



HIGH COURT OF AUSTRALIA

**REQUEST FOR TENDER**

REQUEST FOR TENDER IN RELATION TO THE PROCUREMENT OF SUPPLIES

The Commonwealth of Australia as represented by the High Court of  
Australia

ABN 69 445 188 986

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## REQUEST FOR TENDER

### REQUEST FOR TENDER IN RELATION TO THE PROCUREMENT OF SUPPLIES

#### 1. Introduction

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##### 1.1. Approach to market

1.1.1. The High Court invites Tenders for the provision of payroll services to the High Court of Australia using AURION Software in accordance with this Request for Tender (RFT).

1.1.2. A summary of the High Court and a detailed description of the Supplies are set out in Schedule 1.

##### 1.2. Key terms

1.2.1. The following table sets out the details of some key terms used in this RFT:

<b>Closing Time</b>	2:00pm Canberra time on Thursday 13 February 2020
<b>Contact Officer</b>	Ms Margaret Baird Chief Finance Officer The High Court of Australia Parkes Place, PARKES ACT 2600 <a href="mailto:payrolltender2020@hcourt.gov.au">payrolltender2020@hcourt.gov.au</a>
<b>Deadline for Submission of Tenderers' Questions</b>	2:00pm Canberra time on Friday 7 February 2020
<b>Draft Contract</b>	the document set out in Schedule 3
<b>High Court</b>	Commonwealth of Australia as represented by the High Court of Australia
<b>High Court's tender web page</b>	means the web page at the following link - <a href="http://www.hcourt.gov.au/about/tenders">http://www.hcourt.gov.au/about/tenders</a>
<b>Offer Period</b>	forty-five days after the Closing Time
<b>Modern Slavery</b>	has the meaning given to it in the <i>Modern Slavery Act 2018</i> (Cth)

<b>Modern Slavery Laws</b>	means any law, statute or regulation which: <ul style="list-style-type: none"> <li>(i) Prohibits Modern Slavery (including exploitation of a worker, human trafficking, slavery, servitude, forced marriage, forced labour, the worst forms of child labour, debt bondage or deceptive recruiting for labour or services, or similar types of conduct) and is applicable or otherwise in force in the jurisdiction in which the High Court or the Respondent is registered or conducts business or in which activities relevant to the REOI are to be performed, and/or</li> <li>(ii) Requires the Tenderer to issue disclosures to the public and/or any government agency, connected with Modern Slavery in its operations and supply chains.</li> </ul>
<b>Supplies</b>	the services set out in Schedule 1
<b>Tender</b>	any Tender submitted in response to this RFT
<b>Tender Box</b>	by email Payrolltender2020@hcourt.gov.au
<b>Tender Response Forms</b>	the Tender Response Forms set out in Schedule 2
<b>Tenderer</b>	any entity which submits a Tender or, where the context requires, is proposing to submit a Tender

### 1.3. **Form of contract**

1.3.1. The High Court proposes to enter into a contract with the successful Tenderer substantially in the form of the Draft Contract.

### 1.4. **Governing law**

1.4.1. This RFT is to be construed in accordance with, and any matter related to it is to be governed by, the law of the Australian Capital Territory.

## 2. **Obtaining RFT documentation**

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### 2.1. **RFT available on High Court's website**

2.1.1. This RFT is available on the High Court's tender web page.

2.1.2. Entities proposing to lodge a response are requested to register with the Contact Officer to facilitate communications regarding this RFT. Communications regarding this RFT will also be posted on the High Court's tender web page.

### **3. Lodging Tenders**

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#### **3.1. Electronic lodgement**

3.1.1. Tenders must be lodged electronically via the High Court's website before the Closing Time and in accordance with the tender response lodgement procedures set out in this RFT. Respondents must allow sufficient time to upload and transmit their response.

#### **3.2. Tender closing time and date**

3.2.1. Tenders must be lodged before the Closing Time. Respondents must allow sufficient time to upload and transmit their response.

#### **3.3. Preparing to lodge a Tender**

3.3.1. The High Court will accept Tenders lodged in Microsoft Word 2000 (or above), Microsoft Excel 2000 (or above) or PDF format.

3.3.2. The Tender file name/s:

- a. should incorporate the Tenderer's company name; and
- b. should reflect the various parts of the Tender they represent, where the Tender comprises multiple files.

3.3.3. Tender files must not exceed a combined file size of eight (8) megabytes per upload. Tenders must be completely self-contained. No hyperlinked or other material may be incorporated by reference. All supporting material that is not directly related to this Tender should be emailed separately which must be received by the Contact Officer to email [payrolltender2020@hcourt.gov.au](mailto:payrolltender2020@hcourt.gov.au) by the specified closing time of 2pm Thursday 13 February 2020.

#### **3.4. Scanned or imaged material, including Statutory Declarations**

In the event that the High Court requires clarification of a lodged Tender, the Tenderer may be required to courier or security post the originals of signed and/or initialled pages to the High Court addressed to the Contact Officer and within the timeframe specified by the High Court.

#### **3.5. Late lodgement policy**

3.5.1. Any Tender (including a Tender already received by the High Court at a point other than the nominated Tender Box) will be deemed to be late if it is not lodged in accordance with paragraph 3.1.1.

3.5.2. Subject to paragraph 3.5.3, the High Court will not admit a late Tender to evaluation.

3.5.3. The High Court will admit to evaluation any Tender that was received late solely due to mishandling by the High Court. For the avoidance of doubt, 'mishandling by the High Court' does not include circumstances where there is a failure of the Respondent's information technology that results in late delivery or non-delivery

of the Tender. It is the responsibility of each Tenderer to ensure that their Tender is dispatched and lodged in accordance with paragraph 3.1.1.

