the Panel on specific matters relating to the design of the proposal.
- The proponent is also afforded the opportunity to briefly respond to Panel’s comments prior to conclusion of the session.

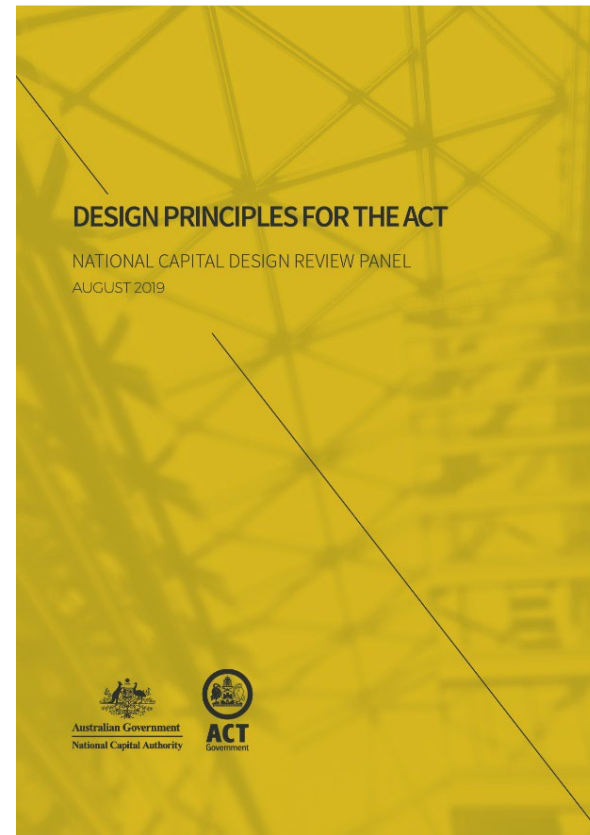
SESSION AGENDA

Time	Item	Duration	Participants
9:30am	Briefing to Panel	60 minutes	Panel members and Government representatives
10:30am	Tea Break	10 minutes	All
10:40am	Welcome project design	5 minutes	Chair
10:45am	Proposal presentation	20 minutes	Design Team
11:05am	Questions and Answers	10 minutes	Panel Members and Design Team
11:15am	Review by Panel and summary of items raised	35 minutes	Panel Members and Chair
11:50am	Closed Panel Debrief	15 minutes	Panel members
12:05pm	End of session		

FIND OUT MORE



PRACTITIONERS GUIDE



DESIGN PRINCIPLES

Materials and further information available at:

- www.planning.act.gov.au/about/national-capital-design-review-panel
- DesignReview@act.gov.au