#### **4. Additional information and variations to the RFT documentation**

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##### **4.1. Requests for Additional Information**

- 4.1.1. Requests for further information in relation to this RFT must be directed in writing to the Contact Officer by the Deadline for Submission of Tenderers' Questions.
- 4.1.2. Subject to paragraph 7.5, the only point of contact for all matters relating to this RFT and the RFT process is the Contact Officer.
- 4.1.3. The High Court will determine what, if any, response should be given to a Tenderer question. The High Court may circulate Tenderer questions and the High Court's response to those questions to all other Tenderers without disclosing the source of the questions or revealing any confidential information of a Tenderer via the High Court's [tender](#) web page. Tenderers should identify in their question what, if any, information in the question the Tenderers consider is confidential. Inappropriate identification of information as confidential will be considered by the High Court when determining what, if any, response will be given.
- 4.1.4. If a Tenderer believes it has found a discrepancy, error, ambiguity, inconsistency or omission in this RFT or any other information given or made available by the High Court, the Tenderer should promptly notify the Contact Officer setting out the error in sufficient detail so that the High Court may take the corrective action, if any, it considers appropriate.

##### **4.2. Variation of the RFT**

- 4.2.1. The High Court may amend this RFT or vary or suspend the RFT process at any time, including but not limited to the timeframes and dates set out in this RFT.
- 4.2.2. If the High Court does so prior to the Closing Time, the High Court will issue a formal addendum to the RFT via the High Court's web page or email.

##### **4.3. Termination of the RFT**

- 4.3.1. The High Court may terminate the RFT process at any time at the High Court's absolute discretion.

##### **4.4. Errors & alterations**

- 4.4.1. Tenderers should ensure that any errors or alterations made to a Tender are clearly identified and, where appropriate, initialled. Any alteration or erasure made to a Tender that is not clearly identified may result in the Tender being excluded from consideration.

- 4.4.2. Tenders in which prices are not clearly and legibly stated may be excluded from consideration.
- 4.4.3. If the High Court considers that there are unintentional errors of form in a Tender, the High Court may request the Tenderer to correct or clarify the error, but will not permit any material alteration or addition to the Tender.

## **5. Information management**

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### **5.1. The High Court's confidential information**

- 5.1.1. Tenderers must not, and must ensure that their employees, agents or subcontractors do not, either directly or indirectly record, divulge or communicate to any person any confidential information concerning the affairs of the High Court, the Commonwealth or a third party acquired or obtained in the course of preparing a Tender, or any documents, data or information provided by the High Court and which the High Court indicates to Tenderers is confidential or which Tenderers know or ought reasonably to know is confidential.
- 5.1.2. The High Court may require that all written information (whether confidential or otherwise and without regard to the type of media on which such information was provided to Tenderers) provided to Tenderers (and all copies of such information made by Tenderers) be:
- a. returned to the High Court - in which case Tenderers will be required to promptly return all such information to the address identified by the High Court; or
  - b. destroyed by Tenderers - in which case Tenderers will be required to promptly destroy all such information and provide High Court with written certification that the information has been destroyed.
- 5.1.3. The High Court may exclude from further consideration any Tender lodged by a Tenderer who has engaged in any behaviour contrary to paragraph 5.1.

### **5.2. Tenderer's confidential information**

- 5.2.1. Subject to paragraphs 5.2.2 and 5.2.3, the High Court will treat as confidential all Tenders submitted by Tenderers in connection with this RFT.
- 5.2.2. The High Court will not be taken to have breached any obligation to keep information provided by Tenderers confidential to the extent that the information:
- a. is disclosed by the High Court to its advisers, officers, employees or subcontractors solely in order to conduct the RFT process or to prepare and manage any resultant contract;
  - b. is disclosed to the High Court's internal management personnel, solely to enable effective management or auditing of the RFT process;



- c. is disclosed by the High Court to other emanations of the Commonwealth for the proper purposes of the Commonwealth;
- d. is authorised or required by law to be disclosed; or
- e. is in the public domain otherwise than due to a breach of the relevant obligations of confidentiality.

Tenderers should also refer to paragraphs 6.3.1.b to d.

- 5.2.3. The High Court will only keep information contained in, or obtained or generated in performing, any contract entered into with the successful Tenderer, including any information sourced from the successful Tenderer's Tender, confidential in accordance with the terms of the contract. Tenderers should include in Attachment 8: Statement of Compliance in Schedule 2 any request for such information to be treated as confidential following the award of contract to it.

### **5.3. Use of Tender documents**

- 5.3.1. All Tenders become the property of the High Court upon submission.
- 5.3.2. Notwithstanding paragraph 5.3.1 and without prejudice to anything agreed in any subsequent contract, ownership of intellectual property in the information contained in a Tender remains unchanged.
- 5.3.3. However, the High Court may use any material contained in a Tender, or otherwise provided by the Tenderer, for the purposes of the RFT process and the preparation and management of any resultant contract.

## **6. Policy and law**

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### **6.1. Ethical dealing**

- 6.1.1. The High Court may exclude from consideration any Tender lodged by a Tenderer that has engaged in any behaviour contrary to its declaration in Attachment 2: Tenderer's Deed in Schedule 2. In addition, the High Court may refer the matter to relevant Commonwealth, State or Territory authorities. This right is in addition to any other remedies the High Court may have under law or in any contract with a successful Tenderer.

### **6.2. Conflicts of interest**

- 6.2.1. Tenderers should represent and declare in Attachment 2: Tenderer's Deed in Schedule 2 whether, at the time of lodging their Tender, a conflict of interest concerning itself or a related entity exists, or might arise during the term of the contract or in relation to the Tender.
- 6.2.2. If a conflict of interest arises, the High Court may:
  - a. exclude the Tender from further consideration;
  - b. enter into discussions to seek to resolve the conflict of interest; or
  - c. take any other action it considers appropriate.

### **6.3. Application of law and Commonwealth policy**

- 6.3.1. Tenderers are considered to have familiarised themselves with all relevant Commonwealth legislation and policies relating to the RFT process and the provision of the Supplies including:
- a. Division 137.1 of the *Criminal Code* which makes it an offence to knowingly provide false or misleading information to a Commonwealth entity;
  - b. the *Freedom of Information Act 1982* (Cth) which requires Australian Government departments and agencies to provide access to certain documents in their possession;
  - c. the *High Court Act 1979* (Cth) which allows the Auditor-General to inspect and audit the accounts and records of financial transactions relating to the administration of the affairs of the High Court;
  - d. the *Ombudsman Act 1976* (Cth) which authorises the Ombudsman to investigate the administrative actions of Australian Government departments and agencies and to investigate the actions of certain Australian Government contractors;
  - e. the *Privacy Act 1988* (Cth) which aims to ensure that contractors and their subcontractors do not engage in an act or practice that would breach an Australian Privacy Principle under the *Privacy Act* (Cth) if done by the Commonwealth. The *Privacy Act* (Cth) also imposes obligations directly on contractors and subcontractors;
  - f. the *Work Health and Safety Act 2011* (Cth) which requires a person conducting a business or undertaking to ensure the health and safety of all workers; and
  - g. the *Public Interest Disclosure Act 2013* (Cth) which aims to promote the integrity and accountability of the Commonwealth public sector.
- 6.3.2. More information on policies relevant to the Supplies are set out in Schedule 1.

### **6.4. Workplace Gender Equality**

- 6.4.1. Tenderers must indicate in the Tenderer's Deed (see Attachment 2: Tenderer's Deed in Schedule 2), whether or not they are a 'relevant employer' under the WGE Act and, if applicable, provide a current letter of compliance as part of their Tender submission, or if selected as the preferred or successful Tenderer, upon request from the High Court and prior to entering into any contract.

### **6.5. Modern Slavery Laws**

- 6.5.1. Respondents must ensure that in performing its obligations in connection with the Tender that it and its personnel:
- a. Do not engage in any conduct that contravenes any Modern Slavery Laws; and

- b. Provide all assistance required by the High Court to fulfil its obligations; including reporting obligations, under the *Modern Slavery Act 2018* (Cth).

**7. Matters concerning Tender response**

**7.1. Tender response requirements**

- 7.1.1. Tenderers should address each of the evaluation criteria specified in the table below by completing the Tender Response Forms contained in Schedule 2. Tenderers may include additional information in their Tenders, however, the Tenderer's response to each of the Tender Response Forms will form the basis of the evaluation. Each Tender Response Form should commence on a new page.

<b>Item</b>	<b>Evaluation Criterion</b>	<b>Required Information</b>	<b>Ranking or Weighting (if applicable)</b>	<b>Tenderer Checklist</b>
1	Supplies delivery	Tenderers should provide details of how they would provide the Supplies by completing Attachment 3: Supplies Delivery in Schedule 2 and table 1 in Attachment 8: Statement of Compliance in Schedule 2.	35%	
2	Tenderer's experience	Tenderers should provide details of their experience in providing payroll services to agencies of similar size to the High Court by completing Attachment 4: Tenderer's Experience in Schedule 2.	35%	
3	Tenderer's management capability and key personnel	Tenderers should provide details about their management capability and key personnel (and availability of such personnel) by completing Attachment 5: Tenderer's Management Capability and Key Personnel in Schedule 2.	30%	

4	Pricing information (see also paragraph 8.1 of this RFT)	Tenderers should complete the price schedule at Attachment 6: Price Schedule in Schedule 2.	N/A	
5	Financial viability	Tenderers should complete Attachment 7: Financial Viability Questionnaire in Schedule 2.	N/A	
6	Tenderer's compliance with the Draft Contract	Tenderers should indicate their compliance with the Draft Contract by completing table 2 Attachment 8: Statement of Compliance in Schedule 2.	N/A	
7	Respondent's Deed	Tenderer's should complete and return Attachment 2	N/A	

7.1.2. Tenderers should provide their details by completing the form at Attachment 1: Tenderer's Details in Schedule 2.

7.1.3. Tenderers must complete and execute the Attachment 2: Tenderer's Deed in Schedule 2.

## 7.2. Tenderers to inform themselves

7.2.1. Information in this RFT concerning current or past requirements, volumes, location, environment or other relevant matters has been prepared from information available to the High Court and may not have been independently verified. Such information may be based on projections from information on available historical information which may not be accurate and may assume trends or events or other matters that may not be valid or eventuate as and when expected or at all. In addition, the High Court does not guarantee that this information will remain true at any future point in time.

7.2.2. The High Court has no liability to any Tenderer should any information or material provided with respect to this RFT or the Supplies be inaccurate or incomplete or if actual volumes, locations, environments or other relevant matters vary from the High Court's current expectations.

7.2.3. Tenderers are considered to have:

- a. examined this RFT, including any variations or addenda to the RFT, any documents referenced in this RFT and any other information made available by the High Court to Tenderers for the purpose of Tendering;

- b. examined all further information which is obtainable by the making of reasonable inquiries relevant to the risks, contingencies, and other circumstances having an effect on their Tenders;
- c. satisfied themselves as to the correctness and sufficiency of their Tenders including Tendered prices;
- d. made their own independent assessments of actual workload requirements under any resultant contract and all prices will be presumed by the High Court to have been based upon Tenderers' own independent assessments; and
- e. satisfied themselves as to the terms and conditions of the Draft Contract and their ability to comply with the Draft Contract, subject to their responses to Attachment 8: Statement of Compliance in Schedule 2.

7.2.4. In preparing their Tenders, Tenderers must not rely on:

- a. any representation, letter, document or arrangement, whether oral or in writing, or other conduct as adding to or amending this RFT other than amendments in accordance with paragraph 4; or
- b. any warranty or representation made by or on behalf of the High Court, except as are expressly provided for in this RFT.

7.2.5. The High Court will not be responsible for any costs or expenses incurred by Tenderers in complying with the requirements of this RFT.

### **7.3. Disclaimer**

7.3.1. This RFT is an invitation to treat and is not to be taken to be or relied upon as an offer capable of acceptance by any person or as creating any form of contractual (including a process contract), quasi contractual, restitutionary or promissory estoppel rights, or rights based on similar legal or equitable grounds, whether implied or otherwise.

7.3.2. The High Court is not liable to any Tenderer on the basis of any contract or other understanding (including any form of contractual, quasi contractual, restitutionary or promissory estoppel rights, implied obligations or rights based on similar legal or equitable grounds) whatsoever, or in negligence, as a consequence of any matter relating or incidental to this RFT, the procurement of any or all of the Supplies or a Tenderer's participation in this RFT process, including instances where:

- a. a Tenderer is not invited to participate in any subsequent process as part of or following completion of this RFT process;
- b. the High Court varies the RFT process;
- c. the High Court elects to enter into a contract for all or any of the Supplies with any party, whether or not that party was a Tenderer in this RFT process;

- d. the High Court decides to terminate the RFT process or not to contract for all or any of the Supplies; or
- e. the High Court exercises or fails to exercise any of its other rights under or in relation to this RFT.

#### **7.4. Offers and acceptance of offer**

- 7.4.1. Lodging a Tender will constitute an offer by the Tenderer to provide the Supplies on the terms and conditions set out in the Draft Contract, subject to any exceptions noted in its response to Attachment 8: Statement of Compliance in Schedule 2 for a period of not less than the Offer Period.
- 7.4.2. A Tender will not be taken to have been accepted until a formal contract has been executed by the Tenderer and the High Court. Notice by the High Court to any Tenderer that it is, or is not, a preferred or successful Tenderer will not constitute an acceptance or rejection of any Tender.

#### **7.5. Complaints**

- 7.5.1. Any complaints arising out of the RFT process should be directed to the Complaints Officer:

Ben Wickham, Senior Executive Deputy Registrar

enquiries@hcourt.gov.au

### **8. General matters**

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#### **8.1. Prices and units**

- 8.1.1. The Tender must be written in English.
- 8.1.2. All measurements must be expressed in Australian legal units of measurement.
- 8.1.3. Tendered prices should be inclusive of:
  - a. GST (as defined in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth));
  - b. all costs of complying with this RFT; and
  - c. all costs associated with doing all things necessary for the due and proper completion of the proposed contract.
- 8.1.4. Tenderers from the public sector should note that Competitive Neutrality requires that Government businesses should not enjoy net competitive advantages over their private sector competitors by virtue of public sector ownership.
- 8.1.5. Tenderers from the public sector should demonstrate in their pricing that Competitive Neutrality requirements have been met, including:
  - a. payment of relevant taxes and charges;
  - b. rates of return; and

c. cost of funds.

8.1.6. Australian Government policy requires Australian Government agencies to effect payment to its suppliers via electronic funds transfer direct to suppliers' bank accounts, unless exceptional circumstances exist where a supplier has limited access to banking facilities in remote areas.

## **9. Evaluation of Tenders**

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### **9.1. Evaluation process**

9.1.1. Following the Closing Time, Tenders will be evaluated to identify the Tender that represents best value for money on the basis of the evaluation criteria set out in paragraph 7.1.1 and taking into account relevant Commonwealth policy and this RFT. Value for money is a comprehensive assessment involving a comparative analysis of the relevant financial and non-financial costs and benefits of the Tenders, including an assessment of risk.

9.1.2. In conducting the evaluation, the High Court may take into account information provided by a Tenderer in response to one evaluation criterion in its evaluation of another evaluation criterion.

9.1.3. The evaluation criteria are not specified in any order of importance. If any additional evaluation criteria are intended to be applied in evaluating Tenders, the High Court will notify Tenderers who will be given an opportunity to respond.

9.1.4. The High Court may at any time exclude a Tender from consideration if the High Court considers that the Tender is incomplete or clearly not competitive. However, the High Court may consider such Tenders and seek clarification in accordance with paragraph 9.6.

9.1.5. The High Court is not bound to accept the lowest priced (or any) Tender.

### **9.2. Security, probity and other checks**

9.2.1. The High Court may perform such security, probity and financial investigations and procedures as the High Court may determine are necessary in relation to Tenderers, their employees, officers, partners, associates, subcontractors or related entities and their officers, employees and subcontractors.

9.2.2. Tenderers should promptly provide the High Court with such information or documentation that the High Court requires in order to undertake such investigations. The High Court may exclude a Tender from further consideration if the Tenderer does not promptly provide all reasonable assistance to the High Court in this regard, or based on the outcomes of the investigations or procedures.

9.2.3. The Tender evaluation process may involve:

a. visits to some or all Tenderers' sites; or

- b. discussions with, and/or visits to, customers or subcontractors of some or all Tenderers, whether or not the customers are provided as referees by the relevant Tenderer.

The High Court may also make independent enquiries about any matters that may be relevant to the evaluation of a Tender.

### **9.3. Minimum Content and Format Requirements**

9.3.1. Subject to paragraph 4.4.3, the High Court will exclude a Tender from further consideration if the High Court considers that the Tender does not comply with any one or more of the following requirements:

- a. the Tender is written in English (see paragraph 8.1.1);
- b. measurements are expressed in Australian legal units of measurement (see paragraph 8.1.2); or
- c. the Tender includes a completed and signed Tenderer's Deed in the form provided (see Attachment 2: Tenderer's Deed in Schedule 2).

### **9.4. Conditions for participation**

9.4.1. The High Court will exclude a Tender from further consideration if at any time before a contract is executed the High Court considers that the Tenderer does not meet the following condition for participation:

- a. the Tenderer exists as a legal entity at the Closing Time.

### **9.5. Essential requirements**

9.5.1. The High Court will exclude a Tender from further consideration if at any time before a contract is executed the High Court considers that the Tender does not comply with an essential requirement identified in Schedule 1 Item 3.

### **9.6. Clarification, short-listing and negotiations**

9.6.1. The High Court may:

- a. use any relevant information obtained in relation to a Tender (provided in the Tender itself, otherwise through this RFT or by independent inquiry) in the evaluation of Tenders;
- b. seek clarification or additional information from any Tenderer for the purposes of Tender evaluation;
- c. shortlist one or more Tenderers and seek further information from them;
- d. enter into negotiations or discussions with one or more Tenderers; or
- e. discontinue negotiations or discussions with a Tenderer, whether or not the Tenderer has been notified that it is the preferred Tenderer.

9.6.2. Tenderers should nominate in their Tender a person for the purpose of responding to any clarification requests which may arise during Tender



evaluation or receiving other notices during the RFT process. Tenderers should include the name, address and contact details of that person in the form at Attachment 1: Tenderer's Details in Schedule 2. The person nominated by the Tenderer must be authorised to represent and bind the Tenderer in relation to this RFT.

## **10. Other Matters**

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### **10.1. Public Statements**

- 10.1.1. Except with the prior written approval of the High Court, Tenderers must not make a statement, issue any document or material or provide any other information for publication in any media, concerning Tender evaluation, the acceptance of any Tender, commencement of negotiations, creation of a shortlist, or notification that a Tenderer is the preferred Tenderer.
- 10.1.2. The High Court may exclude a Tender from further consideration if the Tenderer does not comply with this requirement.

### **10.2. Additional Rights of the High Court**

- 10.2.1. Without limiting other rights contained in this RFT, the High Court may do any or all of the following at any time:
- a. seek amended Tenders or call for new Tenders;
  - b. forward any clarification about this RFT to all known Tenderers on a non-attributable basis and without disclosing any confidential information of a Tenderer;
  - c. allow or not allow another legal entity to take over a Tender in substitution for the original Tenderer, including where an event occurs that has the effect of substantially altering the composition or control of the Tenderer or the business of the Tenderer; and
  - d. negotiate with one or more persons who have not submitted Tenders or enter into a contract or other binding relationship for similar services to the Supplies outside the RFT process.
- 10.2.2. Disclosure to Tenderers of any information concerning this RFT process is at the complete discretion of the High Court unless expressly provided otherwise in this RFT.

### **10.3. Debriefing**

- 10.3.1. Tenderers may request an oral Tender debriefing following the award of a contract. Tenderers requiring a debriefing should contact the Contact Officer.
- 10.3.2. Tenderers will be debriefed against the evaluation criteria set out in this RFT. A Tenderer will not be provided with information concerning other Tenders, except for publicly available information such as the name of the successful Tenderer and the total price of the winning Tender. No comparisons with other Tenders will be made.

## **SCHEDULE 1 STATEMENT OF REQUIREMENT**

### **1. Overview**

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#### **1.1. Structure of the High Court**

- 1.1.1. The High Court is the highest court in the Australian judicial system. It was established in 1901 by Section 71 of the Constitution. The functions of the High Court are to interpret and apply the law of Australia; to decide cases of special federal significance including challenges to the constitutional validity of laws and to hear appeals, by special leave, from Federal, State and Territory courts.
- 1.1.2. The High Court has offices in Canberra, Sydney, Melbourne and Brisbane. The Chief Executive and Principal Registrar (CE&PR) is appointed under the *High Court of Australia Act 1979* (Cth). The remuneration and allowances for the CE&PR's are contained in the Remuneration Tribunal (Judicial and Related Offices – Remuneration and Allowances) Determination 2019. All High Court staff are employed under the *High Court of Australia Act 1979* (Cth). Conditions of employment for staff below the senior executive level are contained in the Determination under section 26(4) of that Act. As at 30 June 2019 the High Court employed 33 full-time and part-time ongoing staff; 44 full-time and part-time non-ongoing staff and 27 casual staff.

#### **1.2. Summary of Supplies**

- 1.2.1. Provision of payroll services to all High Court of Australia employees. These payroll services include:
- a. End to end processing of employee salaries on a fortnightly basis;
  - b. Payroll disbursement services;
  - c. Provision of an employee portal for leave applications; personal and emergency contact details and timesheets;
  - d. Provision of online timesheets;
  - e. Single touch payroll reporting, providing PAYG, tax and super details to the Australian Taxation Office after each pay run; and
  - f. Advise the Court on innovation to the payroll system towards a complete automation of payroll from commencement to cessation.

### **2. Required Supplies**

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- 2.1.1. The provision of Payroll Services including:
- a. Payroll processing on a fortnightly basis including the payment of salary, relevant taxes, superannuation, allowances and deductions;
  - b. Preparation of payroll related reports within 3 days of pay processing;
  - c. Provide access to a ticketing system to enable the High Court HR team to log and track the resolution of payroll variations and related issues;

- d. Provide access to a dedicated consultant to respond to more complex payroll queries;
- e. Provide physical and operating systems software security, to minimize the risk of unauthorized access to the High Court 's payroll data;
- f. Provide off-site Systems backups to provide protection against irrecoverable data loss;
- g. Manage the configuration of award and legislated employment condition changes in a mutually agreed timeframe; and
- h. Ensure that the System is available and accessible during business hours.

## **2.2. Description of the Supplies**

- 2.2.1. Provide payroll related services to The High Court of Australia within the required timeframe. The payroll services include:
  - a. Payment of salaries on a fortnightly basis; including processing pay variations including leave takings; overtime, higher duties, salary sacrifice deductions; placement changes; overpayment and Workers' Compensation reconciliation;
  - b. Provide a Trial Pay and pay variation analysis on the off-pay Thursday at a mutually agreed time;
  - c. Ensure that all payroll personnel staff are trained in current payroll processing;
  - d. Provide payroll Consultants who are proficient in communicating verbally and in writing;
  - e. On an hoc basis on request from the High Court; action "stop payments";
  - f. Calculate redundancy and final monies estimates;
  - g. For any overpayments initiate an overpayment schedule and payment plan;
  - h. Produce and distribute employee pay advices in according with relevant legislation;
  - i. Produce Single touch payroll reports to the ATO;
  - j. Develop ad hoc basic reports in accordance with the requirements of the High Court;
  - k. Respond and resolve all payroll and leave enquires from the High Court's payroll team and/or from authorised third parties;
  - l. Provision of monthly reports including:
    - Financial costing details at the employee level;
    - Employment of personnel details including an Emp shot

- Employee Leave liability balances;
  - Details of Cash advances;
  - Pay run details;
  - Superannuation payments and fund details;
  - Timekeeper details;
  - Bank account details;
  - Casual loadings and hours;
- m. provide Virtual Private Networking communication facilities example Citrix, software or similar designed to facilitate secure access to applications and content over the internet, so that the Court's HR team to have view access to High Court payroll data;
- n. Encrypted internet connection to the High Court's databases for the deployment of Employee self-service;
- o. Advise the High Court of an/all upgrades; and
- p. Conduct quality checks on payroll processes and systems.

### **2.3. Indicative Time Frame**

- 2.3.1. The resultant contract is expected to commence on 1 April 2020 and conclude on 31 March 2023.
- 2.3.2. The above time frame is indicative only, noting paragraph 4.2.1 of this RFT.

## **3. Essential Requirements**

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### **3.1. Essential Requirements**

- 3.1.1. The following aspects of the required Supplies are essential requirements which must be met by Tenderers:
- 3.1.2. The payroll services must be provided using Aurion Software.
- 3.1.3. If the solution is Cloud hosted, the hosting platform must meet the Information Security Registered Assessors Program (IRAP) standards and have obtained the Australian Signals Directorate (ASD) Australian Cyber Security Centre (ACSC) Certification. The hosting platform must be through a service provider published on the ASD's Certified Cloud Service List (CCSL). All cloud service components used in delivery of the proposed solution must be hosted within Australia.
- 3.1.4. The Tenderer must have offices in Australia preferably on the East Coast for ease of contact and management of payroll processing deadlines.

## **4. Policies and standards relevant to the Supplies**

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### **4.1. Policies**

- 4.1.1. The policies and regulations that are relevant to the Supplies include:
- a. Determination under s26(4) of the High Court of Australia Act 1979 – Terms and Conditions of Employment of Employees
  - b. Remuneration Tribunal (Judicial and Related Offices – Remuneration and Allowances) Determination 2019
  - c. The High Court’s Leave Policy
  - d. The High Court’s Work Hours Policy
  - e. The High Court’s Flextime Policy
- 4.1.2. A copy of these documents and policies can be obtained by emailing the Contact Officer.

## **SCHEDULE 2 TENDER RESPONSE FORMS**

Tenderers should ensure that their Tenders include, as a minimum, each of the Tender Response Forms attached to this Schedule 2.

## Attachment 1: Tenderer's Details

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Tenderers should provide full responses in completing the following information to enable the High Court to clearly identify the entity responding to the RFT.

Full name of Tenderer:
Trading or business name:
Tenderer's Contact who is authorised to represent and legally bind the Tenderer (including name, address and other contact details):
<b>If a company</b>
The registered office:
The principal place of business:
The date and place of incorporation and the Australian Company Number:
Individual shareholders holding 20 per cent or more of any issued share capital:
Any related companies within the meaning of section 50 of the <i>Corporations Act 2001 (Cth)</i> :
<b>If a trustee</b>
Provide details of the relevant trust including a copy of the relevant trust deed

(including any variations to that deed):

**If a partnership**

Provide details of the relevant partnership including a copy of the relevant partnership agreement:

**Subcontractors**

Please include a full explanation of any part of the Supplies which the Tenderer intends to subcontract to another entity, including the entity to which it intends to subcontract, the Supplies the subcontractor would perform, any existing or past relationship between the subcontractor and any particular expertise or experience of the subcontractor.



## **Attachment 2: Tenderer's Deed**

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Tenderers must complete the Tenderer's Deed and include it in their Tender response. Amendments may only be made where necessary to complete the Deed.

### **DEED POLL**

Date: ^insert date^

By: ^insert full legal name of Tenderer^ (Tenderer)

### **Context**

Request for Tender in relation to ^details^ (RFT).

### **Interpretation**

In this Deed, terms not otherwise defined have the meaning ascribed to them in the RFT.

### **Compliance with RFT**

The Tenderer represents that it has read and understood, and that its Tender is submitted in accordance with, the RFT.

The Tenderer undertakes that it will continue to participate in the RFT process in accordance with the RFT and on the basis of its Tender.

### **Offer**

The Tender constitutes an offer (Offer) to provide the Supplies on the terms and conditions set out in the Draft Contract, subject to any exceptions noted in its Statement of Compliance submitted as part of its Tender, and accordingly is capable of immediate acceptance by the High Court so as to form a binding contract.

The Offer remains open for acceptance by the High Court for the Offer Period. The Tenderer undertakes not to withdraw, vary or otherwise compromise the Offer during the Offer Period.

If directed by the High Court, the Tenderer will execute a contract in the form set out in Schedule 3, subject to any amendments noted in the Tenderer's Statement of Compliance, without entering into further negotiation.

To the extent that the Tender does not include complete information relating to matters required for the completion of the Draft Contract, the High Court may complete the contract at its reasonable discretion, and the Tenderer shall execute the resultant contract.

## Confidentiality

The Tenderer will not, and will ensure that its employees, agents or subcontractors do not, either directly or indirectly record, divulge or communicate to any person any confidential information concerning the affairs of the High Court, the Commonwealth or a third party acquired or obtained in the course of preparing a Tender, or any documents, data or information provided by the High Court and which the High Court indicates to Tenderers is confidential or which Tenderers know or ought reasonably to know is confidential.

## Ethical Dealing

The Tenderer represents that its Tender has been compiled without the improper assistance of any current or former High Court officer, employee, contractor or agent and without the use of information obtained unlawfully or in breach of an obligation of confidentiality to the High Court.

The Tenderer represents that it has not:

- a. engaged in misleading or deceptive conduct in relation to its Tender or the RFT process;
- b. engaged in any collusive Tendering, anti-competitive conduct, or any other unlawful or unethical conduct with any other Tenderer, or any other person in connection with the preparation of their Tender or the RFT process;
- c. attempted to solicit information from or influence improperly any current or former officer, employee, contractor or agent of the High Court, or violate any applicable laws or Commonwealth policies regarding the offering of inducements in connection with the RFT process; or
- d. otherwise acted in an unethical or improper manner or contrary to any law.

## Conflict of Interest

The Tenderer represents that, having made all reasonable enquiries the following represents its only known actual or potential conflicts of interest in respect of the RFT, its Tender or the provision of the Supplies:

— **^insert list or, where no conflict exists, write 'none'^**

The Tenderer undertakes to advise the High Court in writing immediately upon becoming aware of any actual or potential conflicts of interest in respect of the RFT, its Tender or the provision of the Supplies.

**Note to Tenderers:** A conflict of interest means any matter, circumstance, interest, or activity affecting the Tenderer (including the officers, employees, agents and subcontractors of the Tenderer) which may or may appear to impair the ability of the Tenderer to perform the contract diligently and independently.

A conflict of interest may exist if:

Tenderers or any of their personnel have a relationship (whether professional, commercial or personal) with the High Court's personnel involved in the evaluation of Tenders; or

Tenderers have a relationship with, and obligations to, an organisation which would affect the performance of the contract or would bring disrepute to or embarrass the High Court.

If at any time prior to entering into the contract, an actual or potential conflict of interest concerning itself or a related entity arises or may arise for any Tenderer that Tenderer should immediately notify the Contact Officer.

### **Employee entitlements**

The Tenderer represents that, having made all reasonable enquiries, as at the date of this declaration, it is not subject to any judicial decisions or any resulting order relating to employee entitlements (not including decisions under appeal) which claims have not been paid.

### **Compliance with Australian standards**

The Tenderer represents that it is able to meet any Australian standards applicable to the Supplies.

### **Workplace Gender Equality Requirements**

The Tenderer understands that it is obliged to indicate whether or not it is covered by the *Workplace Gender Equality Act 2012* (Cth) (the WGE Act). The Tenderer is covered by the WGE Act if it is a 'relevant employer', defined as being a non-public sector employer (including higher education institutions, trade unions and not-for-profit organisations) of 100 or more employees in Australia. For information about the coverage of the WGE Act, contact the Workplace Gender Equality Agency on (02) 9432 7000.

### **Note to Tenderers: Tenderers must choose one of the following:**

a. The Tenderer confirms that it is a relevant employer. The Tenderer has attached a current letter of compliance as part of its Tender which indicates its compliance with the *Workplace Gender Equality Act 2012* (Cth).

OR

b. The Tenderer confirms that it is a relevant employer. If selected as the preferred or successful Tenderer, the Tenderer will upon request from the High Court provide a current letter of compliance prior to entering into any contract. The Tenderer acknowledges that failure to provide a current letter of compliance when requested will result in it losing its status as the preferred or successful Tenderer.

c. The Tenderer confirms that it is not a relevant employer.

EXECUTED AS A DEED POLL for the benefit of the Commonwealth of Australia as represented by the High Court of Australia

Dated this **^insert day^** day of **^insert month^** 201**^year^**

SIGNED SEALED AND  
DELIVERED by **^insert name  
of Tenderer^** by its duly  
authorised representative:

**^Name of signatory^**

Signature

In the presence of:

**^Name of witness^**

Signature of witness

### **Attachment 3: Supplies Delivery**

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Tenderers should explain in detail how they would provide the Supplies to meet the high standards required by the High Court, including the procedures and processes it would implement to perform and manage the Supplies.

Tenderers are also referred to the essential requirements set out in Schedule 1 Item 3 and the policies and standards in Schedule 1 Item 4.

Tenderers should provide:

- a. evidence of compliance with all applicable Australian standards, including those specified in Schedule 1 Item 4;
- b. evidence of compliance with relevant regulations and regulatory frameworks, including:
  - i. labour regulations, including ethical employment practices;
  - ii. occupational health and safety; and
  - iii. environmental impacts;
- c. Tenderers are required to submit a works program to provide sufficient detail to describe how the Supplies will be delivered. The program should take into account Court sitting days and public opening hours;
- d. Provide evidence of quality assurance systems used; and
- e. Information about current contracts showing capacity to provide the Supplies.

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**Attachment 4: Tenderer's Experience**

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**General requirements**

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Tenderers should provide full details of the skills and qualifications of their proposed personnel (including all subcontractor personnel).

At a minimum, Tenderers should provide the information requested below.

**Specific requirements**

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Tenderers should supply detailed curricula vitae providing the following information for each of their proposed personnel (and backup personnel):

- a. proposed role;
- b. previous experience;
- c. qualifications;
- d. years with the organization;
- f. proposed percentage involvement in undertaking the Supplies required under the Draft Contract; and
- g. capacity and current workloads.

Provide details of names of any Sub-contractors and/or consultants to be engaged in the provision of the works and nature of work to be performed.

<b>Name</b>	<b>Nature of Works</b>

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## **Attachment 5: Tenderer's Management Capability and Key Personnel**

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Tenderers should provide details about their management capability. Tenderers should also provide information regarding any key personnel who would perform the Supplies, including the skills, experience and qualifications of those personnel and their availability to perform the Supplies.

Tenderers should also demonstrate their appreciation of the risk associated with undertaking the tasks requirement for the performance of the Supplies and how these could be managed.

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**Attachment 6: Price Schedule**

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The tenderer agrees to carry out the Supplies as described in the Draft Contract, for the total sum set out hereunder:

Item(s)	Cost Inc GST
TOTAL PRICE	



## Attachment 7: Financial Viability Questionnaire

Tenderers should complete the following questionnaire and provide sufficient information to enable the High Court to determine the financial viability of the Tenderer. Tenderers should provide explanations of areas not addressed or items not provided.

### Financial Information

	<b>Attached</b>
Audited financial statements including a copy of the auditor's statement	Yes/No
Annual report	Yes/No
Copy of certificate of currency for public liability insurance	Yes/No
Copy of certificate of currency for workers compensation insurance	Yes/No
Copy of certificate of currency for professional indemnity insurance	Yes/No
Details of any petitions, claims, actions, judgements, or decisions, etc. Which is likely to adversely affect your performance of the contract.	Yes/No

The operating entity is:  
*(Please ~~strike through~~ non-applicable types.)*

Sole Trader  
 Partnership  
 Association  
 Company  
 Trust  
 Government.

The operating entity has been in business for:  
*(Please ~~strike through~~ non-applicable periods.)*

Less than 12 months  
 1–2 years  
 2–4 years  
 4–6 years  
 6–8 years  
 longer than 8 years.

### Financial statement summary – A\$

Item	Year to date	Previous financial year	Next to previous financial year
Operating income			
Interest paid			
Net operating income			
Dividends / distributions / drawings paid			

Cash at bank			
Total current / financial assets			
Total assets			
Level of debt			
Total current liabilities			
Total liabilities			
Total equity			

## Attachment 8: Statement of Compliance

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Tenderers submit their Tenders on the basis that they comply with all requirements specified in the body of the RFT. In the case of the Schedules to the RFT including the description of the Supplies in Schedule 1 and the Draft Contract in Schedule 3. Tenderers' compliance is subject to any exceptions noted in their response to this Schedule.

Tenderers should indicate compliance with each paragraph of the description to the Supplies and each provision of the Draft Contract including all schedules and attachments, taking into account any amendments to those provisions that may have been issued by the High Court during the RFT process. Tenderers should note that the extent of non-compliance will be a factor in the evaluation process. The compliance statement will form the basis for any contract negotiations that may occur with a Tenderer.

In respect of the compliance statement, Tenderers should indicate their level of compliance with each provision using one of the terms "complies", "does not comply", "partially complies" and "not applicable". These terms have the following meanings:

<b>complies</b>	means that the Tenderer will comply without amendment
<b>does not comply</b>	means that the Tenderer will not comply without amendment
<b>partially complies</b>	means that the Tenderer will comply partially and that some amendment is required
<b>not applicable</b>	means that the provision does not apply to the Tenderer or is to be completed (e.g. the schedule item dealing with fees).

The Tenderer will be taken to be and assessed as compliant with any provision, schedule or attachment which it does not list in the compliance statement. Tenderers may group provisions where the response is the same for each of those provisions. For example 'Paragraphs 3.1 to 3.15 – Does Not Comply', or 'Schedule 1 - Complies'.

Where a Tenderer does not comply or only partially complies with a provision, the extent of non-compliance should be stated in full in the compliance statement. In this case, the Tenderer should then provide:

- a. specific reasons for the partial or non-compliance; and
- b. specific language of any proposed amendments, including any deletions or additional provisions.

In accordance with paragraph 5.2.3, Tenders should also include in their compliance statement any request that information be treated as confidential following the award of a contract to it.

The following format should be used in completing the compliance statement:

**Table 1: Compliance with Statement of Requirement in Schedule 1 of the RFT**

Paragraph/schedule /attachment	Nature of compliance	Proposed wording of any amendment to the provision

**Compliance with Draft Contract**

Paragraph/schedule /attachment	Nature of compliance	Proposed wording of any amendment to the provision

**Request to keep Information Confidential**

(a) Information contained in contract:

Item	Period of Confidentiality	Reason why it is necessary to keep information confidential

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(b) Information obtained or generated in performing contract:

Item	Period of Confidentiality	Reason why it is necessary to keep information confidential

**SCHEDULE 3 DRAFT CONTRACT**

The Draft Contract follows after this page.